

# **Environmental and Historic Preservation (EHP) Documentation Requirement 14**

**New Hampshire**

Office of Broadband Initiatives

Department of Business & Economic Affairs

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## Purpose

The purpose of this document is to provide information on how the New Hampshire Department of Business & Economic Affairs (BEA) will ensure subgrantees under the New Hampshire Broadband Equity, Access, and Deployment (BEAD) Program comply with all applicable environmental and historic preservation requirements (EHP), related to their awarded project(s), including but not limited to the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) (NEPA), Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) (NHPA), Section 7 of the Endangered Species Act (16 U.S.C. 1521, et seq.) (ESA), Section 404 of the Clean Water Act (33 U.S.C. 1251, et seq.) (CWA), and all other applicable Federal, state, and local environmental laws and regulations.

## Environmental and Historic Preservation Requirements

BEA will ensure full compliance with all applicable EHP requirements by adhering to the requirements of NEPA, Section 106 of the NHPA, Section 7 of the ESA, and Section 404 of the CWA, as applicable, and NTIA's programmatic guidance. All subgrantee projects will undergo a detailed evaluation to avoid, minimize, and mitigate potential environmental and historic impacts.

## Approach to Environmental and Historic Preservation and Permitting

BEA will utilize a multi-step methodology to evaluate subgrantee projects for environmental compliance. This process includes:

1. Applicants were required to certify that they will comply with NEPA and NHPA and provide any required materials as a part of the application process.
2. Encourage subgrantees to identify and utilize qualified NEPA and EHP practitioners with relevant environmental and/or historic preservation expertise to assist in preparing and supervising environmental review, ensuring compliance with NEPA, and addressing EHP concerns.
3. Ensure subgrantees design broadband projects in a manner that prioritizes avoiding potential adverse impacts and, where avoidance is not feasible, minimize and mitigate those impacts to the greatest extent practicable. BEA may require subgrantees to alter project routes if the BEA determines avoidance of a particular area will significantly reduce Subgrantees' pre-construction obligations.
4. Ensure subgrantees consult the First Responder Network Authority (FirstNet) Programmatic Environmental Impact Statement (PEIS) and any incorporated updates as part of the drafting process.
5. Encourage subgrantees to consult the National Telecommunications and Information Administration's (NTIA) Permitting and Environmental Information Application and its ArcGIS Pro Permitting and Environmental Information Tool (APPEIT) project package, together with publicly available tools like NEPAassist, and the U.S. Fish and Wildlife Service's IPaC, to inform preliminary environmental and historic-preservation analyses and minimize potential adverse impacts.
6. Require subgrantees to provide BEA with a detailed project description<sup>1</sup> and all supporting environmental documentation requested by NTIA or BEA to support environmental review.

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<sup>1</sup> A "detailed project description" must contain sufficient information, including (1) what is being constructed; (2) where the project is located, listing street address, local jurisdiction (county), any applicable legal land description

7. Require subgrantees to ensure subcontractors understand and follow all NEPA and other EHP requirements, and to prevent any construction or related fieldwork until NTIA and BEA final approval of all EHP documentation and issuance of final decision documents.
8. Require subgrantees to create, maintain, and share with the BEA a timeline that captures all NEPA, NHPA, and ESA consultations, reviews, permits and submissions, updating it as necessary to keep every milestone aligned with BEAD program requirements.
9. BEA will review each subgrantee project and, through the Environmental Screening and Permitting Tracking Tool (ESAPTT):
  - a. At the earliest possible time, provide the NTIA-assigned Environmental Program Officer (EPO) sufficient information to initiate Tribal consultation via the Federal Communication Commission (FCC)'s Tower Construction Notification System (TCNS);
  - b. Upload the project map, project description, and supporting documentation;
    - i. Each BEAD Subgrant Project ID will consist of one NEPA Project Area.
  - c. Complete the categorical-exclusion and extraordinary-circumstances questionnaires;
    - i. If necessary, BEA will request additional information from subgrantees, such as detailed route plans and engineering specifications, or preliminary mitigation commitments to support efficient, accurate assessment.
    - ii. If Extraordinary Circumstances are present and cannot be avoided through adoption of Best Management Practices (BMPs) and mitigation commitments to avoid potentially significant impacts<sup>2</sup>;
  - d. Validate the appropriate level of environmental review;
  - e. Transmit the completed draft NEPA decision memorandum to NTIA's Environmental Program Officer for approval;
  - f. Upon approval, BEA will continue monitoring project developments to ensure compliance throughout the project lifecycle.
10. BEA will use ESAPTT's permitting-tracking module to catalog and monitor all applicable local, state, and federal permits against milestone schedules, escalate delays to the EPO and Federal Program Officer (FPO), and document each permit's issuance and progress.

## Environmental Assessment (EA) and Environmental Impact Statement (EIS)

If the significance of the project's environmental impact is not clearly established or known, BEA will confer with NTIA's EPO to determine if avoidance or mitigation measures can be used to circumvent EA preparation. If a subsequent required EA determines a project to have no significant impacts on the quality of the environment, a Finding of No Significant Impact (FONSI) is issued by NTIA.

