

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

14.1 Attachment (Required): Submit a document which includes the following:

- **Description of how the Eligible Entity will comply with applicable environmental and historic preservation (EHP) requirements, including a brief description of the methodology used to evaluate the Eligible Entity's subgrantee projects and project activities against NTIA's National Environmental Policy Act (NEPA) guidance. The methodology must reference how the Eligible Entity will use NTIA's Environmental Screening and Permitting Tracking Tool (ESAPTT) to create NEPA project records, 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.**

NJ OBC 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, and Section 404 of the Clean Water Act, as applicable, and following NTIA's programmatic guidance.

NJ OBC also will have measures in place to ensure that grant-funded implementation activities will not begin prior to the completion of reviews required under NEPA and NHPA, including any consultations with other federal agencies and state environmental review authorities, the State Historic Preservation Office, any federally recognized Native American Tribes or other consultations and processes required by state and federal law.

Compliance with these requirements is a critical part of the project review process, and all subgrantee projects will undergo a detailed evaluation, using NTIA tools and NJ OBC's NEPA review process, to ensure minimal environmental and historical impacts from the NJ OBC's awarded projects.

Project Assessments

After submitting its Final Proposal, the NJ OBC will use the publicly available APPEIT,¹ and the layers from the NTIA Permitting and Environment Information Application² that are incorporated into APPEIT, to identify areas of potential significant environmental impacts and legal, regulatory, and jurisdictional overlaps for any of its provisionally awarded projects. This tool will also allow NJOBC to begin its analysis of potential mitigation and compliance measures for projects in these sensitive areas.

NJ OBC will also rely on the expertise of its specialists and consultants and work with the provisional awardees to begin this process with the APPEIT to provide initial analyses and information that will support a timely NEPA review process.

¹ ArcGIS Pro Permitting and Environmental Information Tool (APPEIT) Project Package (June 2025)
<https://nbam.ntia.gov/content/37fa42c6313e4bdb9d8a9c05d2624891/about>

² NTIA Permitting and Environment Information Application (2025)
<https://nbam.maps.arcgis.com/apps/instant/portfolio/index.html?appid=c7906b72e14045bf9fa6fe9addd469a0>

Upon approval of its Final Proposal, the NJ OBC will use NTIA's Environmental Screening and Permitting Tracking Tool (ESAPTT)³ to screen its awarded projects for environmental impacts, facilitate document exchange, expedite NEPA determinations and approvals, and track projects' requirements and timelines. The NJ OBC's NEPA qualified staff and consultants will input a project description and map of its awarded projects into the ESAPTT to receive initial guidance regarding the required documentation and analysis that will be necessary for the NEPA review of each awarded project.

After receiving the preliminary results from the ESAPTT, the NJ OBC will request the data, descriptions, analysis, research and planning information from subgrantees to create the required NEPA review documentation for input into ESAPTT. NJ OBC will work with its subgrantees to support the use of NEPA Best Management Practices⁴ to create mitigation measures to avoid or minimize potential environmental impacts from the project as it works with subgrantees to conduct the required screening and documentation of their projects.

Also upon receipt of NITA's approval of its Final Proposal and finalization of the subgrantee agreement, the NJ OBC will require each awarded subgrantee to develop a NEPA milestone schedule that will also include key permit and authorization deadlines and descriptions. This schedule will include deadlines, and descriptions for the completion of consultations, NEPA and Section 106 reviews, and submission of NEPA documentation.

Throughout this process, the NJ OBC will consult its NEPA qualified and trained personnel and work with its Federal Program Officer and the appropriate NTIA representatives to ask questions and receive guidance.

ESAPTT- Categorical Exclusions

As part of the ESAPTT documentation process, the NJ OBC will consult the NTIA list of Categorical Exclusions (CE) that describe situations that should not raise extraordinary circumstances and will not require any further NEPA review.⁵ 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 CATEX.

