

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

## Environmental and Historic Preservation Requirements

The Nebraska Broadband Office (NBO) is committed to ensuring full compliance with the Broadband Equity Access, and Deployment (BEAD) programs Environmental and Historic Preservation (EHP) requirements. This will be achieved by adherence to the requirements and regulations of the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA), Section 7 of the Endangered Species Act (ESA), Section 404 of the Clean Water Act (CWA), and all other applicable federal, state, and local environmental laws and regulations. NBO will comply with the National Telecommunications and Information Administration's (NTIA) programmatic guidance on fulfilling the NEPA process for telecommunications projects and activities.

## Compliance with NEPA

NBO, serving as a joint lead agency with NTIA, will oversee the completion of a full NEPA review of approved subgrant project areas to ensure compliance with all applicable EHP requirements. Implementation of this review will include working with selected subgrantees to complete a thorough environmental review consistent with NTIA and NEPA requirements. NBO will review and confirm the subgrantee's environmental findings and recommendations prior to NTIA approval. NBO has retained subject matter experts to help coordinate project reviews and provide guidance where needed.

It will be communicated to the subgrantee that all requirements of the Nebraska BEAD (NBEAD) program and NTIA requirements, including the EHP requirements, must be met in full and approved prior to the release of funding and any construction or ground disturbing activities.

NBO has implemented a multi-phase approach to ensure compliance with all EHP requirements.

### Post Final Proposal

After NTIA's approval of the NBEAD Final Proposal, NBO will work with the selected subgrantee applicants to prepare for full NEPA, NHPA, and ESA reviews. Utilizing available tools provided by state and federal agencies, including NTIA's Environmental Screening and Permitting Tracking Tool (ESAPTT), NBO will request information from the selected subgrantees to facilitate complete environmental reviews for each of the selected projects.

ESAPTT will be instrumental in the environmental review process, as it will be utilized to create NEPA project records and evaluate the applicability of the 47 possible Categorical Exclusions (CEs) for the BEAD program. NBO and the subgrantees will utilize ESAPTT to determine if there are any Extraordinary Circumstances (ECs) that would preclude the use of a CE for any single

project. Once a project has been fully reviewed and uploaded to ESAPTT (including a draft NEPA decision), which will transmit the information to NTIA.

If NTIA determines that a higher review level is warranted for that project, NBO will work with the subgrantee and NTIA to complete an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

#### Subgrantee/Construction Monitoring

NBO will provide ongoing communications with the subgrantee to ensure that all terms of project agreements are being followed. Additionally, NBO will provide guidance and monitoring to the subgrantees to assist with compliance with all EHP requirements – including NEPA, Section 106 of the NHPA, Section 7 of the ESA, and other federal or state regulations identified during the Post Final Proposal phase.

## Joint Lead Agency Responsibility Summary

NBO is the joint lead agency with NTIA to administer the Nebraska BEAD program. NBO will conduct this activity in accordance with 42 United States Code (U.S.C) 4336a and carry out the obligations of a joint lead agency specified in 42 U.S.C 4336a(a)(2).

As a joint lead agency, NBO will comply with the EHP requirements set forth in NTIA regulations and guidance including but not limited to NEPA, Section 106 of the NHPA, Section 7 of the ESA, Section 404 of the CWA, and all other federal, state, and local environmental laws and regulations that may be applicable to individual projects. To accomplish this, NBO will directly supervise and assist in the preparation of all required research and documentation described in the “**Compliance with NEPA**” section above.

## Description of FirstNet Regional PEIS Evaluation

The FirstNet Regional Programmatic Environmental Impact Statement (PEIS) for the Central United States, Volume 10 – Chapter 12 (Nebraska) details the existing resources, potential impacts, and best management practices (BMPs) for broadband project activities. NBO has reviewed the FirstNet PEIS according to the guidance provided by NTIA for the document’s applicability to the BEAD program in 2025.

While all project activities are not currently known, NBO is anticipating that all deployment projects will be similar to activities described in the FirstNet PEIS Chapter 12 including but not limited to:

- **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.

- 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 those of a Buried Fiber Optic Plant, especially where ground disturbance is expected when connecting aerial cable to new ground locations or installing 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 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.

NBO also reviewed Chapter 12 of the PEIS to identify changes to the affected environment in the state and new regulatory changes that may need to be addressed in a supplemental Environmental Assessment (EA). The results of this review are the following:

- Environmental Setting: No known major changes to the environment of Nebraska have occurred since the publishing of the PEIS in 2017. The PEIS adequately describes the existing resources within the state.
- Regulatory Changes: No known major changes to the environmental or historical preservation laws and regulations for the state of Nebraska have been implemented since the publishing of the PEIS in 2017.