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(applicable Public Land Survey System (PLSS) township, range, and section), and geographic coordinates (latitude and longitude); (3) a physical description of the site or route and surrounding area (developed land versus open space and adjacent resources such as rivers, wetlands, forests, or protected lands); (4) a detailed explanation of how the project will be implemented, covering necessary ground disturbance, connected actions, pre-construction preparations, and follow-up activities after construction; (5) project metrics such as dimensions, areas, distances, depths, and thicknesses, as applicable; (6) any mitigation actions known or anticipated; (7) any permits the subgrantee must obtain before work begins; (8) if applicable, a decommissioning or maintenance plan; (9) a project map that clearly marks boundaries, sites, routes, and activities per required specifications; and (10) photos summarizing the site or route, key areas of interest, and the topography of the project area.

<sup>2</sup> [https://broadbandusa.ntia.gov/sites/default/files/2025-06/ESAPTT\\_Overview.pdf](https://broadbandusa.ntia.gov/sites/default/files/2025-06/ESAPTT_Overview.pdf)

An EIS will be prepared for projects when the action will likely have a significant effect on the environment. The final decision is documented in a Record of Decision (ROD), which codifies the final decision made, whether to approve the project or not, and the basis for that decision. BEA intends to avoid this outcome by imposing route alterations if conditions necessitating an EIS are identified.

## Joint Lead Agency Responsibility Summary

As the primary administering agency for the BEAD Program in New Hampshire, BEA serves as a joint lead agency alongside NTIA to fulfill NEPA obligations and minimize potential delays during the BEAD Program's implementation. BEA performs its duties in alignment with 42 U.S.C. 4336a(a)(1)(B) and 42 U.S.C. 4336a(a)(2).

In this capacity, BEA will:

- Administer the BEAD Program in strict compliance with federal environmental statutes, including but not limited to NEPA, NHPA, ESA, and the CWA. New Hampshire understands its role in this capacity to include the following:
  - Obtainment of NEPA and EHP expertise to support the state/territory office;
  - Use of NTIA's ESAPTT for all intended efficiencies, including initial screening, Categorical Exclusion/Extraordinary circumstances evaluation, records management, and post-award monitoring.
  - Establishment of a schedule for environmental review and permitting;
  - Oversight of NEPA document preparation and ensure compliance before submission to NTIA;
  - Prevention of any project activities from starting before NEPA review is complete; and
  - Monitoring subgrantees for compliance with NEPA and other environmental laws.
- Conduct comprehensive evaluations of the sufficiency, applicability, and accuracy of the FirstNet PEIS relevant to New Hampshire's broadband deployment projects.

## Evaluation of FirstNet Regional PEIS

BEA has reviewed the FirstNet Final Regional Programmatic Environmental Impact Statement for the Eastern United States, Volume 7, Chapter 9, and the accompanying Record of Decision for the Adoption of the First Responder Network Authority Final Programmatic Environmental Impact Statement – Eastern Region to assess the sufficiency and applicability of the PEIS to anticipated BEAD-funded activities. The PEIS adequately addresses the deployment-related activities anticipated for New Hampshire. All projects will be evaluated to ensure specific activities of the project are covered by the FirstNet Regional PEIS. In the unlikely event that a proposed activity is not sufficiently covered by the PEIS, additional analysis will be conducted to determine whether supplemental environmental assessment is required to address identified gaps or deficiencies.

The PEIS can be used to inform environmental compliance under the BEAD Program, ensuring that construction and development activities align with established environmental regulations and BMPs. Its comprehensive analysis is sufficient to support informed decision-making and regulatory compliance throughout the BEAD Program's implementation.

This proactive approach ensures BEA’s environmental review process remains comprehensive, adaptive, and aligned with federal and state requirements. BEA’s ongoing collaboration with NTIA further strengthens the state’s commitment to environmental stewardship.

## Specific Award Conditions (SACs)

To reinforce environmental compliance, BEA will apply Specific Award Conditions (SACs) to all Grant Agreements, ensuring:

- Subgrantees shall not initiate or allow any grant funded implementation activities—apart from the limited “Uses Prior to Implementation” section below—prior to the following:
  - The completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) (NEPA), and issuance, as required, of a Categorical Exclusion (Cat Ex) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), Record of Decision (ROD) that meets the requirements of NEPA;
  - The completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.) (NHPA), including any consultations required by Federal law, to include consultations with the State Historic Preservation Office and Federally recognized Native American tribes;
  - The completion of consultations with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), as applicable, under Section 7 of the Endangered Species Act (16 U.S.C. 1531, et seq.), and/or consultations with the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (33 U.S.C. 1251, et seq.), as applicable; and
  - Demonstration of compliance with all other applicable Federal, State, and local environmental laws and regulations.

