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# National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and Climate Resiliency

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# Table of Contents

- 1** Welcome
- 2** What is the National Environmental Policy Act (NEPA)?
- 3** NEPA and Grants
- 4** Application Requirements
- 5** Climate Resilience
- 6** Additional Resources
- 7** Q&A

# WHAT IS THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)?

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# NHPA and NEPA Overview



The environmental review processes initiated with the National Historic Preservation Act (NHPA) in 1966 and National Environmental Policy Act (NEPA) set forth the requirement for environmental reviews and formally established environmental protection as a Federal policy. NEPA and NHPA require NTIA and other federal agencies to “stop, look, and listen” before making decisions that impact historic properties and the human environment.

NEPA does not contain a mandate for conservation as other laws do; it is a process law.

- NHPA requirements can be addressed as part of the NEPA compliance process
- NEPA and NHPA review, including consultation, must be completed before awarded project can begin
- Consult with your FPO (Broadband Equity, Access, and Deployment - BEAD) or your NTIA point of contact (Middle Mile Grant Program - MM) if you have any questions or concerns regarding the NEPA or NHPA Process

# What is NEPA?



Passed in 1970, the National Environmental Policy Act (NEPA) is considered an “umbrella law” as it provides a framework within which all other environmental, historic, and cultural resources laws can be evaluated. The list to the right identifies a sampling of the requirements that must be met before a project can move forward.

## NEPA covers:

- Resource Conservation and Recovery Act
- Superfund Authorization and Recovery Act
- Archaeological and Historic Preservation Act
- American Indian Religious Freedom Act
- Floodplains and Wetlands laws and requirements
- Safe Drinking Water Act
- Coastal Zone Management
- Clean Water Act
- Clean Air Act
- State and Local land use requirements
- Climate Resiliency
- Endangered Species Act
- Migratory Bird Treaty Act
- Bald and Golden Eagle Protection Act
- Executive Orders on Environmental Justice
- Toxic Substances Control Act
- Comprehensive Environmental Response, Compensation, and Liability Act
- Farmland Protection Policy Act
- Native American Graves Protection and Repatriation Act

# NEPA - What does it do?



Provides **interdisciplinary analysis** of the effects of a Proposed Action and Alternatives on the human environment



Determines whether a Proposed Action and Alternatives have the potential to **significantly impact the environment**



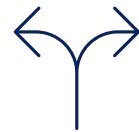
Requires **public involvement**



Requires **early consideration of the environmental effects** of Proposed Action



Requires the **preparation of environmental documentation** when federal funds, permits, lands, and/or rulemaking are involved



