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Modernizing Federal Communications Commission's National Environmental Policy Act Rules: Report/Order and Notice of Proposed Rulemaking Issued

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The Federal Communications Commission ("FCC") issued a Report and Order and Further Notice of Proposed Rulemaking styled:

In the Matter of - Modernizing the Commission's National Environmental Policy Act Rules ("Proposed Rulemaking").

See WT Docket No. 25-217 (Oct. 1, 2026).

The FCC describes the Proposed Rulemaking as adopting a series of permitting reforms that will modernize the agency's approach to the federal National Environmental Policy Act ("NEPA") regulations.

NEPA was enacted over 50 years ago to require federal agencies to include values and issues in their decision-making processes. Its federal mandate is accomplished by agency consideration of environmental impacts of proposed actions and reasonable alternatives to those actions.

The statute requires federal agencies in certain circumstances to prepare a detailed Environmental Impact Statement ("EIS"). However, the requirement to prepare this document is only triggered in the event of a major federal action which will significantly affect the human environment.

NEPA differs from action enforcing environmental statutory programs such as the Clean Water Act and the Clean Air Act. It does not impose substantive mandates. Instead, it is limited to requiring federal agencies to meet procedural requirements such as preparation of the EIS and certain defined instances. NEPA does not require a certain alternative or to meet a particular standard. Nevertheless, failure to adhere to applicable NEPA requirements can result in an action being enjoined until there is compliance.

The FCC states that the action will:

... cut through outdated and unnecessary burdens that have slowed deployment of critical communications networks.

The agency further states it will:

... restore balance to the Commission's NEPA implementation by providing clear and predictable rules to ensure NEPA serves as a tool for informed decision-making rather than a barrier to investment, innovation, and connectivity.

The NEPA regulatory regime is cited by the FTC as “one of the biggest obstacles to new infrastructure builds, and the record in this proceeding confirms that NEPA-related costs and delays associated with NEPA compliance continue to deter needed infrastructure deployment, even as projects pose no or minimal risk of environmental harm.

Key actions described by the FCC include:

- Determine that the actions associated with space-based operations, including the launch, deployment, and operation of space stations, are not major Federal action (“MFA”).
- Codify the statutory definition of MFA, the prerequisite to trigger federal agencies’ NEPA obligations in the Commission’s rules and clarify which Commission actions are MFAs.
- Outline that deployments of facilities in connection with geographic area spectrum licenses, site-based spectrum licenses, unlicensed or licensed-by-rule wireless services, and satellite earth stations do not qualify as MFAs to the extent the deployments do not require antenna structure registration.
- Revise the Commission’s NEPA rules to ensure they comport with the amended NEPA statute and accelerate the federal permitting process.
- Streamline other aspects of the Commission’s NEPA rules, including the Commission’s requirements for categorical exclusions, environmental assessments, environmental impact statements, joint agency actions, and emergency situations.

A copy of the Proposed Rulemaking can be found [here](#).