

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

The Kentucky Office of Broadband Development (the “Office”) will ensure full compliance with all applicable environmental and historic preservation (EHP) requirements by adhering to the requirements of the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA), Section 7 of the Endangered Species Act, Section 404 of the Clean Water Act, as applicable, and NTIA’s programmatic guidance. This compliance is a critical part of the project review process, and all subgrantee projects will undergo a detailed evaluation to ensure minimal environmental and historic impacts.

## Environmental and Historic Preservation Requirements

**Environmental Documentation:** The Office will work with its BEAD subgrantees to ensure submission of the required environmental documentation associated with any construction and/or ground disturbing activities for BEAD projects in this Final Proposal.

**Compliance:** The Office will serve as joint lead agency for the State to ensure compliance with NEPA and the timely completion of environmental review for all BEAD-funded activities subject to NEPA review. The Office has built internal staff capacity by hiring an experienced NEPA specialist to support environmental and historic preservation requirements.

The Office plans to use NTIA’s NEPA tools, including the approved categorical exclusions (CE), available mapping tools, and the Environmental Screening and Permitting Tracking Tool (ESAPTT). The Office will follow additional NTIA guidance on EHP as it is made available. The Office has reviewed the sufficiency, applicability, and accuracy of the FirstNet Programmatic Environmental Impact Statement (PEIS) for the State. The Office’s NEPA specialist will confirm the sufficiency of all subgrantee NEPA documentation before the disbursement of funding.

Provisional subgrantees will be required to submit more detailed environmental information for use in NTIA’s ESAPTT after approval of this final proposal so that the Office can review for sufficiency and seek NTIA review and approval before disbursement of funding.

**Description of methodology used to evaluate subgrantee projects and project activities against NTIA’s programmatic and NEPA guidance.**

The Office will comply with applicable EHP requirements to evaluate subgrantee projects and project activities against NTIA's programmatic and NEPA guidance through a multi-phased process.

**Initial Phase:** NTIA established the Office as the joint lead agency for Kentucky alongside NTIA to meet NEPA obligations and to minimize potential NEPA delays while implementing the BEAD program in an environmentally sensitive manner.

The Office has advised applicants to review [NTIA's Permitting and Environmental Information Application Tool](#) to understand environmental, historic preservation, and permitting requirements. The Office hosted a permitting workshop in 2024 to connect ISPs with permitting agencies and their procedures. Applicants are also advised to consider NTIA best practices for mitigation in engineering and route designs if they are awarded.

The Office has followed NTIA guidance to evaluate the sufficiency of the analysis in the FirstNet Regional PEIS as it applies to anticipated implementation activities in Kentucky. Based on its evaluation, the Office has found that the NEPA analysis contained in the FirstNet Regional PEIS is sufficient with an addendum documenting updates to affected areas.

**Project Application Phase:** During the project application review, the Office reviewed each project narrative, geographic information, and logical network design which included all Broadband Serviceable Locations (BSLs) to be served, all proposed broadband infrastructure routes to be constructed, and project area boundary polygons encompassing all infrastructure routes and BSLs.

**After Final Proposal:** After approval of the Final Proposal, NTIA will create project records in ESAPTT to evaluate the applicability of categorical exclusions, consider and document the presence (or absence) of Extraordinary Circumstances, and transmit information and draft NEPA documents to NTIA for review and approval.

After subgrants are awarded, the Office plans to work with subgrantees to gather detailed project information to provide NTIA with TCNS notifications, if required, and conduct an initial NHPA Section 106 review of project areas to flag potential impacts on sensitive historical and cultural structures and artifacts that could need further analysis and subgrantee actions.

Based on its project screening using NTIA's ESAPTT, the Office will determine whether specific projects may qualify for a categorical exclusion (CE) or warrant additional evaluation due to extraordinary circumstances. The Office will ensure that subgrantees

complete any required Section 106, Section 7, and other applicable permitting requirements prior to construction.

