

Federal Emergency Management Agency  
Directives System Directive Number: FD 108-1  
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## **ENVIRONMENTAL PLANNING AND HISTORIC PRESERVATION RESPONSIBILITIES AND PROGRAM REQUIREMENTS**

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### **I. Purpose**

The purpose of this environmental planning and historic preservation (EHP) Directive is to establish Federal Emergency Management Agency (FEMA) policies, roles, responsibilities, and procedures for delegations of authority concerning EHP. Environmental stewardship, preservation of historic and cultural resources, and sustainability are complementary goals to the emergency management mission and activities of FEMA. FEMA promotes these goals to support development of resilient communities in light of disasters, sea level rise, climate change, and other impacts that threaten the human environment. Environmental, historic, and cultural resources are important considerations when preparing for, responding to, recovering from, and mitigating hazards to the United States. Protection and stewardship of the Nation's natural resources including floodplains and wetlands, coastal barriers, forests and fauna, biodiversity, endangered species, habitats, and other natural landscapes provide increased protection to communities throughout the Nation and support resiliency. Consistent with the goals of environmental and historic preservation laws and the policies of the Department of Homeland Security (DHS), FEMA promotes antidegradation and balances resource use and development with sustainability and use of renewable resources to manage these natural and cultural resources.

### **II. Scope**

Policies in this EHP Directive apply to all FEMA headquarters, regional, and field offices, programs, and directorates inclusive of all associated operations and facilities and including Joint Field Offices (JFO); and are to be used in the planning and implementation of FEMA programs, projects, and other activities as described in 40 Code of Federal Regulations (CFR) 1508.18 (herein after collectively referred to as "action"). This EHP Directive operates jointly with the FEMA EHP Instruction 108-1-1: *Instruction on Implementation of the Environmental Planning and Historic Preservation Responsibilities and Program Requirements* (EHP Instruction), to constitute FEMA's supplemental EHP procedures in accordance with DHS Instruction Manual on Implementation of the National Environmental Policy Act (NEPA), Instruction Manual Number: 023-01-001-01, Revision 01 (DHS Instruction 023-01).

### **III. Supersession**

No directives are superseded by this EHP Directive. This EHP Directive replaces 44 CFR Part 10: *Environmental Considerations*, which is rescinded concurrently with issuance of this EHP Directive.

## IV. Authorities

These are only some, not all, of the applicable environmental laws, regulations, and Executive orders applicable to this EHP Directive. This EHP Directive acknowledges that authorities listed below may be updated or revised, and such revisions would apply.

- A. Advisory Council on Historic Preservation Protection of Historic Properties, 36 CFR 800 *et seq.*
- B. Council on Environmental Quality Regulations for Implementing NEPA, 40 CFR 1500 *et seq.*
- C. Delegation to the Under Secretary for Emergency Preparedness and Response, DHS Delegation 9001.
- D. DHS Directive 017-01: *Historic Preservation in Asset Management.*
- E. DHS Directive 023-01, Revision 01: *Implementation of the National Environmental Policy Act* (DHS Directive).
- F. DHS Instruction Manual on Implementation of the National Environmental Policy Act (NEPA), Instruction Manual Number: 023-01-001-01, Revision 01 (DHS Instruction 023-01).
- G. Endangered Species Act, 16 U.S.C. 1531 *et seq.*
- H. Executive Orders 11988: *Floodplain Management* and 13690: *Establishing a Federal Flood Risk Management Standard.*
- I. Executive Order 11990: *Protection of Wetlands.*
- J. Executive Order 12898: *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations.*
- K. Executive Order 13166: *Improving Access to Services for Persons with Limited English Proficiency.*
- L. Executive Order 13287: *Preserve America.*
- M. Executive Order 13693: *Planning for Federal Sustainability in the Next Decade.*
- N. National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*
- O. National Historic Preservation Act, 16 U.S.C. 470 *et seq.*
- P. National Flood Insurance Act, 42 U.S.C. 4001 *et seq.*, as amended.
- Q. Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 *et seq.*, as amended.
- R. *Principles and Requirements for Federal Investments in Water Resources*, March, 2013 and *Interagency Guidelines*, December, 2014.
- S. Rehabilitation Act of 1973, Section 504, Public Law 93-112, 29 U.S.C. 794, as amended.
- T. Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*, as amended.

U. Water Resources Planning Act of 1965, Public Law 89-8, 42 U.S.C. 1962a-2, as amended, and the Water Resources Development Act of 2007, Public Law 110-114.

## V. Definitions

All definitions contained in the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR Parts 1500-1508), 36 CFR Part 800, DHS Directive 017-01, and DHS Instruction Manual 023-01-001-01, Revision 01 apply to this EHP Directive. Commonly used and FEMA-specific definitions used within this EHP Directive and Instruction are included in FEMA EHP Instruction 108-1-1.