Aids in **decision making**



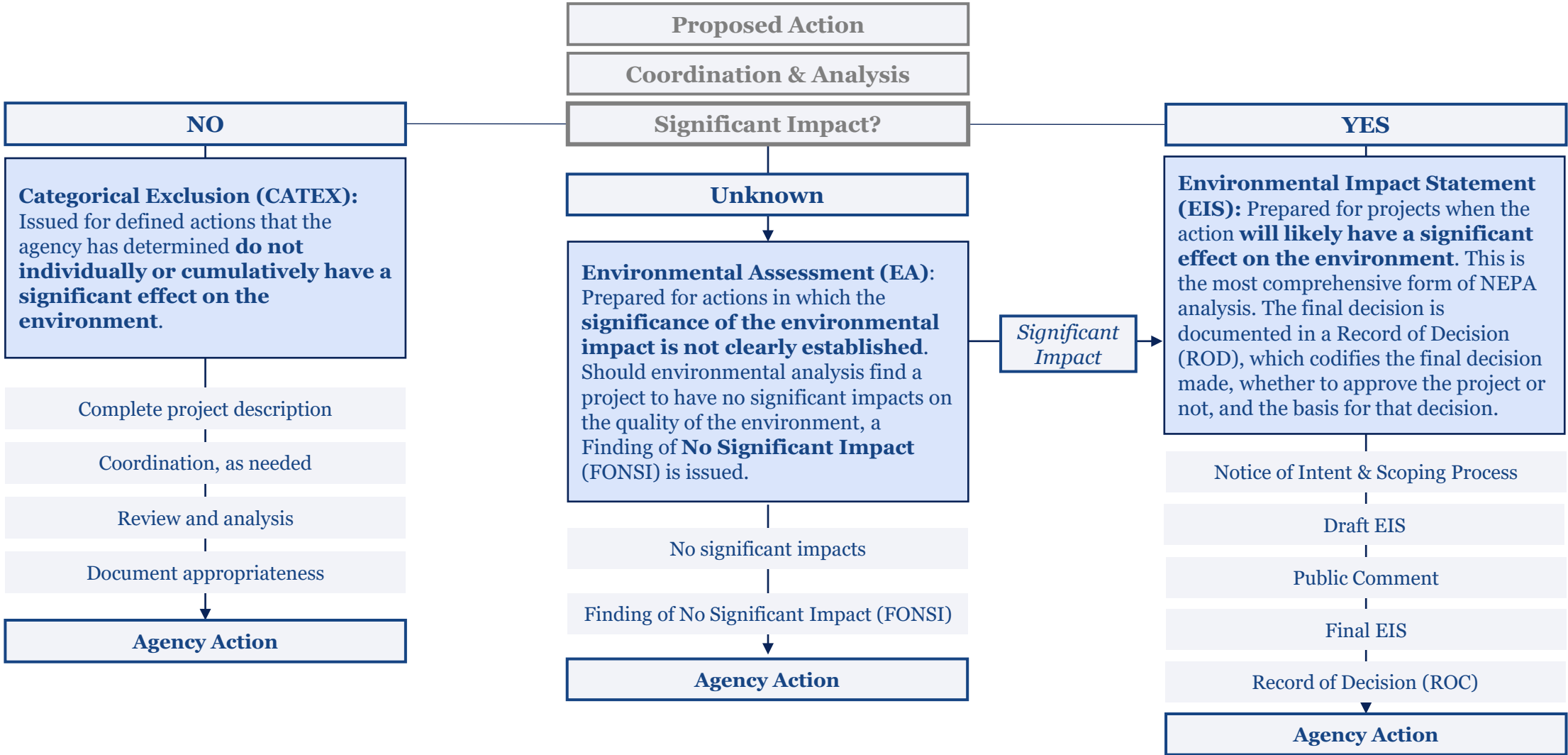
Addresses requirements under numerous **other environmental and historic preservation laws, regulations, and Executive Orders** without the need for duplicative analysis



Requires that environmental effects be **considered as decision points** along with technical, economic, and other factors

**Funds can be utilized to prepare the required Environmental Documentation, or to contract for preparation of Environmental Documentation.**

# Levels of NEPA Review



# Categorical Exclusion (CE)



For NTIA to determine if a CE can be applied to your project, you will need to **have sufficient detail about the various components** of your project including their **location and their magnitude**, as well as a good understanding of the surrounding environment. This information must be provided to NTIA in your grant application.

## Items to note when trying to qualify for a categorical exclusion include:

- You must provide **sufficient documentation** in your application so that NTIA can complete an analysis of CE applicability.
- CEs can be applied to **routine, minor actions** and there is no requirement for analytical documentation
- Applicable CEs for the Department of Commerce will be utilized and are **listed in 74 FR 33204** (July 10, 2009)
- Your project **can have multiple CEs associated with different components** of your project.
- If you have multiple components to your project, they **ALL must meet the criteria for one or more CEs** or the entire project moves to an EA or an EIS.
- Even if your project can be Categorical Excluded from further NEPA review, you must **still complete all required consultations and applicable permitting**. For example, you will need to provide results of your consultations with the State and Tribal Historic Preservation Officers (SHPO/THPO) and U.S. Fish and Wildlife Service (USFWS).
- Environmental Considerations (EC) will need to be assessed** to determine if your project will create any environmental impacts; the presence of ECs may mean that a CE cannot be applied to your project.