Using documentation gathered from subgrantees, the NJ OBC will complete the NTIA CE questionnaire as part of the ESAPTT process to provide documentation that identifies the scope of the awarded projects and to identify and select potentially applicable CEs. The NJ OBC will also complete an additional ESAPTT questionnaire to identify any extraordinary circumstances in environmentally sensitive areas that may be present in an awarded project and to propose mitigation commitments to avoid significant environmental impacts.

For each project with a CE determination, the NJ OBC will certify and transmit a Draft NEPA Decision Memo to the NTIA through the ESAPTT. The ESAPTT will review the Draft NEPA Decision Memo and

³ See, ESAPTT Roadmap, https://broadbandusa.ntia.gov/technical-assistance/Streamlined_Environmental_Review_and_Permitting_Roadmap

⁴ NTIA Best Management Practice and Mitigation Measures, https://broadbandusa.ntia.gov/technical-assistance/BMP_and_Mitigation_Measures.

submit a Final NEPA Decision Memo. The NJ OBC will cooperate with NTIA to expedite and process automated NEPA approvals from the ESAPTT so that a subgrantee may begin construction.

ESAPTT- Environmental Assessments

The NJ OBC acknowledges that the ESAPTT may identify some of the awarded projects that have “extraordinary circumstances” and will require an Environmental Assessment or, although unlikely, an Environmental Impact Study. The NTIA NEPA Guidance Document, at Appendix C,⁵ provides examples of the types of extraordinary circumstances that may be present in a project and may require that project to undergo an Environmental Assessment.

When an Environmental Assessment is required, the NJ OBC will use the Tiered Environmental Assessment Template,⁶ provided by the NTIA, to support and streamline the necessary environmental review process. NJ OBC’s write up of in the Tiered Template will also take into consideration the programmatic NEPA review using the FirstNet Programmatic Environmental Impact Statement (PEIS) and those areas where the New Jersey Validation Memo recommended updates or changes of the FirstNet PEIS necessary to address new, unique, or state-specific environmental review requirements and any additional requirements to address special conditions or mitigations.

Where these EAs are required, the NJ OBC will also work with the subgrantee and NTIA to try to restructure the project or conduct the necessary review. The NJ OBC will then conduct monitoring and compliance activities to support the subgrantee’s compliance of the NTIA’s final determination.

National Historic Preservation Act

The NJ OBC will also apply the requirements of the Advisory Council on Historic Preservation (ACHP) to comply with the National Historic Preservation Act (NHPA) Section 106, in consultation with the New Jersey Historic Preservation Office.⁷ The Section 106 consultation process requires that documentation be included as part of the environmental project file and adequately summarized in the NEPA document. Subgrantees will be responsible for preparing Section 106 documentation for submittal to the NJ OBC.

To ensure the timely completion of historic preservation review for all BEAD-funded activities, NJ OBC will supervise the preparation of documents using individuals who meet the Secretary of the Interior’s Professional Qualifications Standards, either through the subgrantee’s resources or NJ OBC’s qualified employees or retained consulting firm. The types of information and processes that will be required include:

- 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;

⁵ Guidance on NTIA National Environmental Policy Act Compliance (June 2025), Appendix C, [Guidance on NTIA National Environmental Policy Act Compliance](#).

⁶ NTIA NEPA Tiered Environmental Assessment Guidance and Template (April 2025), https://broadbandusa.ntia.gov/sites/default/files/2025-06/EHP_Tiered_EA_Guidance_and_Template.pdf

⁷ New Jersey Historic Preservation Office, Department of Environmental Protection, <https://dep.nj.gov/hpo/>

- Provide notified Tribes with information regarding grant-funded activities via their preferred communication means, as identified in TCNS;
- Apply the Advisory Council 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;
- 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 respond to its determination of a grant-funded activity's impact on historic properties.

Additionally, 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).