**Ongoing Subgrantee Monitoring:** As part of its ongoing subgrantee monitoring, the Office will:

- Ensure that project implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other project implementation activities) does not begin prior to completion of NEPA documentation and approvals per Special Award Conditions.
- Provide training and monitor subgrantees so they understand and comply with environmental, historic preservation, and other permitting requirements, including but not limited to NEPA, right of way, and other authorizations.

## Joint Lead Agency Responsibility Summary

As the primary administering agency for the BEAD program in Kentucky, the Office serves as joint lead agency alongside NTIA to meet NEPA obligations and to minimize potential NEPA delays in the State while implementing the BEAD program in an environmentally sensitive manner.<sup>1</sup> The Office conducts these activities in accordance with 42 U.S.C. 4336a(a)(1)(B) and carries out the duties described in 42 U.S.C. 4336a(a)(2).

In its role as joint lead agency, the Office complies with EHP requirements 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.*), and all other applicable federal, state, and local environmental laws and regulations.<sup>2</sup>

As joint lead agency, the Office has been given the following responsibilities by NTIA:

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<sup>1</sup> General Terms and Conditions for the NTIA Broadband Equity, Access, and Deployment (BEAD) Program Funds, pg. 7: [https://broadbandusa.ntia.doc.gov/sites/default/files/2024-05/BEAD\\_IPFR\\_GTC\\_04\\_2024.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2024-05/BEAD_IPFR_GTC_04_2024.pdf).

<sup>2</sup> Per NTIA NEPA for the BEAD Program presentation delivered at the SBLN Virtual Monthly Meeting: Permitting Update June 25, 2024, these include: Resource Conservation and Recovery Act; Superfund Authorization and Recovery Act; Archaeological and Historic Preservation Act; American Indian Religious Freedom Act; Floodplains and Wetlands laws and requirements; Safe Drinking Water Act; Coastal Zone Management; Clean Water Act; Clean Air Act; State and Local land use requirements; Climate Resiliency; Endangered Species Act; Migratory Bird Treaty Act; Bald and Golden Eagle Protection Act; Executive orders on Environmental Justice; Toxic Substances Control Act; Comprehensive Environmental Response, Compensation, and Liability Act; Farmland Protection Policy Act; and Native American Graves Protection and Repatriation Act.

- Administer the BEAD program in accordance with 42 U.S.C. 4336a(a)(1)(B) and carry out the duties described in 42 U.S.C. 4336a(a)(2).
- Complete an evaluation of the sufficiency, applicability, and accuracy of the analysis in the relevant First Responder Network Authority (FirstNet) Regional Programmatic Environmental Impact Statement (PEIS) chapter as it applies to anticipated implementation activities for Kentucky.
- Include in all awards to subgrantees conditions stating that:
  - The subgrantee will not commence implementation and funds will not be disbursed until any necessary environmental review is complete and NTIA has approved any necessary decision document, except for the limited permissible activities identified in the BEAD NOFO (see “Permissible Pre-Implementation” below).
  - The subgrantee must provide a milestone schedule identifying specific deadlines and describing how the subgrantee proposes to meet these timing requirements including, as required, the completion of consultations, the completion of NEPA and Section 106 reviews, and the submission of Environmental Assessments (EA) or Environmental Impact Statements (EIS).
- For grant-funded activities carried out by subgrantees, certify the sufficiency of subgrantee NEPA documentation (either by preparing such documentation or by supervising subgrantees’ preparation of draft documents), independently reviewing those drafts, and verifying that draft documents meet the requirements of NEPA prior to transmittal to NTIA. This includes conditioning the subgrant agreement to prohibit project implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any new project implementation activities) from beginning prior to completion of NEPA review.
- For grant funded activities carried out by the Office, complete all analyses required to prepare all NEPA documentation, draft all NEPA documents, and ensure that such documents meet the requirements of NEPA prior to transmittal to NTIA.
- Submit NEPA documentation – including any supporting environmental documentation required or requested by NTIA – to NTIA for review.