**NTIA must initiate formal consultations, and requests for formal consultations should be coordinated through your FPO (BEAD) or your NTIA POC (MM)**



# Environmental Assessment (EA) General Preparation Guidelines

An acceptable EA must be sufficiently detailed to enable NTIA to:



### **Purpose and Need**

Understand the purpose and need for the applicant's proposal



### **Significance**

Assess the significance of those environmental effects listed



### **Reasonable Alternatives**

Determine if all the reasonable alternatives have been considered



### **Mitigation**

Specify mitigation measures, if necessary



### **Environmental Effects**

Evaluate the environmental effects of the proposal and any reasonable alternatives



### **Opportunity to Participate**

Conclude that interested agencies, tribes, and the public were given adequate opportunity to participate in, review, and comment on the proposal

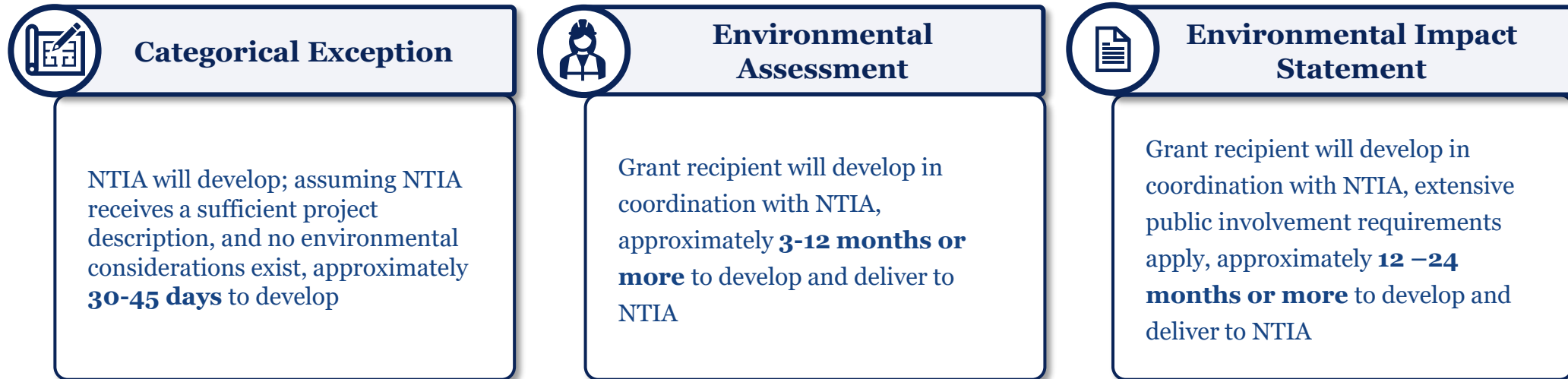
NTIA will have an Environmental Assessment template for applicant use available on [Internetforall.gov](https://internetforall.gov).

# NEPA AND GRANTS

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## Timelines

These timelines do not take into account any other outstanding agency approvals. A project is not considered cleared for NEPA until NTIA issues a decision document (FONSI or ROD).



# NEPA & Grants



Pre-Award	Specific Award Conditions (SAC)	Post-Award
<p>Project descriptions are reviewed to determine the expected level of NEPA analysis that will be required. Some proposed projects may be able to receive a CATEX during pre-award, but most will complete NEPA requirements post-award.</p>	<p>For those projects that cannot receive a pre-award CATEX, a SAC will be applied to the award that allows the disbursement of funds to complete planning and analysis, including NEPA analysis, upon award. The remainder of funds are withheld until compliance requirements are met.</p>	<p>NTIA will work with grantees to provide support in meeting their compliance requirements. Support activities will range from detailing additional information needed to determine if a CATEX can apply to providing guidance and templates that will facilitate consultation and EA/EIS development, as needed. <i>It is strongly recommended that grantees engage a qualified consulting firm if an EA/EIS is required.</i></p>

# APPLICATION REQUIREMENTS

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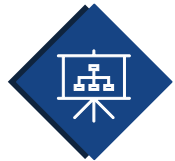
# Environmental & Historical Preservation Requirements



Middle Mile Grant applications and BEAD proposals must contain sufficient information to allow for initial NEPA analysis:



Applicants must submit a detailed project description, including applicable supporting documentation, with their application package (*See following slides*)



If project description is not adequate, funds may be withheld under a specific award condition until the Awardee develops and submits required environmental compliance information or analysis of environmental impacts of the project



It is strongly recommended that applicants engage subject matter experts (SMEs) to develop their NEPA Documentation if they do not have such expertise in-house and identify who that is in Project Description



Awardees will be required to obtain all required federal, tribal, state, and local governmental permits and approvals and complete all agency consultations prior to beginning their project – ***this does not need to be done pre-award***

# Project Description



## A good project description is essential for NTIA to determine the level of NEPA review required



Describe **what** the project is (e.g., construction of a 150' monopole communication tower)