The NJ OBC will notify NTIA of inadvertent discoveries and potential impacts to these resources upon receiving notice from any of its subgrantees and will identify and follow all applicable laws or 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 burials.

Subgrantees will be instructed that if any potential archeological resources or buried human remains are discovered during construction, to immediately stop work in that area, secure that area, and keep information about the discovery confidential, except to notify NTIA and the interested SHPO, THPO, and potentially affected Tribes. It is NJ OBC's understanding that such construction activities may then only continue with the written approval of NTIA.

Endangered Species Act

Where necessary, the NJ OBC will also work with the US Fish and Wildlife Service (FWS) as a non-federal representative to determine if it will be necessary for NJ OBC to conduct a review of any awarded projects under the Endangered Species Act (ESA).⁸ The NJ OBC will use the online Information for Planning and Consultation (IPaC) tool to identify areas within awarded projects that have listed species and protected, critical habitat boundaries. The NJ OBC will also review the NTIA's and FWS's list of broadband activities that are expected to have "no effect" on listed species or designated critical habitats and are therefore exempt from the ESA Section 7 consultation.

NJ OBC will document the results from the IPaC tool and the "no effect" list. If a specific NJ OBC project will require an ESA review, it will use the Determination Keys (DKeys) process to conduct a streamlined and efficient review that will provide a determination of whether a project will have "no effect" or "may effect" or "not likely to effect". Only in extreme cases, which NJ OBC expects to work with its subgrantees to avoid, will the NJ OBC require an in-person consultation with FWS. Through its

⁸ NTIA's Guide to Streamlined Endangered Species Act Compliance for Broadband Deployments (April 2025), https://www.ntia.gov/sites/default/files/2025-04/doc_ntia_guide_to_streamlined_esa_compliance_for_broadband_deployments.pdf

compliance and monitoring process, the NJ OBC will enforce any resulting mitigation measures or changes required by the FWS and the ESA.

- **Description of the Eligible Entity’s plan to fulfill its obligations as a joint lead agency for NEPA under 42 U.S.C. 4336a, including its obligation to prepare or to supervise the preparation of all required environmental analyses and review documents**

NJ OBC will serve as a joint lead agency to implement EHP requirements under 42 U.S. Code Section 4336a with respect to proposed broadband infrastructure deployment activities undertaken by subgrantees, particularly the obligations listed in paragraph (2) of the statute. The NJ OBC will fulfill its role and obligations as it collectively implements the BEAD NEPA review process with NTIA and enforces NEPA requirements for its BEAD program awarded projects. As such, NJ OBC Subject Matter Experts (SMEs), including qualified vendors, consultants, and/or intergovernmental agency partners, will centrally review and confirm the completeness and sufficiency of EHP compliance documentation prior to submittal to NTIA through the ESAPTT.

Pursuant to the General Terms and Conditions (GT&C) for the NTIA BEAD Program Funds⁹ NJ OBC will design and implement a program to ensure compliance with Section 13 Environmental and Historic Preservation (EHP) Review of the GT&C document.

In its IPV2, the NJ OBC made it clear that failure of applicants to demonstrate understanding of the EHP requirements or failure to demonstrate intent to abide by these requirements will result in disqualification from the BEAD Program. To support NEPA compliance by subgrantees, NJ OBC produced and distributed information about the BEAD Program’s NEPA and NHPA obligations and responsibilities to potential applicants and other stakeholders. NJ OBC also published this NEPA and NHPA Guidance document on its website.¹⁰

NJ OBC’s is also implementing its joint lead agency responsibility through the BEAD application materials. The NJ OBC’s Prequalification Intake Form requires applicants to provide a narrative description of its compliance plans for the BEAD requirements pursuant to NEPA and NHPA or to upload an existing NEPA compliance plan that was prepared for the BEAD program in another state. NJ OBC has reviewed the submitted compliance plans to ensure that each provisionally awarded project has a complete and comprehensive EHP compliance plan.