## **Description of FirstNet Regional PEIS Evaluation**

The State has followed NTIA step-by-step guidance<sup>3</sup> to complete an evaluation of the sufficiency, applicability, and accuracy of the analysis in the FirstNet Regional PEIS

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<sup>3</sup> [https://broadbandusa.ntia.gov/technical-assistance/DOC\\_NTIA\\_BEAD\\_Evaluating\\_FirstNet\\_PEIS](https://broadbandusa.ntia.gov/technical-assistance/DOC_NTIA_BEAD_Evaluating_FirstNet_PEIS).

chapter, issued in 2017, as it applies to anticipated BEAD implementation activities for Kentucky (Volume 5, Chapter 7).<sup>4</sup>

The Office anticipates that BEAD deployment-related project activities in Kentucky are covered by the actions described in Volume 5, Chapter 7. All project scopes will be reviewed to evaluate whether activities specific to the project are covered by the PEIS. If a proposed project 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. Although final project details are not yet approved, the following activities described in the FirstNet PEIS Volume 5, Chapter 7 may be implemented in Kentucky:

- Wired projects
  - **Use of existing conduit – new buried fiber optic plant:** Disturbance associated with the installation of fiber optic cable in existing conduit would be limited to entry and exit points of the existing conduit in previously disturbed areas.
  - **Use of existing buried or aerial fiber optic plant or existing submarine cable:** Lighting up of dark fiber.
  - **New build – buried fiber optic plant:** Plowing (including vibratory plowing), trenching, or directional boring and the construction of points of presence (POPs), huts, or other associated facilities or hand-holes to access fiber.
  - **New build – aerial fiber optic plant:** Installation of a new aerial fiber optic plant could impact new telecommunications infrastructure through the installation of new, or replacement of existing, telecommunications poles.
  - **New build – submarine fiber optic plant:** Installation of cables in limited nearshore and inland bodies of water.
  - **Colocation on existing aerial fiber optic plant:** Similar to new build activities, colocation on existing aerial fiber optic plant could include installation of new or replacement towers requiring ground disturbance.
  - **Installation of optical transmission or centralized transmission equipment:** Installation of new utility poles, hand holes, pulling vault, junction box, hut, and POP structure installation, would require ground disturbance.
- Wireless projects
  - **New wireless communication towers:** Installation of new wireless towers and associated structures (generators, equipment sheds, fencing, security

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<sup>4</sup> <https://2014-2018.firstnet.gov/sites/default/files/FirstNet%20FPEIS%20South%20Chapter%207%20Kentucky%20August%202017.pdf>.

and aviation lighting, electrical feeds, and concrete foundations and pads) or access roads.

- **Colocation on existing wireless towers, structure, or building:** Mounting or installing equipment (such as antennas or microwave dishes) on an existing tower.
- Satellites and Other Technologies
  - **Satellite-enabled devices and equipment:** Including permanent equipment on existing structures.
  - **Deployment of satellites**<sup>5</sup>

In its review, the Office found that the FirstNet PEIS broadband technologies analyzed are fully aligned with BEAD requirements.

The Office also reviewed Volume 5, Chapter 7 for regulatory changes and affected environment:

- Regulatory changes: The Office reviewed changes to State laws and found that State laws and regulations listed in the FirstNet PEIS remain applicable in 2025. Although there have been some changes to the environmental and historic preservation laws and regulations, none of these changes have a material impact on the analysis presented in the PEIS.
- Affected environment: The PEIS adequately describes the potentially affected environment in Kentucky, including infrastructure and biological resources. Updates can be found in the FirstNet Programmatic Environmental Impact Statement Revalidation memo.
- Based on its assessment, the Office determined that the FirstNet Regional PEIS Volume 5, Chapter 7, with a revalidation memo addressing the updates since its 2017 publication date, will sufficiently cover all anticipated deployment related activities and projects.

## NTIA Categorical Exclusion Screening Description

The Office will conduct a NEPA review to assess the environmental impacts of potential projects, categorized by the significance of the impact.

