Virginia Office of Broadband

BEAD Application Requirements Overview

National Environmental Policy Act (NEPA)
National Historic Prevention Act (NHPA)

Section 2.4.5

RSM

Section 2.4.5 NEPA and NHPA Summary

1 DESCRIPTION: WHAT?

- Section 2.4.5 relates to Environmental and Historical Preservation (EHP), specifically the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA)

2 RATIONALE: WHY?

- To ensure applicants are aware of and comply with all NEPA and NHPA requirements

ROLES AND RESPONSIBILITIES: WHO?

3

Applicant: Certify compliance with EHP requirements and provide all finalized permits/documentation to the OOB

DHCD OOB: Review and certify documentation and submit the NTIA for approval

4 DESCRIPTION: HOW?

The BEAD NOFO and NTIA guidance requires applicants to comply with NEPA and NHPA requirements

5 QUESTIONS?

Contact: broadband@dhcd.virginia.gov

Additional Resources: https://www.dhcd.virginia.gov/bead

ROADMAP: WHEN?

6

Milestone	Phase
Applicant to submit preliminary EHP documentation and provide plans for obtaining necessary EHP permits*	Application
Applicant to certify understanding of and compliance with NEPA and NHPA requirements	Application
Awardee to begin obtaining all required permits, reviews, consultations, etc.	Pre-Contract
Subgrantee to provide all required documentation demonstrating efforts to secure the necessary EHP permits & consultations, eventually providing finalized permits to OOB for review and submission to NTIA	Pre-Contract

*NTIA considers compliance with EHP under permitting requirements. These are different from permits required for broadband deployment such as right-of-way or easements. Applicants must complete EHP activities during the pre-contract phase but they are not required at the time of application submission. The OOB is required to certify the awardee's compliance with NEPA and NHPA prior to submission to NTIA for final approval before the initiation of deployment activities.

Section 2.4.5 NEPA and NHPA Breakdown

RSM

1. Compliance with NEPA and NHPA

The Office of Broadband is committed to ensuring that applicants seeking to deploy network facilities comply with all applicable NEPA and NHPA requirements*.

- Applicant must provide the following information at the time of application submission:
  - Documentation demonstrating efforts and plans to secure all necessary EHP permits
  - Documentation demonstrating efforts and plans to complete all required federal, state, and local EHP consultations/reviews
- Awardee must complete and submit an Environmental Review Record (ERR) pursuant to NEPA and NHPA during the Pre-Contract phase
- Subgrantee must submit all required EHP permits to the OOB and receive approval from the NTIA prior to beginning construction or ground-disturbing activities prior per the BEAD NOFO.

- Each applicant must provide a narrative describing the applicant's readiness to comply with applicable environmental and national historical preservation requirements
- Each applicant must also provide a milestone schedule identifying specific deadlines and describing how the applicant 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 (EAs) or Environmental Impact Statements (EISs)

- Certify that the applicant will complete all required permits, reviews, or consultations related to construction or ground-disturbing activities pursuant to NEPA and NHPA.
- Certify that the applicant has included all necessary information required by the Office of Broadband and/or NTIA

*Guidance as of Oct 2024, requirements are subject to change as the NTIA continues to issue further guidance.

EHP Actions Needed Prior to Project Start

The Virginia Office of Broadband **will not allow subgrantees to begin any grant funded project implementation activities** 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 by NTIA and the Grantee, as required, of a Categorical Exclusion (Cat Ex) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), or 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 (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; and

- Demonstration of compliance with all other applicable Federal, state, and local environmental laws and regulations

Section 2.4.5 NEPA and NHPA Actions

The applicant is expected to complete the following task(s) to satisfy the requirements for Section 2.4.5, which are laid out on Page 86 – 87 BEAD NOFO and adopted by the Office of Broadband on Page 15 – 16 of their Initial Proposal Volume 2. Below are recommended best practices:

- Utilize the NTIA's permit mapping tool to assist in determining which federal EHP permits are necessary for your project area

- Collaborate with the OOB, and appropriate permitting agency to determine if Categorical Exclusions, Environmental Assessments, or Environmental Impact Statements are necessary for NEPA compliance

- Determine if the Advisory Council on Historic Preservation (ACHP)'s Program Comment process is applicable to streamline NHPA Section 106 reviews

- Engage early and schedule consultations with the appropriate agencies to significantly reduces delays for EHP permit approvals

- Coordinate with state and local agencies as well as federal – the Office of Broadband can help facilitate these discussions

- Ensure that EHP permit applications (most federal agencies use the SF-299) are thoroughly completed prior to submission to the agency

REQUIREMENTS

The Office of Broadband posted the requirement specifics in IPv2.

Fall 2023

APPLICATION

Applicant to certify compliance with EHP requirements and demonstrate plans/steps taken to obtain necessary EHP permits.

During Application

PRE-CONTRACT

Awardee to begin obtaining EHP permits, completing consultations, and taking all necessary steps to submit complete agency applications and proof of progress to the Office of Broadband.

2025

SUBGRANTEE MONITORING

The Office of Broadband will monitor subgrantees to ensure compliance with ongoing requirements for this section.

Ongoing

Additional NEPA and NHPA Resources

Environmental & Historical Preservation and Climate Resiliency Preparation Checklist

NEPA and Climate Resiliency Webinar

What is Permitting?

Environmental & Historic Preservation Checklist for BEAD

Environmental & Historic Preservation Factsheet

National Historic Preservation Act (NHPA) Consultation Process Fact Sheet

Endangered Species Act (ESA) Section 7 Consultations Fact Sheet

Wetland Regulatory Authority Fact Sheet

Internet for All Webinar Series - Permitting 101

Permitting Best Practices: Case Studies Examples and Best
Practices of
Streamlining Permitting

Permitting Needs Assessment

NEPA Review: Environmental Assessments

NEPA Review: Categorical Exclusions

NEPA: Environmental and Historic Preservation Compliance

NBAM Training Series: NTIA Permitting and Environmental Information Application

Permitting and Environmental Information Application Mapping Tool

The Advisory Council on Historic Preservation Program Comment for Federal Communications Projects

NEPA Review: Guidance on NTIA National Environmental Policy Act Compliance (effective March 2024)

Smart Start - How to Plan and Prepare for National Environmental Policy Act (NEPA) Compliance for BEAD

Frequently Asked Questions (FAQ) NEPA for BEAD Addendum

Guidance on NTIA National Environmental Policy Act Compliance

Notice of Administrative Record for Newly Adopted NEPA Categorical Exclusions

NOTICE OF NEWLY ESTABLISHED NEPA CATEGORICAL EXCLUSIONS

NOTICE OF NEWLY ADOPTED NEPA CATEGORICAL EXCLUSIONS

Best Management Practices (BMP) and Mitigation Measures

Local Permitting Importance, Challenges, and Strategies