As a joint lead agency, NJ OBC will manage and supervise the NEPA review process for each awarded project. The NJ OBC may allow the subgrantee to group awards where appropriate to facilitate ease of review if such grouping will comply with the applicable NEPA review level and permits. The expectation is that subgrantees will engage their qualified environmental review personnel or consultants to perform the environmental reviews required under the NTIA BEAD Program.

⁹ General Terms and Conditions for the NTIA Broadband Equity, Access, and Deployment Program (BEAD) Program Funds, Section 13.B, pg. 8: https://broadbandusa.ntia.doc.gov/sites/default/files/2024-05/BEAD_IPFR_GTC_04_2024.pdf

¹⁰ https://www.nj.gov/connect/documents/bead/NJ_BEAD_NEPA_and_NHPA_Guidance.pdf

The NJ OBC will not allow deployment work to begin on any awarded project until it has received the required NTIA NEPA determination of a Categorical Exemption, Record of Decision, or Finding of No Significant Impact. Once the NJ OBC receives the NTIA decision documents, they will advise subgrantees about commencing construction. As a joint lead agency, NJ OBC will implement a formal Notice to Proceed (NTP) process to facilitate compliance with all permitting requirements.

The NJ OBC will further design an EHP-specific monitoring and compliance process to support the enforcement of the NTIA EHP determinations and approvals. In its capacity as a joint lead agency, the NJ OBC will monitor the work by subgrantees to implement any required conditions or mitigation measures for its BEAD-awarded projects. The NJ OBC will notify NTIA within 24 hours of its receipt of a notice by a subgrantee or upon direct receipt of any Section 106 notices of foreclosure; notices requesting continuing or supplemental consultation received from the state historic preservation office (SHPO), tribal historic preservation officer (THPO), or other consulting party or the USFWS or NMFS; or notices of noncompliance received from consulting authorities or regulatory agencies. If notices are issued, NJ OBC will work with NTIA and the subgrantee to resolve the issue in a timely and comprehensive manner.

The NJ OBC will require subgrantees to report any proposed change to the scope of grant-funded activities after the completion of environmental and historic preservation review. Any proposed change that has the potential to alter the nature or extent of environmental or historic preservation impacts must be brought to the attention of NTIA, through the NJ OBC, and the environmental review process will be reevaluated and updated for compliance with applicable requirements.

- **Evaluation of the sufficiency of the environmental analysis for your state or territory that is contained in the relevant FirstNet Regional Programmatic Environmental Impact Statement (PEIS), available at <https://www.firstnet.gov/network/environmental-compliance/projects/regional-programmatic-environmental-impact-statements>.**

In August 2017, the First Responder Network Authority (FirstNet) published the Final Regional Programmatic Environmental Impact Statement (PEIS) for deployment of telecommunications and broadband infrastructure across the United States to support the construction of the National Public Safety Broadband Network. The NTIA has adopted the FirstNet PEIS to support tiered NEPA reviews for BEAD awarded projects.¹¹

NJ OBC contracted with Michael Baker International (MBI), an environmental engineering and consulting practice with NEPA qualified professionals, to conduct an evaluation of the sufficiency, applicability and accuracy of the analysis in the relevant chapter of the FirstNet PEIS as it applies to anticipated implementation activities for the State of New Jersey's BEAD funded projects. Based on a thorough review of the East Regional FirstNet PEIS (Volume 8-Chapter 10: New Jersey), and the discussion and proposed updates put forth by the NJ OBC NEPA qualified consultants, NJ OBC has determined that the analysis remains valid for use in subsequent environmental documents. The full memo is included as Appendix A.

¹¹ NTIA, NEPA for BEAD: Programmatic Environmental Impact Statement Evaluation Sample Memo and Recommendations (December 2024) https://broadbandusa.ntia.doc.gov/sites/default/files/2024-12/Programmatic_Environmental_Impact_Statement_Evaluation_Sample_Memo_and_Recommendations.pdf.