Describe **where** the project is proposed (e.g., 123 Main Street, Anytown, USA) and/or provide a detailed outline of the route the project will use



Provide a physical description of the site and surrounding area (e.g. developed land vs. open space; adjacent natural resources, such as rivers, wetlands, or forests; and any protected lands)



Describe **how** the project will be implemented (e.g., requiring 1-acre of ground disturbance at an approximate depth of 5 feet, and the installation of a concrete pad, an equipment shed, and an emergency generator with a 1,000-gallon above-ground fuel storage tank)

# Project Description (Cont'd)



In addition to a detailed project description that includes all environmental aspects and expected impacts of your project, be sure to include the following in your application:

- ❑ Ground-level and aerial photos of the proposed project area and project plan drawings,
- ❑ **Floodplain map** from the Federal Emergency Management Agency (FEMA) Map Service Center with your project overlain to show if and where your project falls in the flood zone,
- ❑ **Wetlands map** from the US Fish and Wildlife Service's (USFWS) National Wetlands Inventory with your project overlain to show if your project will impact wetlands or waterways and including buffer zones,
- ❑ Initial Consultation with State Historic Preservation Officers (SHPO) or Tribal Historic Preservation Officers (THPO) including a listing of any historic or archaeological resources within the vicinity of your construction activities,
- ❑ Initial Consultation with the USFWS to determine if there are **threatened or endangered species or critical habitat** in the vicinity of your project, and
- ❑ Initial plans for assessment of potential climate risks impacting the proposed project, and mitigation actions (i.e., design changes, method of construction or other) being considered.



# Consultations and Permitting



Federal	State	Regional & Local
<p>Depending upon the impact to resources, federal permits and approvals could be required including the following:</p> <ul style="list-style-type: none"><li>➤ US Army Corps of Engineers Section 10/404 – Impacts to wetlands and waterways of the US</li><li>➤ SHPO and/or THPO - Section 106 consultation</li><li>➤ US Coastal Zone Management - For project located within the Coastal Zone prepare a Consistency Review</li><li>➤ US Fish and Wildlife Service (USFWS) – Section 7 Consultation</li><li>➤ Hazardous Materials storage and transport (federal requirements for storage, marking, labeling under OSHA, and transportation under DOT)</li><li>➤ Hazardous Waste – compliance with EPA 40 CFR requirements for generation, transport and disposal</li></ul>	<p>States have varying permitting requirements including:</p> <ul style="list-style-type: none"><li>➤ State Environmental Quality or Protection Programs (EX: CEQA, MEPA, TCEQ)</li><li>➤ Stormwater</li><li>➤ Wetlands and Land Disturbing Permits</li><li>➤ Spill Prevention Control and Countermeasure (SPCC) (federal requirement but must apply to a state level)</li><li>➤ Hazardous Materials storage and transport (federal and state requirements may apply)</li></ul>	<p>Regional and Local Entities have permitting and approval processes including:</p> <ul style="list-style-type: none"><li>➤ Regional Planning organizations</li><li>➤ Local Noise and Idling ordinance</li></ul>

Applicants are responsible for identifying and obtaining applicable Federal, State and Local permits required to conduct their project; not all permits need to be done for the NEPA process to conclude. **Look to NTIA for support in order to determine what has to be done prior to the conclusion of NEPA review.**

# CLIMATE RESILIENCE

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## *What is Climate Vulnerability and Climate Resilience?*

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**Climate Vulnerability:** Sensitivity or susceptibility to harm and lack of capacity to cope and adapt to changes in climate and effects of climate change.



**Climate Resiliency:** The capacity of social, economic and environmental ecosystems to cope with a hazardous event, trend or disturbance resulting from climate change.