**1. Categorical Exclusion (CE)** – Category of actions that the agency has determined do not individually or cumulatively have a significant effect on the environment. An analysis of the environmental considerations of the proposed actions, including screening for

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<sup>5</sup> Final Programmatic Environmental Impact Statement for the Southern United States, Chapter 7, <https://2014-2018.firstnet.gov/sites/default/files/FirstNet%20FPEIS%20South%20Chapter%207%20Kentucky%20August%202017.pdf>.

Extraordinary Circumstances (EC), must be completed to determine whether a CE can apply. Once subgrant agreements are finalized, the Office will conduct a preliminary CE review and screening of EC using ESAPTT. If there is no finding of EC for the project, then a CE is provisionally approved, pending NTIA's review and approval. This screening process will rely on the ESAPTT and "Guidance on NTIA National Environmental Policy Act Compliance," particularly Appendix B, which outlines activities that typically qualify for CE.

- a. The Office will conduct a screening in ESAPTT to determine whether any ECs apply to the project. The Office will review the project scope and details, including project size, location, construction methods, and proximity to sensitive environmental or historical areas and will solicit additional route and engineering details as needed from the subgrantees for this screening.
- b. Using ESAPTT, the Office will cross-reference each project with the list of CEs provided in Appendix B of NTIA's NEPA guidance. Projects that involve activities with minimal or no environmental impact, such as minor upgrades, maintenance, or non-intrusive installations, are more likely to qualify for a CE.<sup>6</sup>
- c. The Office will review for ECs using ESAPTT and Appendix C of the NTIA NEPA Guidance Document.<sup>7</sup> If no ECs are present, the Office will apply a provisional CE to the project, subject to NTIA's review and approval.
- d. If ECs are present, the Office, supervising the subgrantee, will conduct and document the appropriate environmental analysis to determine if the action warrants a CE or if the preparation of an EA or EIS is required.
  - i. A CE may still apply if the Office finds that there are circumstances that lessen the impacts of other conditions sufficient to avoid significant effects.<sup>8</sup>
  - ii. If a CE does not apply, the Office or the subgrantee will prepare an EA or EIS.

**2. Environmental Assessment (EA)** – An EA will be prepared when the significance of the project's environmental impact is not clearly established. If environmental analysis determines a project to have no significant impacts on the quality of the environment, a Finding of No Significant Impact (FONSI) is issued. An EIS is required if the analysis determines that an action may have significant environmental impact.

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<sup>6</sup> For a list of NTIA categorical exclusions (CE), CEs adopted from FirstNet, and Department of Commerce CEs, see pp. 11-14: [https://broadbandusa.ntia.doc.gov/sites/default/files/2024-08/NTIA\\_NEPA\\_Categorical\\_Exclusion\\_Extraordinary\\_Circumstances\\_NTIA-BLM\\_Permitting\\_Summit\\_Slides.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2024-08/NTIA_NEPA_Categorical_Exclusion_Extraordinary_Circumstances_NTIA-BLM_Permitting_Summit_Slides.pdf).

<sup>7</sup> For a list of events that may rise to extraordinary circumstances, see Guidance on NTIA National Environmental Policy Act Compliance, pp. C1-2: [https://broadbandusa.ntia.gov/sites/default/files/2024-04/Guidance\\_on\\_NTIA\\_NEPA\\_Compliance\\_April\\_2024.pdf](https://broadbandusa.ntia.gov/sites/default/files/2024-04/Guidance_on_NTIA_NEPA_Compliance_April_2024.pdf).

<sup>8</sup> For a list of best management practices and mitigation measures, see [https://broadbandusa.ntia.gov/sites/default/files/2025-06/EHP\\_NTIA\\_BMPs\\_and\\_Mitigation\\_Measures.pdf](https://broadbandusa.ntia.gov/sites/default/files/2025-06/EHP_NTIA_BMPs_and_Mitigation_Measures.pdf).



**3. Environmental Impact Statement (EIS)** – An EIS will be prepared for projects when the action will likely have a significant effect on the environment. This is the most comprehensive form of NEPA analysis. 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.

