Evaluating the First Responder Network Authority Programmatic Environmental Impact Statement Section Relevant to Your State or Territory

NEPA for BEAD

December 2024

NTIA

Disclaimer

This resource is intended solely to assist recipients in better understanding the BEAD program and the requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, the terms and conditions of the award, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, the terms and conditions of the award, and the requirements set forth in the NOFO shall prevail over any inconsistencies contained in this document.

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Evaluating the FirstNet PEIS Chapter for a State or Territory

Relevant BEAD Terms & Condition Requirement

To ensure the timely completion of environmental review for all BEAD-funded activities subject to National Environmental Policy Act (NEPA) review, the Grantee must complete duties as outlined in the BEAD General Terms and Conditions.

> **!** **The Grantee must 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 the Grantee's state or territory.**
>
> *BEAD General Terms and Conditions, Section 13B*

Include in all awards to Subgrantees conditions stating that:

1. 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 Section 13.E below;

2. the Subgrantee must timely prepare any required NEPA documents and obtain any required permits, and must adhere to any applicable statutory deadlines as described in 42 U.S.C. 4336a(g); and

3. 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 (EAs) or Environmental Impact Statements (EISs).

> **!** **The analysis of the FirstNet PEISs should be completed as soon as possible to meet BEAD program milestones and to support future environmental and historic preservation compliance for BEAD projects.**

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FirstNet PEIS Highlight

In 2017, FirstNet Authority prepared five regional PEISs to support NEPA compliance across all 56 states, territories, and the District of Columbia. In July 2024, NTIA adopted the PEISs to support tiered NEPA reviews for BEAD.

- *The FirstNet Authority is an independent agency within the U.S. Department of Commerce's NTIA.*

- *FirstNet's mandate includes planning and deploying telecommunication and broadband infrastructure across the United States and its territories to construct the National Public Safety Broadband Network.*

- *The FirstNet Regional PEISs contain NEPA analyses of the potential impacts of broadband deployment activities in each state and territory that may be applied to support NEPA reviews of BEAD projects.*

FIRSTNET REGIONAL PEIS

- West Region
- Central Region
- South Region
- East Region
- Non-Contiguous Region

Figure ES4-1: FirstNet PEIS Regions of Analysis

Evaluating the PEIS

Eligible Entities can maximize the benefits of NTIA's programmatic NEPA approach by reviewing content for their state or territory in the applicable FirstNet PEIS in preparation for the BEAD Final Proposal.
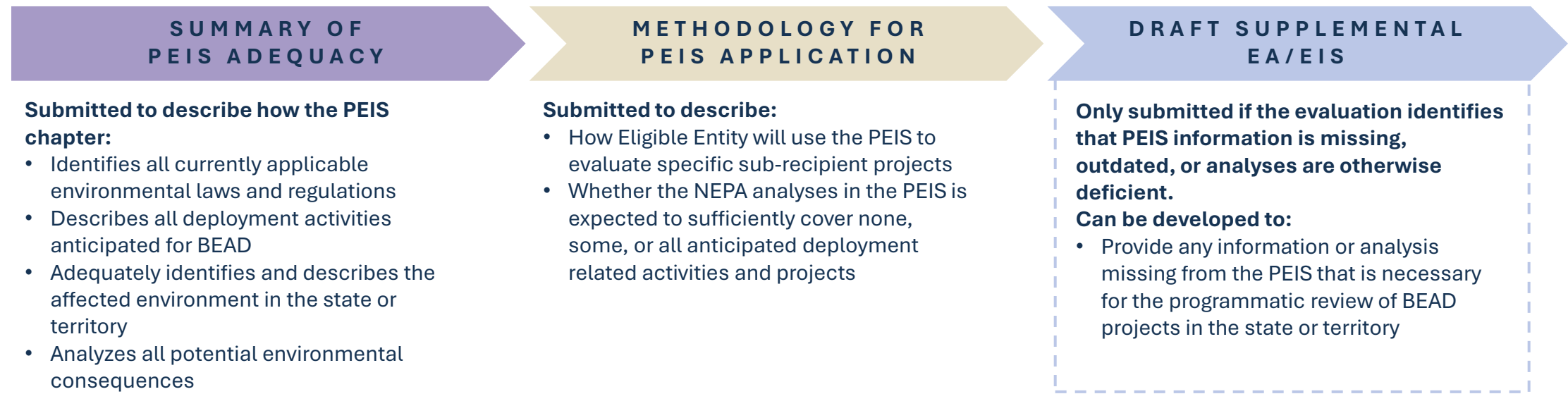
STEPS

