

**Before the
UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL TELECOMMUNICATIONS & INFORMATION ADMINISTRATION
Washington, DC**

In the Matter of)
)
Final Programmatic Environmental Assessment) Docket No. 090210159-9160-01
and Draft Finding of No Significant Impact for the)
Public Safety Interoperable Grant Program)

COMMENTS OF NPSTC

The National Public Safety Telecommunications Council (NPSTC) submits the following comments in response to the above-captioned notice of availability, 74 Fed. Reg. 7663 (Feb. 19, 2009), of a Final Programmatic Environmental Assessment (PEA) and Draft Finding of No Significant Impact (FONSI) regarding the impact of the Public Safety Interoperable Communications (PSIC) Grant Program. The PEA and FONSI were prepared in an effort to comply with the National Environmental Policy Act of 1969 (NEPA).

NPSTC believes the proposed approach is unnecessarily duplicative of established processes the Federal Communications Commission already has in place that apply to communications facilities, including those that will be funded by the PSIC Grant Program. The primary goals of the PSIC grant program are to enable and speed improved communications interoperability for public safety agencies. The proposed PEA and FONSI approach runs counter to these goals as it would introduce unnecessary delays and costs into the deployment of interoperable communications systems funded by PSIC grants.

The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council (NPSTC) is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementation of the Public Safety Wireless Advisory Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety telecommunications, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety telecommunications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 15 organizations are voting member organizations that comprise the Governing Board of NPSTC:

American Association of State Highway and Transportation Officials
American Radio Relay League
Association of Fish and Wildlife Agencies
Association of Public-Safety Communications Officials-International
Forestry Conservation Communications Association
International Association of Chiefs of Police
International Association of Emergency Managers
International Association of Fire Chiefs
International Municipal Signal Association
National Association of State Chief Information Officers
National Association of State Emergency Medical Services Officials
National Association of State Foresters
National Association of State Technology Directors
National Emergency Number Association
National Sheriffs' Association

Several federal agencies are non-voting liaison organizations of NPSTC. These include the Department of Homeland Security (the Federal Emergency Management Agency, the Office of Emergency Communications, the Office of Interoperability and Compatibility, and the SAFECOM Program); Department of Commerce (National Telecommunications and Information Administration); Department of the Interior; and the Department of Justice (National Institute of Justice, CommTech Program). NPSTC also has liaison relationships with associate organizations, the Telecommunications Industry Association and the Canadian Interoperability Technology Interest Group.

The Proposed Environmental Assessment Obligations Are Duplicative, Costly and Will Unnecessarily Delay Improved Public Safety Interoperability.

NPSTC is concerned that NTIA's PEA and FONSI requirements would lead to multiple, inconsistent, and unnecessarily onerous environmental assessment (EA) obligations for PSIC grantees. The PSIC grants will enable public safety agencies to deploy new interoperable communications capabilities in communities across the nation. In conjunction with these grants, every state has developed a statewide interoperability plan addressing both state and local requirements and procedures, and projects to improve interoperability have been subjected to extensive review and selected for funding. From an environmental standpoint, communications systems funded by PSIC grants, like all communications systems licensed by the Federal Communications Commission (FCC), will be subjected to environmental assessments already in

place in the FCC rules. The FCC has a well-established process for NEPA compliance, including programmatic agreements that simplify and streamline the process for some facilities.¹

The far more onerous guidelines proposed by NTIA would often require preparation and submission of detailed environmental assessments and environmental impact statements where the well-established FCC guidelines would not. NPSTC questions why NTIA or its authorized contractors would have developed environmental assessment requirements that differ from those already in place at the FCC that are applicable to licensed public safety communications facilities. However, regardless of the reason, it is clear that doing so is detrimental to public safety agencies. At best, imposing additional environmental assessment requirements as proposed simply because systems are funded through the PSIC grant process serves no purpose other than to increase the cost, bureaucracy and delay public safety agencies will face in deploying interoperable communications systems. At worst, these proposed new requirements could actually prevent some agencies from meeting deadlines already established in the PSIC grant program for use of the funds, thereby placing any interoperability improvements at risk of not being accomplished at all.

It is clear from a March 17, 2009 hearing held by the U.S. House of Representatives Appropriations Committee Subcommittee on Homeland Security that delay in improving interoperability is not what Congress had in mind when it appropriated the PSIC grant funding and chartered NTIA with administering the grants. In that hearing, members of Congress expressed concerns that a substantial portion of the funding has not yet been used. Unnecessary

¹ http://wireless.fcc.gov/siting/environment_compliance.html

duplicative environmental assessments will simply exacerbate any delays and siphon off portions of the funding that could be better used to deploy interoperable communications equipment.

NPSTC has coordinated with its member organizations on this issue and in particular supports the concerns being raised by The Association of Public-Safety Communications Officials-International, Inc (“APCO”). In its comments, APCO points out that to the extent those systems invoke NEPA, it would generally be as a result of FCC-licensed facilities that are already subject to NEPA compliance. Therefore, NTIA should not require PSIC grantees to submit a separate environmental assessment where the facility in question is already subject to FCC licensing.

NPSTC recommends that NTIA incorporate by reference the FCC’s environmental assessment guidelines already applicable to public safety systems licensed under Part 90 of the Commission’s rules rather than trying to reinvent the wheel. Doing so would focus on the primary goal of improving interoperability and would help avoid the inconsistency, additional delay, increased bureaucracy and unnecessary added costs inherent in NTIA’s proposed environmental assessment approach for PSIC grant recipients.

Public safety agencies' needs and Congress's intent for improved interoperability should not be held hostage by unnecessary and duplicative bureaucratic processes. The FCC's existing environmental compliance process should be applied, regardless of the source of funding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ralph A. Haller", with a long horizontal flourish extending to the right.

Ralph A. Haller, Chair
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Copies to:

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