# Climate Resilience Assessment for Middle Mile



## Weather and Climate Risks

In their application submissions, Applicants **must demonstrate** they have sufficiently accounted for **current and future weather and climate risks** as outlined in NOFO Section III.K



## Climate-Related Risks

This means applicants are required **to conduct and document an assessment** that includes evaluating climate-related risks to broadband networks for a 20-year period



## Risk Mitigation

Explain how their project will **mitigate**, and where possible, avoid the known and identifiable risks of current and future projected weather and climate conditions

# MMG Climate Resilience Application Guidance



In their application submissions, Applicants **must demonstrate** they have sufficiently accounted for **current and future weather and climate risks** as outlined in MMG NOFO Section III.K. Applicants should clearly demonstrate, at a minimum, that it is conducting each of the following:



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Identify the geographic areas that should be subject to an initial hazard screening for current and future weather- and climate-related risks and the time scales for performing such screenings



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Identify which weather and climate hazards may be most important to account for and respond to in these areas and over the relevant time horizons, utilizing the tools and resources recommended below or other resources available to the eligible entity



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Characterize any risks to new infrastructure deployed using MMG Program funding for the 20 years following deployment



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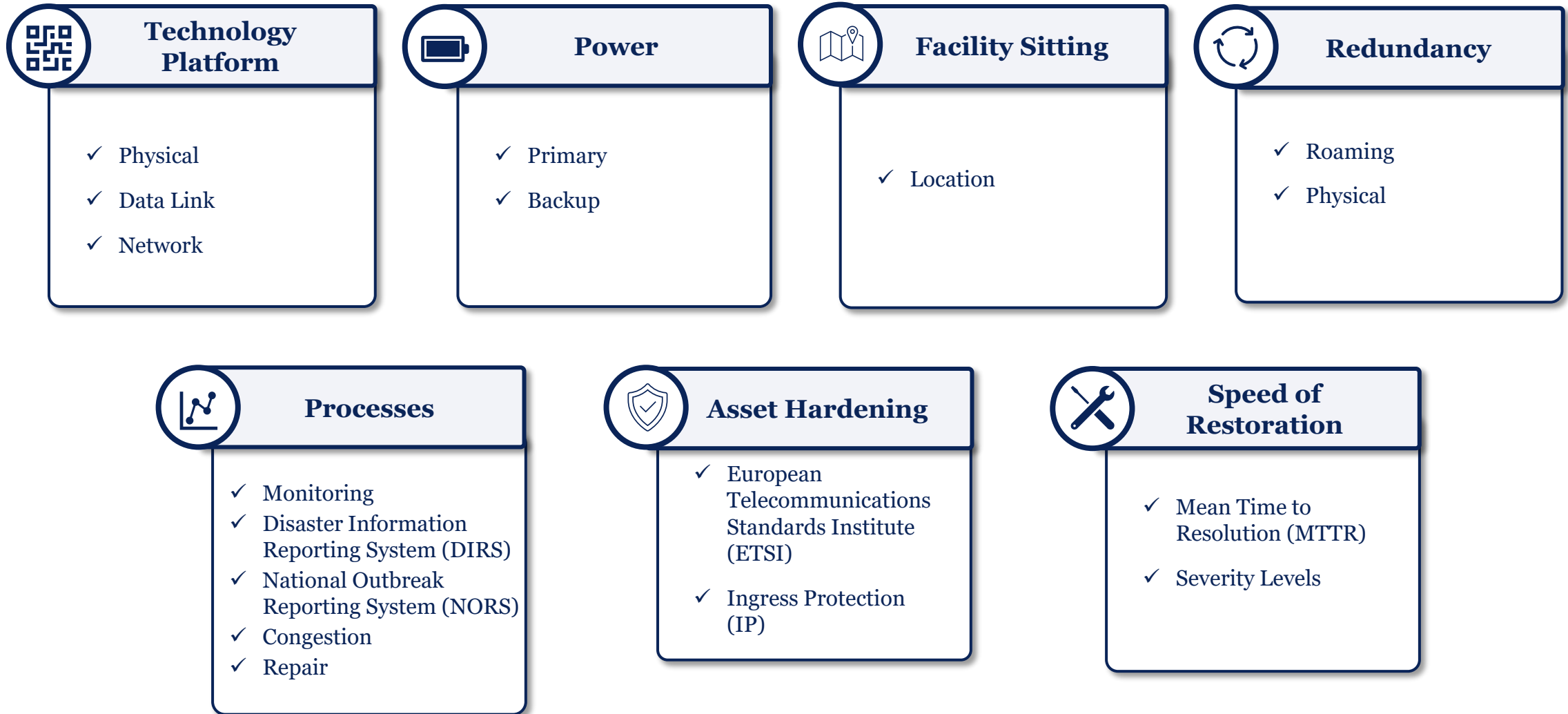
Identify how the proposed project will avoid and/or mitigate the risks identified