1. **View the <u>FirstNet Regional PEISs</u>**

2. **Identify your PEIS Region and Find the Chapter for your State or Territory**

3. **Review the Chapter analyzing your State or Territory**

   - **Regulatory changes:** E.g., *Have there been any changes to environmental and historic preservation laws and regulations in your state?*

   - **Affected Environment**: E.g., *Does the chapter adequately identify and describe the affected environment for your state or territory? Pay special attention to specific relevant resource areas, including, but not limited to:*

     - **Infrastructure:** E.g., *Does the chapter include all types of facilities and infrastructure deployment scenarios anticipated in your state*?

     - **Biological Resources:** E.g., *Are there newly listed threatened or endangered species in your state? Do these listings have the potential to impact broadband deployment activities?*

   - **Environmental Consequences:** E.g., *Does the chapter fully describe and analyze potential environmental consequences*?

4. **Assess the Sufficiency of the Analysis**

5. **Determine the Need for a Supplemental Environmental Assessment to Address Gaps or Deficiencies**

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Documenting the Outcome

The BEAD Final Proposal should include an Eligible Entity's evaluation of the sufficiency of the PEIS's environmental analysis for a state or territory. A draft supplemental EA or EIS can also be developed, if needed, to provide any missing information or analysis.

PEIS EVALUATION ELEMENTS

IF APPLICABLE

SUMMARY OF PEIS ADEQUACY → **METHODOLOGY FOR PEIS APPLICATION** → **DRAFT SUPPLEMENTAL EA/EIS**

Submitted to describe how the PEIS chapter:
- Identifies all currently applicable environmental laws and regulations
- Describes all deployment activities anticipated for BEAD
- Adequately identifies and describes the affected environment in the state or territory
- Analyzes all potential environmental consequences

Submitted to describe:
- How Eligible Entity will use the PEIS to evaluate specific sub-recipient projects
- Whether the NEPA analyses in the PEIS is expected to sufficiently cover none, some, or all anticipated deployment related activities and projects

Only submitted if the evaluation identifies that PEIS information is missing, outdated, or analyses are otherwise deficient.
Can be developed to:
- Provide any information or analysis missing from the PEIS that is necessary for the programmatic review of BEAD projects in the state or territory

(!) The summary of PEIS adequacy, methodology for PEIS application, and if necessary, the draft supplement EA or EIS should be **completed by a qualified NEPA practitioner.**

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Tiering of NEPA Reviews

The analysis in the PEIS chapter should sufficiently consider the broad, general impacts of actions required for the broadband grant programs, and will support subsequent, narrower, project-focused reviews.

Programmatic Level (Tier I)

Scope: Assesses general impacts of a proposed major action, policy, or program that spans a wide geographical area or a variety of projects. Key sources include existing national or regional policies and statistical data.

Purpose: Evaluates broader impacts and alternatives at a conceptual level without getting into the detailed specifics of individual projects or locations.

Output: Results in a PEIS or PEA that addresses large-scale environmental, social, and economic impacts and identifies broad mitigation strategies.

Project- or Site-Specific Level (Tier II)

Scope: Reviews individual projects or components within the broader program assessed in the first tier. Key sources include site-specific data such as field work, sample analysis, statistical data, and local monitoring data.

Purpose: Assesses detailed local impacts using the framework and findings from the first tier, thus avoiding the repetition of general issues already covered.

Output: Results in a site-specific analysis that provides detailed evaluation of local environmental issues, site-specific mitigation measures, and project-level alternatives.

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Benefits of Tiered NEPA Review

Benefits of Programmatic Reviews

Programmatic NEPA review streamlines environmental reviews, reduces redundancies, and produces a more comprehensive environmental assessment.
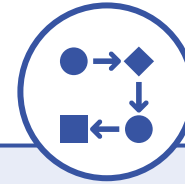
Increased Transparency

Programmatic reviews allow for clearer and more transparent governmental decision making.

Avoid Duplications

Programmatic reviews reduce the need for repetitive analyses and focus subsequent reviews on specific issues.

