

New Jersey
Office of Broadband Connectivity

Broadband Equity, Access, and Deployment
Program
NJ BEAD



NEPA and NHPA Guidance

June 30, 2025

Disclaimer

This information is current as of June 2025 and is subject to change based on new releases from the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce. This document addresses the federal EHP rules and regulations only. All applicants will also need to familiarize themselves with all applicable state laws.¹

¹ <https://dep.nj.gov/rules/current-rules-and-regulations/>

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Background

As part of the implementation of the NTIA BEAD program, The New Jersey Office of Broadband Connectivity (NJ OBC) must ensure that all subgrantees comply with all federal environmental and historic preservation requirements, including NEPA, NHPA Section 106, the Endangered Species Act Section 7, and the Clean Water Act Section 404. The NJ OBC must ensure BEAD subgrantees submit necessary environmental documentation for construction or ground-disturbing activities according to NTIA guidelines.²

What is NEPA?

NEPA refers to the National Environmental Policy Act, a United States law enacted in 1969. This legislation obliges federal agencies to assess the environmental consequences of their proposed actions prior to making decisions. Specifically, it requires agencies to examine the potential environmental, social, and economic impacts of their plans and to offer opportunities for public review and commentary. NTIA is the federal agency that administers the BEAD program.

What is the NHPA Section 106?

Section 106 Process (contained within the National Historic Preservation Act (NHPA) – consists of review of resources listed on, or that are eligible for listing on the National Register of Historic Places (NRHP), and/or Indian religious/cultural sites. This process also involves consultation with State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs).

What is the Endangered Species Act Section 7?

The Endangered Species Act (ESA) directs all Federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the Act. Section 7 of the Act, called "Interagency Cooperation," is the mechanism by which Federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the existence of any listed species.

What is the Clean Water Act Section 404?

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Section 404 mandates obtaining a permit before discharging dredged or fill material into waters of the United States, except when the activity is exempt from regulation, such as certain farming and forestry activities.

² https://broadbandusa.ntia.doc.gov/sites/default/files/2024-04/FAQ_NEPA_for_BEAD.pdf

Why do these permits matter for BEAD?

Any infrastructure project that uses federal funds must comply with these rules. All construction activities have the potential to cause a disturbance to ground, waterways, and animal habitats. Even if you are using private capital for matching funds, ALL the project footprint area, including access routes must be assessed.

What are subrecipient responsibilities?

Familiarize yourself with the environmental review process and the specific requirements for the BEAD program. This includes understanding the levels of NEPA review, such as Environmental Assessments (EAs) or Environmental Impact Statements (EISs). The NTIA provides detailed guidance on NEPA compliance, including roles, responsibilities, and the environmental review process.³

Design your project footprint in a manner that avoids any locations and access routes that would trigger an environmental impact. Analyze potential project areas using all NTIA available tools⁴ and guidance to develop a preliminary analysis of required EHP compliance work.

Coordinate with the NJ OBC to complete all consultations and analyses required to prepare all NEPA and NHPA documentation, draft all required EHP documents in manner that meets all NTIA and state EHP requirements.

Build Expertise to assist in preparing and supervising environmental documents, ensuring compliance with NEPA, and addressing historic preservation concerns. Hire, use internal staff, or subcontract with relevant NEPA and EHP qualified practitioners.

Create a timeline for completing consultations, reviews, and submissions related to NEPA, the National Historic Preservation Act (NHPA), and the Endangered Species Act (ESA). This schedule should align with BEAD program requirements.

Monitor subcontractors to ensure they understand and adhere to NEPA and EHP requirements. This includes supervising their activities to prevent any project implementation before environmental reviews are completed and clearance is issued. Construction must not begin until you have received the final approval by NTIA of all EHP documentation and issuance of final decision documents.

Comply with all ongoing project construction compliance and monitoring, including EHP related reporting and analyses.

Process

Subgrantees will be responsible for compiling and submitting all project⁵ environmental documentation (packet) to NJ OBC **during the pre-construction and permitting phase**. This packet should be compiled by a qualified environmental practitioner if possible.

³ https://broadbandusa.ntia.doc.gov/sites/default/files/2024-04/Guidance_on_NTIA_NEPA_Compliance_April_2024.pdf

⁴ <https://www.ntia.gov/press-release/2024/ntia-launches-permitting-and-environmental-mapping-tool>

⁵ Projects may be divided into “sub-project” areas for environmental reviews

NJ OBC will review and then submit the information to NTIA via the Environmental Screening and Permitting Tracking Tool (ESAPTT)⁶. This tool will generate a NEPA decision document which will be relayed back to the subgrantee. NTIA has indicated that most projects will fall under a categorical exclusion (CATEX)⁷, and a further Environmental Assessment will not be required. However, ALL projects must undergo the environmental review process. Categorical Exclusions are a type of NEPA review and not an exclusion or exemption from NEPA obligations.

⁶ https://broadbandusa.ntia.gov/technical-assistance/ESAPTT_Overview

⁷ https://broadbandusa.ntia.doc.gov/sites/default/files/2024-08/NTIA_NEPA_Categorical_Exclusion_Extraordinary_Circumstances_NTIA-BLM_Permitting_Summit_Slides.pdf