The Office will identify, confirm, and categorize projects likely qualifying for NTIA categorical exclusions and those requiring additional environmental review, and, if additional review is required, will determine how that review will be conducted.<sup>9</sup>

## Specific Award Conditions

To certify the sufficiency of all subgrantee NEPA documentation, the Office will, per NTIA guidance, include the following required conditions in all awards to subgrantees:<sup>10</sup>

- The subgrantee will not commence implementation, and funds will not be disbursed, until any necessary environmental review is complete and NTIA has approved any necessary decision documents, except for limited permissible activities listed in the following section. This review includes:
  - The completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) (NEPA), an issuance by NTIA and DTI, as required, of a Categorical Exclusion (CE) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), or Record of Decision (ROD) (“decision documents”) that meets the requirements of NEPA.
  - The completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 300101, et seq.) (NHPA), including any consultations required by federal law, to include consultations with the State Historic Preservation Office (SHPO), 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.
  - Demonstration of compliance with all other applicable federal, state, and local environmental laws and regulations.

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<sup>9</sup> See Appendix B, NTIA NEPA Guidance: [https://broadbandusa.ntia.gov/sites/default/files/2024-04/Guidance\\_on\\_NTIA\\_NEPA\\_Compliance\\_April\\_2024.pdf](https://broadbandusa.ntia.gov/sites/default/files/2024-04/Guidance_on_NTIA_NEPA_Compliance_April_2024.pdf).

<sup>10</sup> See [NTIA's 2024 BEAD General Terms and Conditions](#).



- The subgrantee must timely prepare any required NEPA documents, obtain any required permits, and adhere to any applicable statutory deadlines as described in 42 U.S.C. 4336a(g).
- The subgrantee must provide a milestone schedule identifying specific deadlines and describing how the subgrantee proposes to meet these timing requirements, including, as required, the completion of consultations, the completion of NEPA and Section 106 reviews, and the submission of Environmental Assessments or Environmental Impact Statements.
- The subgrantee must immediately inform the Office if, during construction, it inadvertently encounters culturally and historically sensitive sites or artifacts such as burial sites and stop all project construction until the subgrantee and the Office can determine potential impacts and mitigations.
- Additional Special Award Conditions may be added if Environmental Assessments or Environmental Impact Statements are determined to be required and specific mitigation activities are deemed to be required.

## **Permissible Pre-Implementation Activities**

Aligned with the BEAD NOFO and NTIA guidance, the Office will allow limited permissible pre-implementation activities under NEPA to proceed using award funds prior to the completion of the EHP review process, noting that subgrantees that undertake unauthorized project activities in contravention of these activities proceed at their own risk and may face de-obligation of funding.

- Pre-construction planning, including collecting information necessary to complete environmental reviews.
- Applications for environmental permits.
- Studies, including, but not limited to:
  - Environmental Assessments
  - Wetland delineations
  - Biological assessments
  - Archaeological surveys
  - Other environmental reviews and analyses
- Administrative and pre-award application activities.
- Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act.
- Limited, preliminary procurement, including the purchase or lease of equipment, or entering into 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).

## Other Relevant Information

**Archaeological Resources:** The Office's subgrant agreement includes the protection of 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, including the Native American Graves Protection and Repatriation Act (NAGPRA), in addition to Section 106 of the NHPA. Subgrantees must notify the Office of inadvertent discoveries and potential impacts to these resources and identify and follow all applicable laws and protocols. Subgrantees should have an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitor ground disturbance for grant funded activities proposed in the vicinity of National Register eligible archaeological sites and suspected or known burial grounds.

The subgrant agreement also requires that if any potential archaeological resources or buried human remains are discovered during construction, the subgrantee must immediately stop work and secure the area and keep information about the discovery confidential, except to notify the Office, NTIA, SHPO of Kentucky, interested THPO, and potentially affected Tribes. Construction activities may only proceed with written approval from the Office and NTIA.