Streamline Regulatory Process

Programmatic reviews create an efficient path to resolve major issues and alternatives at the program level, which can simplify subsequent project-level reviews.
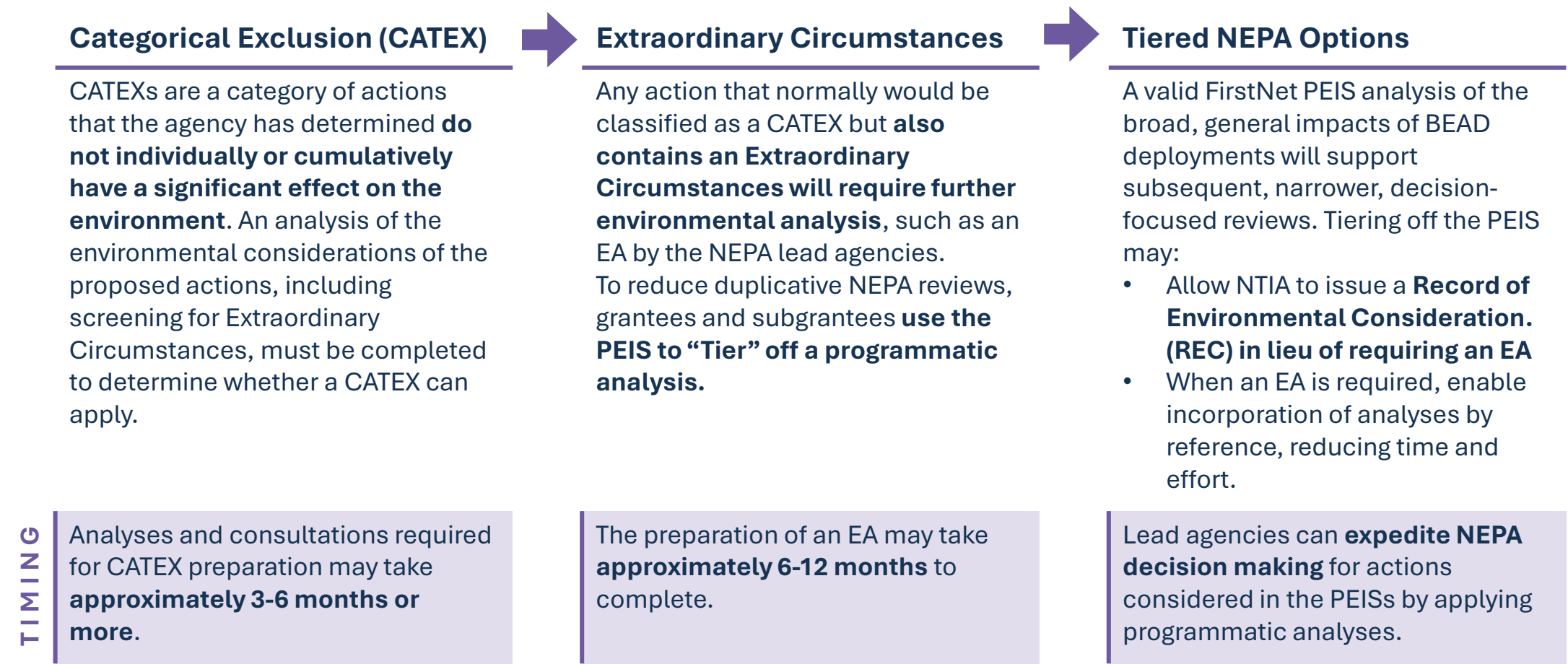
Improved Environmental Assessment

Programmatic reviews allow for a broader assessment of cumulative effects which provides opportunities to enact comprehensive, program-wide avoidance and mitigation measures or strategies.

For more information on Programmatic NEPA reviews, see the Council on Environmental Quality (CEQ)'s **Effective Use of Programmatic NEPA Reviews**.

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Tiered Environmental Review

The CEQ's Bipartisan Permitting Reform Implementation Rule (May 2024) encourages the use of NEPA tiering for large programs like BEAD. The first tier of environmental review analyzes the broad program and subsequent tiers examine individual projects in more detail.