The NJ OBC PEIS Validation Memo includes the team's evaluation of whether the FirstNet analysis remains valid to support decision-making for BEAD-funded infrastructure projects. This analysis considers factors such as environmental setting, environmental circumstances, environmental impacts, and best management practices for a variety of potential environmental impacts. The areas of potential impacts include water resources, wetlands, biological resources, visual resources, and human health and safety.

The NJ OBC Validation Memo describes a series of suggested changes to the proposed actions, regulatory setting, and areas of concern or sensitivity identified in the original PEIS. These changes include clarifying language, descriptions of updates in laws and regulations, suggested updates to the environmental setting, descriptions and analysis of key terms, and updates to environmental circumstances.

The Validation Memo also acknowledges the impact that recent federal Executive Orders,¹² and the resulting rescission of certain environmental review regulations, have had on federal environmental review regulations, processes, and policies. These Orders impact sections of the FirstNet PEIS regarding environmental justice, climate change and socioeconomic diversity. However, New Jersey regulations and policies, as well as uncertainty regarding the implementation and enforcement of these Executive Orders, may require NJ OBC and NTIA to assess the impact of its BEAD projects on these impacted elements. NJ OBC will work with NTIA to correctly apply the FirstNet PEIS analysis, within the ESAPTT, regarding these specific issues for its awarded projects.

- **Evaluation of whether all deployment-related activities anticipated for projects within your state or territory are covered by the actions described in the relevant FirstNet Regional PEIS.**

NJ OBC will review awarded projects with the understanding that the FirstNet PEIS will cover the deployment activities of each project and satisfy the requirements under the NEPA review process. If the documentation submitted to the ESAPTT, at any time, determines that any subgrantee proposed project is not sufficiently covered by the FirstNet PEIS, additional analysis will be conducted by NJ OBC subject matter experts working with NTIA staff to determine whether a supplemental environmental assessment is required to address identified gaps or deficiencies.

Although BEAD projects have not been approved, the following activities described in the PEIS may be relevant to the review of an awarded project:

- **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.

¹² See, **Executive Order 14151** of January 20, 2025, "Ending Radical and Wasteful Government DEI Programs and Preferencing" <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-wasteful-government-dei-programs-and-preferencing/>; **Executive Order 14154** of January 20, 2025, "Unleashing American Energy" <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>; **Executive Order 14162** of January 20, 2025, "Putting America First in International Environmental Agreements" <https://www.whitehouse.gov/presidential-actions/2025/01/putting-america-first-in-international-environmental-agreements/>.

- Use of Existing Buried or Aerial Fiber Optic Plant or Existing Submarine Cable: Lighting up of dark fiber.
- Installation of Optical Transmission or Centralized Transmission Equipment requiring no ground disturbance.
- 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 – Submarine Fiber Optic Plant: The installation of cables in limited nearshore and inland bodies of water.
- New Build – Aerial Fiber Optic Plant: Potential impacts would be similar to a Buried Fiber Optic Plant, especially where ground disturbance is expected when connecting aerial cable to new ground locations or the installation of new or replacement of existing telecommunications poles.
- Collocation on Existing Aerial Fiber Optic Plant: Any ground disturbance could cause direct and indirect impacts to wetlands from increased suspended solids and runoff from activities, depending on the proximity to wetlands and the type of wetlands that could be affected.
- Installation of Optical Transmission or Centralized Transmission Equipment: Installation of transmission equipment that would require grading or other ground disturbance to install small boxes or huts, access roads, or similar.
- Wireless Projects
 - New Wireless Communication Towers: Installation of new wireless towers and associated structures (generators, equipment sheds, fencing, security and aviation lighting, electrical feeds, and concrete foundations and pads) or access roads.
 - Collocation on Existing Wireless Tower, Structure, or Building: Collocation would involve mounting or installing equipment (such as antennas or microwave dishes) on an existing tower.
- Satellite and Other Technologies
 - Satellite-Enabled Devices and Equipment: Including permanent equipment on existing structures.
- **Description of the Eligible Entity’s plan for applying specific award conditions or other strategies to ensure proper procedures and approvals are in place for the disbursement of funds while projects await EHP clearances.**