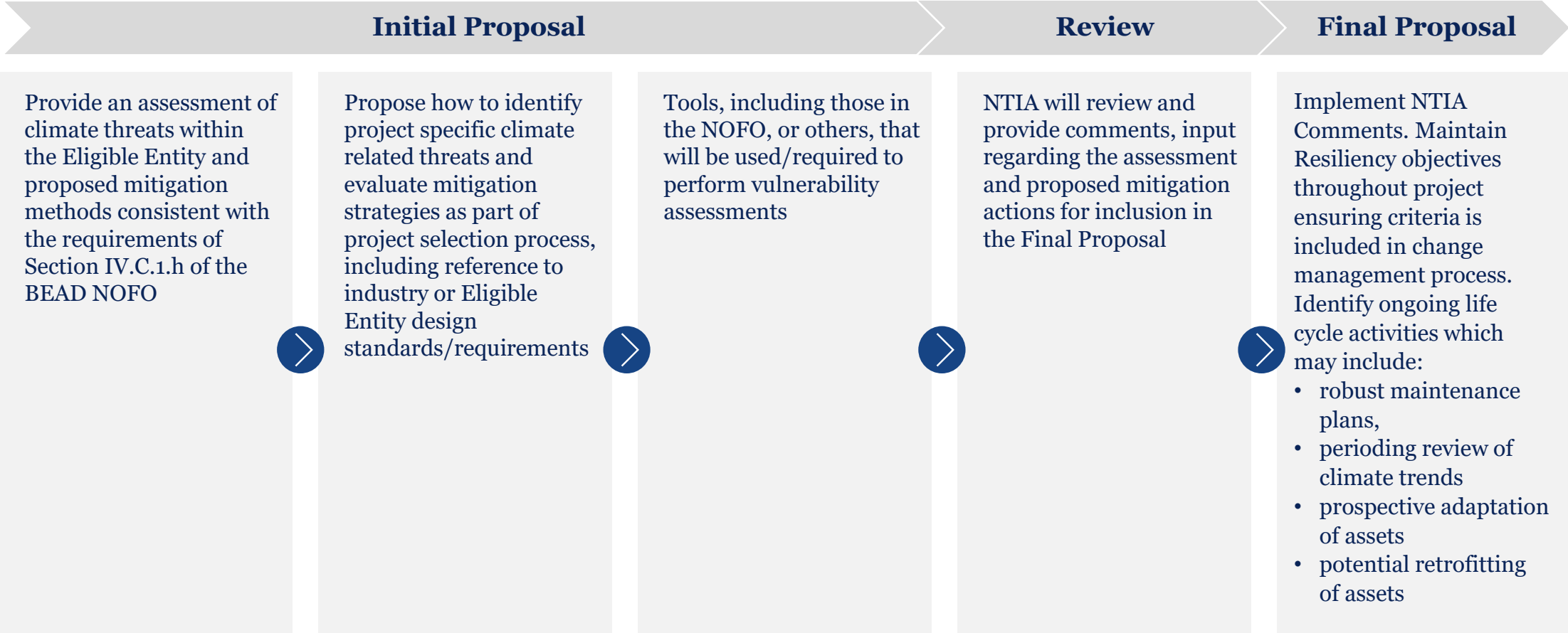
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Detail the Applicant's plans for periodically repeating this process over the life of the project to ensure that evolving risks are understood, characterized and addressed, and that the most up-to-date tools and information resources are utilized

# Climate Resilience Design Criteria Considerations



# Climate Resilience Assessment for BEAD



**Contact your FPO with questions. Further guidance will be issued.**

# ADDITIONAL RESOURCES

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# Climate Resiliency Resources