Additionally, provisions of the Grant Agreement require subgrantees’ commitment that they will not commence implementation activities and understand funds will not be disbursed until all necessary environmental review are complete and NTIA has approved any necessary decision document, except for the limited permissible activities identified below:

- Timely preparation of any required NEPA documents and obtainment of required permits, adhering to any applicable statutory deadlines as described in 42 U.S.C. 4336g(a); and
- In the event NTIA and BEA determine further analysis must occur, preparation of a milestone schedule identifying specific deadlines, a description of how the Subgrantee will meet these timing requirements, which may include the completion of consultations, NEPA and Section 106 reviews, and/or the submission of EAs or EISs, in the unlikely event that such efforts are unavoidable.

Regarding NHPA Compliance, the Grant Agreement will require Subgrantees to carry out the following actions, as applicable, to satisfy related compliance obligations:

- At the earliest possible time, provide the NTIA-assigned Environmental Program Officer sufficient information to initiate Tribal notification via the FCC’s Tower Construction Notification System (TCNS) when required for grant funded activities;
- Provide notified Tribes with information regarding grant-funded activities via their preferred communication means, as identified in TCNS;

- Apply the Advisory on Historic Preservation (ACHP) Program Comment to Avoid Duplicative Reviews for Wireless Communications Facilities or any other applicable program comment or program alternative developed to address the Section 106 review of communications facilities;
- Notify NTIA of any Tribal request for government-to-government consultation or any identification that a grant funded activity may impact a historic property of religious or cultural significance to a Tribe; and
- Provide all consulting parties with the statutorily required time to assess any determinations of a grant funded activity's effect on historic properties.

Subgrantees shall ensure that implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other implementation activities) does not begin prior to the completion of the above activities.

Subgrantees must comply with all conditions placed on the grant funded activities as the result of NEPA or consultation processes—e.g., BMPs or other measures necessary to reduce environmental impacts.

Subgrantees shall provide any related information requested by the BEA or by NTIA (directly or through the BEA) to ensure both initial and ongoing compliance with all requirements described above.

## Permissible Uses of Award Funds Prior to Implementation

The allowable use of Award Funds prior to beginning implementation includes, but is not limited to, activities necessary for the completion of the following:

- Pre-construction planning, including collecting information necessary to complete environmental reviews;
- Applications for environmental permits;
- Studies including, but not limited to, EA, wetland delineations, biological assessments, archaeological surveys, and other environmental reviews and analyses;
- Administrative costs;
- Pre-award application costs;
- Activities supporting consultations required under the NHPA, the ESA, and the CWA; and/or
- Limited, preliminary procurement, including the purchase or lease of equipment or execution of binding contracts to do so; the purchase of applicable or conditional insurance; and/or funds used to secure land or building leases (including right-of-way easements).

## Remedies for Noncompliance

Grant funded activities with significant impacts to environmental or historic resources may require de-obligation of funding if impacts cannot be avoided, minimized, or mitigated.

Subgrantees will be required to notify the BEA within 24 hours upon receipt of any Section 106 notices of foreclosure; notices requesting continuing or supplemental consultation received from the SHPO, Tribal Historic Preservation Office (THPO), or other consulting party or the USFWS; or notices of noncompliance received from consulting authorities or regulatory agencies.

## Scope Changes

Subgrantees and BEA will be required to acknowledge that any changes to the approved scope of grant funded activities proposed after the completion of environmental and historic preservation analyses may alter the nature or extent of environmental or historic preservation impacts. All parties understand that any proposed scope change must be brought to the attention of NTIA, and that any approved change must be re-evaluated for compliance.

## Archaeological Resources

Burial sites, human remains, and funerary objects are subject to the requirements of all applicable Federal, Tribal, state, and local laws and protocols, such as the Native American Graves Protection and Repatriation Act (NAGPRA), in addition to Section 106 of the NHPA. Subgrantees must notify the State of inadvertent discoveries and potential impacts to these resources and identify and follow all applicable laws or protocols. Subgrantees will be required to engage an archaeologist that meets the Secretary of the Interior's Professional Qualification Standards to monitor ground disturbance for grant funded activities proposed in the vicinity of National Register-eligible archaeological sites and suspected or known burials. If any potential archeological resources or buried human remains are discovered during construction, Subgrantees must immediately stop work in that area, secure that area, and keep information about the discovery confidential, except to notify the BEA, NTIA, the interested SHPO, THPO, and potentially affected Tribes. Construction activities may then only continue with the written approval of the BEA and NTIA.

## Encouragement of Best Management Practices

BEA will actively encourage subgrantees to adopt proactive mitigation strategies aligned with NTIA's BMPs. Examples include:

- Seasonal construction adjustments to protect sensitive wildlife habitats;
- Implementation of erosion and sediment control measures to protect water quality; and
- Design adaptations to avoid disruption of culturally significant sites.

These strategies are strongly recommended to minimize or mitigate environmental impacts and expedite the environmental compliance process.