NJ OBC will include Specific Award Conditions (SACs) relating to EHP obligations and responsibilities in its BEAD Subgrant Agreement. NJ OBC’s Subgrant Agreement will include the required elements as specified in the NTIA’s BEAD General Terms and Conditions Section 13 to ensure that its subgrantees will comply with all EHP related obligations throughout the period of performance. NJ OBC has posted a sample subgrant agreement on its website as required by NTIA Final Proposal Guidance (page 39).

Provisions of its Subgrant Agreement will prohibit subgrantees from initiating or allowing any grant-funded implementation activities prior to the following:¹³

- The completion of any review required under the NEPA (42 U.S.C. 4321, et seq.) (NEPA) and receipt of any necessary decision documents approved by NTIA..
- The completion of reviews required under Section 106 of the NHPA (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 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, under the NJ OBC Subgrant Agreement, subgrantees:

- Must maintain records throughout the grant period of performance that are sufficient to demonstrate compliance with EHP requirements and in such a manner that they can be provided to the NJ OBC or NTIA upon request;¹⁴
- Will only be reimbursed for allowable and expressly authorized pre-award expenses for EHP activities and will be subject to specific funds distribution milestones and reimbursement documentation for pre-award and post-award expenses;¹⁵
- Will be subject to withholding of funds, repayment obligations, or other remedies for non-compliance of the subgrantee agreement or BEAD EHP rules and obligations.

¹³ See, NJ BEAD Grant Agreement, Section XXIV.I.13 (Compliance with Federal Requirements; Section XXIV.K (EHP and BABA Compliance); Exhibit B, BEAD Program Requirements, Additional Terms and Conditions, #26.

¹⁴ New Jersey BEAD Grant Agreement, Section XXIV.K

¹⁵ NJ BEAD Grant Agreement, Section VIII (Method of Payment); Exhibit A, Section VI.

Appendix A
NJ OBC FirstNet PEIS Validation Memo

DRAFT

MEMORANDUM FOR: Jill A. Springer
Senior Policy Advisor for Permitting
Chief Environmental Review and Permitting Officer
Office of Internet Connectivity and Growth

Amanda Pereira
Environmental and Historic Preservation Team Lead
Office of Internet Connectivity and Growth

FROM: Vallary C. Bullard
Director, New Jersey Office of Broadband Connectivity

PREPARED BY: Elise Rodriguez
Environmental Technical Manager
Michael Baker International

SUBJECT: FirstNet Regional Programmatic Environmental Impact Statement
Revalidation – New Jersey

DATE: 7/31/2025

In September 2017, the First Responder Network Authority (FirstNet) published the Final Regional Programmatic Environmental Impact Statement (PEIS) for the Eastern Region. National Telecommunications and Information Administration was a Cooperating Agency on the analysis and is conducting this revalidation of the original analysis in Volume 8 – Chapter 10 performed in accordance with requirements for reevaluation of programmatic documents older than 5 years in Section 108 of the National Environmental Policy Act (NEPA), as amended by the Fiscal Responsibility Act of 2023.

The New Jersey Office of Broadband Connectivity is a joint lead agency for the Broadband Equity Access and Deployment Program (BEAD) NEPA process. This revalidation will describe any changes to the proposed action, regulatory settings, or areas of concern or sensitivity identified in the original PEIS analysis and determine whether NTIA may still rely on it for purposes of subsequent environmental documents.

Changes in Affected Environment:

10.1.1.5 Telecommunications Resources

The PEIS states “however, some areas of the state, such as the Adirondacks in the northern part of the state, have limited coverage.” Recommend changing “Adirondacks” to “Appalachian Mountain Range” as the Adirondacks are limited to New York State.