Topic	Resource Agency	Website	Description
<b>Climate Resiliency</b>	National Climate Assessment	<a href="https://www.globalchange.gov">Fourth National Climate Assessment (globalchange.gov)</a>	Broad, coarse-level screening of current and projected future weather- and climate-related risks for the project’s region, review and cite the regional chapters found in the 2018 National Climate Assessment. This site is an information site and provide broad discussion of climate issues by region. Multiple links within the site to additional information.
<b>Climate Risks</b>	NOAA State Climate Summaries	<a href="https://www.ncics.org">State Climate Summaries 2022 (ncics.org)</a>	For more applicant-specific information on current and projected climate conditions and risks, refer to the NOAA’s 2022 state climate summaries. Summaries of climate issues by state. Provides major issues in each state as well as supporting tables and graphs
<b>Climate Risks</b>	NOAA – National Centers for Environmental Information	<a href="https://www.ncei.noaa.gov">Disaster and Risk Mapping   Billion-Dollar Weather and Climate Disasters   National Centers for Environmental Information (NCEI) (noaa.gov)</a>	In assessing current weather-related risks for specific regions, applicants can use NOAA’s disaster and risk mapping tool. This site provides and interactive map that shows storm extreme climate events by state region and nationally, and the costs associated with those events.
<b>Storm Events</b>	NOAA	<a href="https://www.ncei.noaa.gov">Storm Events Database   National Centers for Environmental Information (noaa.gov)</a>	This is a searchable data base that provides information on events. The database is searchable by State, date, county and type of event (e.g., excessive heat, hurricane, flooding, etc.)

# Climate Resiliency Resources



Topic	Resource Agency	Website	Description
<b>Climate Resiliency</b>	NOAA	<a href="#">Climate Explorer   U.S. Climate Resilience Toolkit</a>	Allows users to look up historic and future projected environmental variables (e.g., changes in temperature thresholds, sea level rise) for their region.
<b>Flood Hazards</b>	NOAA	<a href="#">Digital Coast Home (noaa.gov)</a>	Allows users to search locations and produce maps of flood hazard zones 1-11.
<b>National Hazards Risk Index</b>	FEMA	<a href="#">Learn More   National Risk Index (fema.gov)</a>	Provides a composite risk index for all regions across the United States, incorporating a range of natural hazards (most of which, but not all, are weather- and climate-related). FEMA's flood risk maps
<b>Flood Risk</b>	FEMA	<a href="#">FEMA Flood Map Service Center   Welcome!</a>	FEMA's flood risk maps for current conditions and for specific locations. Maps are downloadable.
<b>Weather Forecasting</b>	NOAA National Weather Service	<a href="#">NWS Weather Forecast Offices</a>	To understand and access climate and weather information, applicants are encouraged to work with NOAA and its partners at the State and regional levels (National Weather Service Weather Forecast Offices, Regional Climate Centers. Provides mostly current forecasting weather information including drought, monsoons, etc.
<b>Regional Climate</b>	NOAA - National Centers for Environmental Information	<a href="#">Regional Climate Centers   National Centers for Environmental Information (NCEI) (noaa.gov) and Regional Climate Service Directors   National Centers for Environmental Information (NCEI) (noaa.gov)</a>	Mostly informational by region. Provides contact info for NOAA - National Centers for Environmental Information Regional Offices. Introduces Regional Directors.

# Climate Resiliency Resources



Topic	Resource Agency	Website	Description
<b>Climate Research</b>	NOAA - Climate Program Office (CPO)	<a href="https://www.noaa.gov/risa">RISA Teams (noaa.gov)</a>	RISA Program - The Regional Integrated Sciences and Assessments (RISA) Program supports research projects that address climate-sensitive issues of concern to decision makers and policy planners at a regional level. There are 11 RISA teams across the country.
<b>State Climatologists</b>	American Association of State Climatologists	<a href="https://www.stateclimate.org">State Programs – American Association of State Climatologists (stateclimate.org)</a> ,	Provides contact information for State Climatologists as well as programs events and publications
<b>Natural Disasters</b>	EPA	<a href="https://www.epa.gov/natural-disasters">Natural Disasters   US EPA</a>	EPA perspective on Natural disasters including Drought, Flooding, Wildfires, Tornados, Extreme Heat.
<b>Wildfires</b>	NASA and US Forest Service	<a href="https://www.firms.gov">NASA   LANCE   FIRMS US/Canada</a>	Fire Information for resource Management Systems US/Canada- Interactive Map provides current as well as historic ( up to 1 month) and High risk areas
<b>Earthquake</b>	USGS	<a href="https://www.usgs.gov/earthquake-hazards">Earthquake Hazards - Maps   U.S. Geological Survey (usgs.gov)</a>	Interactive Maps of earthquake faults and scenarios.

**Q&A**

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**THANK YOU**

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