- **Affected Environment:** The PEIS adequately describes the majority of potentially affected environment in Nebraska, including infrastructure, socioeconomic, cultural/historical, and for health/human safety.
  - Multiple changes to the Endangered Species Act (ESA) listed species have occurred since the original publishing of the PEIS. These changes include updates to estimated ranges of protected species, update in protection listings/status to two species, several species that have been proposed for listing, and two species that have been delisted from protection.
  - Indiana Bat (*Myotis sodalist*) – Range Update to include Nebraska
  - Eskimo Curlew (*Numenius borealis*) – Range update to include Nebraska
  - Higgins eye (pearlymussel) (*Lampsilis higginsii*) – Range update to include Nebraska
  - Northern Long-eared Bat (*Myotis septentrionalis*) – Status from Threatened to Endangered
  - American Burying Beetle (*Nicrophorus americanus*) – Status from Endangered to Threatened.
  - Tricolored Bat (*Perimyotis subflavus*) – Proposed Endangered
  - Monarch Butterfly (*Danaus plexippus*) – Proposed Threatened
  - Suckley's Cuckoo Bumble Bee (*Bombus suckleyi*) – Proposed Endangered
  - Western Regal Fritillary (*Argynnis idalia occidentalis*) – Proposed Threatened
  - Interior Least Tern (*Sternula antillarum*) – Delisted
  - Colorado Butterfly Plant (*Oenothera coloradensis*) - Delisted

NBO has determined, after reviewing the FirstNet PEIS Chapter 12, that the PEIS published in 2017 should sufficiently encompass all anticipated BEAD program activities and projects. NBO does not believe that there is need for a supplemental EA or Environmental Impact Statement (EIS) to address gaps or deficiencies at this time.

## Specific Award Conditions Description

NBO has developed a Subgrant Agreement that will be completed by all selected subgrantees describing the specific conditions that must be met and adhered to for distribution of any BEAD program awarded funds. Following NTIA guidance, conditions related to EHP requirements include:

- Completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), and issuance, if applicable, of a CE, Record of Decision (ROD), or Finding of No Significant Impact (FONSI) that fulfills the requirements of NEPA.
- Completion of all required reviews and surveys, if applicable, required under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C 470, et seq.), which includes any consultations required by federal laws and regulations with the appropriate State Historic Preservation Office(r) (SHPO) and Federally recognized Native American Tribes.

- Completion of all required reviews and surveys, if applicable, required under Section 7 of the Endangered Species Act (16 U.S.C. 1531, et seq.) including consultation with the USFWS or the National Marine Fisheries Service (NMFS).
- Completion of all required reviews, consultation, and permitting requirements through the U.S. Army Corps of Engineers (USACE) as required by Section 404 of the Clean Water Act (33 U.S.C. 1251, et seq.) as applicable.
- Demonstration through documentation and/or acquired consultations, compliance with all other applicable federal, state, and local environmental laws and regulations.

In addition to the above listed conditions related to EHP requirements, the following stipulations for release of the BEAD program funding are included in all subgrantee agreements:

- The subgrantee will not commence construction and funds will not be disbursed until any necessary environmental review is complete and NTIA has approved any necessary decision document, except for activities approved by NBO ahead of time.
- The subgrantee must prepare any required NEPA documents and obtain any required permits in a timely manner in accordance with applicable statutory deadlines as described in 42 U.S.C 4336a(g).
- The subgrantee will provide a project milestone schedule that identifies deadlines and describes how the subgrantee proposes to meet these time requirements. These requirements include the completion of consultation, all applicable NEPA and Section 106 reviews, and required permits to construct the project.

The subgrantee will be informed that, in accordance with NTIA guidance, certain permissible pre-implementation activities under NEPA may proceed using BEAD program funds prior to the completion of all EHP requirements. The subgrantee will be made aware that all of these activities are “at-risk” and proposed projects may face de-obligation of funding. Permissible pre-implementation activities include:

- Pre-Construction planning, including collecting information necessary to complete environmental review.
- Applications for required environmental permits.
- Studies, including but not limited to:
  - Wetland Delineations
  - Biological (Species) Assessments
  - Archaeological/Architectural Surveys
- Administrative and pre-award application activities.
- Activities that support consultation efforts required under the NHPA, the ESA, and the CWA.
- 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).