10.1.4. Water Resources

The PEIS notes relevant New Jersey Water Laws and Regulations in Table 10.1.4-1; recommend revising the applicability descriptions and adding other relevant regulations. The applicability description of the Flood Hazard Area Control Act notes the Act applies to development activities in flood hazard areas and adjacent to surface waters, such as vegetation removal, excavation, grading, or fill, and creation of

impervious surfaces require a permit. Recommend changing to “areas adjacent to surface waters” to better reflect the regulated riparian zone. Further, recommend adding the following relevant laws:

- Freshwater Wetlands Protection Act (N.J.S.A. 13:9B)
- NJ Water Pollution Act (N.J.S.A. 58:10A)
- Tidelands Act (N.J.S.A. 12:3)
- Highlands Water Protection and Planning Act (N.J.S.A. 58:16A-67)

The Freshwater Wetlands Protection Act is listed in Table 10.1.5-1, but the Act also regulates activities within surface waters, referred to as State open water as defined in the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A). Highlands Water Protection and Planning Act was enacted in 2004 to protect natural resources within the New Jersey Highlands Region and specifically focuses on water resources. The NJ Water Pollution Act regulates discharge rates of pollutants into surface water. The Tidelands Act governs the ownership and use of lands that are or were historically flowed by the tide.

10.1.5 Wetlands

The PEIS notes relevant New Jersey Wetland Laws and Regulations in Table 10.1.5-1; recommend revising applicability of the FWPA Rules – it is applicable for activities that could impact freshwater wetlands and potentially the area surrounding the wetlands, activities such as excavation, fill, vegetation disturbances. Additionally, the NJDEP Division of Land Use Protection revised its name to be Division of Land Resource Protection, recommend revising throughout the report.

10.1.6 Biological Resources

10.1.6.2. Specific Regulatory Considerations - The PEIS notes relevant New Jersey Wetland Laws and Regulations in Table 10.1.5-1; recommend removing “Endangered Plant Species Program” and replace with the “Natural Heritage Program” which maintains a list of State endangered and State threatened wildlife and plant species and wildlife and plant species of concern, and rare ecological communities.” Also recommend adding the Administrative Code for the Division of Fish and Wildlife Rules (N.J.A.C. 7:25).

10.1.6.3 Vegetation - As noted in the PEIS, New Jersey does not maintain an official list of invasive nonindigenous plant species but recommend noting that current information on invasive species is collected and maintained by the New Jersey Invasive Species Strike Team and a list of noxious species is available through the NJDEP website.

10.1.6.4 Wildlife - Recommend removing stating there are “no ESA-listed marine mammals in New Jersey” because as stated further below in the paragraph the following species have been recorded in New Jersey and are ESA listed: North Atlantic right whale, fin whale, humpback whale.

10.1.8 Visual Resources

10.1.8.5 Parks and Recreation Areas - The PEIS lists that there are 39 state parks, state marinas, and recreation areas. That number has increased and there are now 49 state parks and recreation areas and an additional 6 marinas.

10.1.8.6 Natural Areas - The PEIS states that there are 124 Wildlife Management Areas (WMA) covering over 553 square miles, however, there are 122 WMAs covering over 358,000 acres.

10.1.8.7 Additional Areas – The PEIS notes that there are two National Scenic Byways in New Jersey. The Federal Highway Administration recently added National Scenic Byways, totaling six within New Jersey. The four additional National Scenic Byways include: Bayshore Heritage Byway, Palisades Scenic Byway, Pine Barrens Byway, and the Western Highlands Scenic Byway.

The State Scenic Byways include the six National Scenic Byways and the Upper Freehold Historic Farmland Scenic Byway and the Warren Heritage Scenic Byway.

10.1.9 Socioeconomics

Recommend removal of this Section to comply with Executive Order 14151 of January 20, 2025, “Ending Radical and Wasteful Government DEI Programs and Preferencing” and Executive Order 14154 of January 20, 2025, “Unleashing American Energy.”.