Categorical Exclusion (CATEX) → Extraordinary Circumstances → Tiered NEPA Options

Categorical Exclusion (CATEX)

CATEXs are a 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 Extraordinary Circumstances, must be completed to determine whether a CATEX can apply.

Extraordinary Circumstances

Any action that normally would be classified as a CATEX but **also contains an Extraordinary Circumstances will require further environmental analysis**, such as an EA by the NEPA lead agencies.
To reduce duplicative NEPA reviews, grantees and subgrantees **use the PEIS to "Tier" off a programmatic analysis.**

Tiered NEPA Options

A valid FirstNet PEIS analysis of the broad, general impacts of BEAD deployments will support subsequent, narrower, decision-focused reviews. Tiering off the PEIS may:

- Allow NTIA to issue a **Record of Environmental Consideration. (REC) in lieu of requiring an EA**
- When an EA is required, enable incorporation of analyses by reference, reducing time and effort.

TIMING

Analyses and consultations required for CATEX preparation may take **approximately 3-6 months or more**.

The preparation of an EA may take **approximately 6-12 months** to complete.

Lead agencies can **expedite NEPA decision making** for actions considered in the PEISs by applying programmatic analyses.

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Tiered Environmental Assessments

Once the PEIS chapter is validated, NTIA will advise Eligible Entities on how to incorporate analysis from the PEIS into BEAD NEPA reviews, including RECs and tiered EAs (for projects that cannot be categorically excluded).

- Tiering has the advantage of not repeating information that has already been sufficiently considered at the programmatic level to focus and expedite the preparation of the tiered NEPA review(s).

- When a PEA or PEIS has been prepared and an action is one anticipated in, consistent with, and sufficiently explored within the programmatic NEPA review, the agency need only summarize the issues discussed in the broader statement and incorporate discussion from the broader statement by reference and concentrate on the issues specific to the subsequent tiered proposal.(40 CFR § 1502.20)

- Certain issues like National Historic Preservation Act Section 106 consultation and Endangered Species Act Section 7 consultation are not generally sufficiently covered by the PEIS and must be considered in the subsequent project specific tiered NEPA analysis.

For additional information and resources, please visit NTIA's Technical Assistance Hub.

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NTIA's Guidance on NEPA & Tiering

NTIA guidance encourages tiering off NEPA reviews for all major federal actions from NTIA, including undertakings by grantees of NTIA's grant programs.
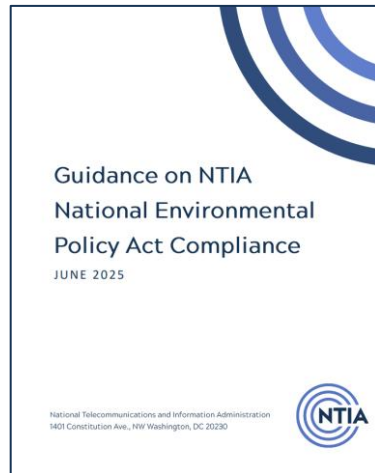
Guidance on NTIA National Environmental Policy Act Compliance

Guidance on Tiering

"NTIA shall tier environmental documents to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review, per the CEQ regulations and as appropriate. When a programmatic EIS has been prepared, NTIA or an Applicant need only summarize the issues discussed in the broader environmental document, incorporate discussions from the broader environmental document by reference, and focus the tiered document on issues specific to the subsequent action."

– Guidance on NTIA National Environmental Policy Act Compliance

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Key Resources

Consult the FirstNet PEISs for the East, Central, West, South, and Non-Contiguous Regions to find Chapters for each State and Territory. NTIA NEPA Compliance Guidance includes information on tiered reviews.
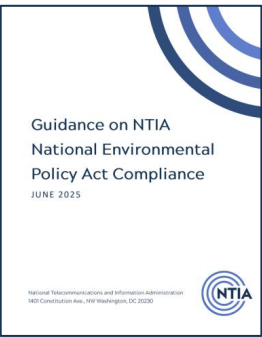
FIRSTNET REGIONAL PEIS CHAPTERS

View the FirstNet Regional PEIS and download the PEIS chapter relevant to your state/territory.

FirstNet Regional PEIS List

GUIDANCE ON NTIA NEPA COMPLIANCE

See guidance on Programmatic Environmental Documentation and Tiering on Page 34.

Guidance on NTIA National Environmental Policy Act Compliance

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Thank You