10.1.10 Environmental Justice

10.1.10.2 Specific Regulatory Considerations – The PEIS notes that New Jersey’s Environmental Justice policy was established in 2004, created through an executive order. In 2020, New Jersey formally enacted an Environmental Justice Law in September 2020, the associated Environmental Justice Rules (N.J.A.C. 7:1C) became effective April 17, 2023. Recommend that the PEIS is updated to note that the rules require projects to prepare an Impact Statement if the project meets specific criteria, namely the project involves a new or existing specific facility type listed in the rules:

1. Major sources of air pollution/Title V facilities;
2. Resource recovery facilities or incinerators;
3. Sludge processing facilities, combustors, or incinerators;
4. Sewage treatment plants with a capacity of more than 50 million gallons per day;
5. Transfer stations or other solid waste facilities, or recycling facilities intending to receive at least 100 tons of recyclable material per day;
6. Scrap metal facilities;
7. Landfills, including, but not limited to, a landfill that accepts ash, construction or demolition debris, or solid waste; and
8. Medical waste incinerators, except those that accept regulated medical waste for disposal, or is attendant to a hospital or university and intended to process self-generated regulated medical waste.

The goal of these state rules is to review environmental and public health impacts on overburdened communities for specific projects and new facilities can be denied approval by the NJDEP if the project cannot avoid disproportionate impacts on overburdened communities and do not service a compelling public need. The PEIS notes the two Environmental Justice advisory bodies as the Environmental Justice Advisory Council and the Environmental Justice Task Force. The Environmental Justice Advisory Council

role has been modified since its creation, generally expanding its role; including taking on the general function of the Task Force which no longer exists.

Further recommend that the PEIS acknowledge the impact specifically on this section from changes in federal environmental review policies, including the rescission of specific environmental review requirements related to environmental justice, as a result of Executive Order 14151 of January 20, 2025, “Ending Radical and Wasteful Government DEI Programs and Preferencing” and Executive Order 14154 of January 20, 2025, “Unleashing American Energy.”

10.1.14 Climate Change

10.1.14.2 – Specific Regulatory Considerations - The PEIS notes relevant New Jersey Climate Change Laws and Regulations; recommend adding the DEP Statewide Strategic Climate Action Plan 2023 and the NJ PACT (New Jersey Protecting Against Climate Change) initiative. The NJPACT involves regulation reform to address impacts from climate change, including taking into consideration sea level rise and increased precipitation rates. The Climate Adaption Task Force noted in the PEIS, is no longer applicable, would recommend changing the reference to the Interagency Council on Climate Resilience (also known as the Climate Change Resilience Alliance) which published the Statewide Climate Change Resilience Strategy in 2020.

Further recommend that the PEIS acknowledge the impact specifically on this section from changes in federal environmental review policies, including the rescission of specific environmental review requirements related to climate change, as a result of Executive Order 14162 of January 20, 2025, “Putting America First in International Environmental Agreements” and Executive Order 14154 of January 20, 2025, “Unleashing American Energy.”

10.1.15 Human Health and Safety

10.1.15.4. Environmental Setting: Contaminated Properties at or near Telecommunication Sites – The PEIS notes 97 RCRA Corrective Action sites, 286 brownfield sites, and 114 proposed or final Superfund/NPL sites based on the USEPA Cleanups in my Community Database. Based on a review of the database, there are currently listed 107 RCRA Corrective Action sites, 572 brownfield sites, and 116 proposed or final Superfund/NPL sites.

Appendices

Recommend reviewing links provided in the Appendix, a significant amount of links are no longer valid.

Recommendation:

Based on a thorough review of the Eastern United States PEIS (Volume 8 - Chapter 10: New Jersey), Michael Baker International has determined that, with the updates discussed above, the analysis remains valid for use in subsequent environmental documents.