## VI. Responsibilities

The roles and responsibilities encompassed in this Section are discussed according to the organizational level or staff position where the responsibility lies. Where a responsibility is included at the highest organizational level, that responsibility may also be performed at a lower organizational level when it is delegated through the chain of command.

- A. The **FEMA Administrator** has the ultimate responsibility to fulfill FEMA's EHP requirements. The FEMA Administrator shall:
- 1) Support development and incorporation of EHP policies into FEMA programs and mission-related activities through the following measures:
    - i. Promote and integrate stewardship of natural and cultural resources into the Agency's mission and operations;
    - ii. Articulate the value of EHP in the FEMA decision-making process to managers and staff as well as to external audiences such as Congress;
    - iii. Ensure that FEMA offices, programs, and directorates incorporate EHP compliance into their mission requirements;
    - iv. Support the Director of OEHP in the development of EHP policy and guidance;
    - v. Integrate EHP requirements into planning and decision-making and maintain understanding of potential EHP impacts for all policies, programs, activities, grants, projects, and operations of FEMA;
    - vi. Ensure FEMA offices, programs, and directorates carry out EHP mitigation for FEMA's direct actions and grant decisions when appropriate; and
    - vii. Delegate to Director of Office of Environmental Planning and Historic Preservation (OEHP) the authority necessary for FEMA to comply with EHP requirements and implement this EHP Directive.
  - 2) Support EHP compliance across FEMA through the following measures:
    - i. Consider the impacts of FEMA actions on the human environment before actions are taken and decisions are made;
    - ii. Plan, program, and budget for EHP requirements;

- iii. Implement the EHP review process in a way that reflects FEMA's commitment to environmental stewardship and informs and improves FEMA's decisions and outcomes at all levels;
- iv. Support early, proactive, and comprehensive public outreach processes for EHP; and
- v. Ensure that all external communications on EHP requirements that are controversial, highly visible, classified, sensitive, or related to matters with the potential for department-wide implications are coordinated with the DHS Office of Sustainability and Environmental Programs (SEP).

3) Designate the Director of OEHP as the single point of contact for coordination with DHS SEP on relevant EHP matters.

**B. The Heads of Offices, Programs, and Directorates in FEMA** oversee all FEMA actions across the Agency. Heads of Offices, Programs, and Directorates are responsible for Program EHP Endorsement when taking action on behalf of the Agency. Program EHP Endorsement is the responsibility of program officials who hold program decision-making and funding authority to review EHP decision documents, understand all EHP conditions and mitigation included in EHP decision documents, and ensure communication of all EHP conditions and mitigation to grant recipients and subrecipients. This responsibility applies to all FEMA officials who make final decisions to commit Federal resources to any action. See EHP Instruction Section 1.6, Part S for a more detailed definition of Program EHP Endorsement. Heads of Offices, Programs, and Directorates shall:

- 1) Support development and incorporation of EHP policies into FEMA programs and mission-related activities through EHP Program Implementation Plans and the following measures:
  - i. Integrate EHP considerations early in decision-making;
  - ii. Incorporate EHP review processes into development of regulations, procedures, and other policies for compliance with EHP requirements in coordination with the Director of OEHP, Federal Preservation Officer (FPO), Environmental Officer (EO), Regional Environmental Officer (REO), EHP Program Coordinators, and/or designees;
  - iii. Develop, in coordination with the Director of OEHP and EO, Program Implementation Plans that include requirements and procedures for staff to receive delegation of EHP Approval Authority, as needed, and requirements for regional program compliance;
  - iv. Track EHP compliance costs as described in Section VII, Part A (3); and
  - v. Ensure timely submission of annual report to OEHP as described in Section VII, Part D (2)(ii) of this Directive.
- 2) Support EHP compliance through the following measures:

## FEMA DIRECTIVE 108-1

- i. Ensure that all policies, programs, activities, and operations in their respective offices, programs, or directorates comply with all applicable EHP requirements;
  - ii. Assess EHP requirements of proposed, new, and ongoing programs, policies, plans, projects, and grants within their respective organizational units before decisions are made and actions are taken;
  - iii. Ensure that the program, policy, plan, project, or grant has adequate funding and resources to meet FEMA policy for EHP compliance costs as expressed in Section 2.3 of the EHP Instruction and consult with OEHP when appropriate to comply with this policy;
  - iv. Identify, in consultation with OEHP and Office of Chief Counsel (OCC), discretionary activities within FEMA and ensure that the applicable EHP requirements are fully integrated into the planning and implementation of those activities;
  - v. Seek technical assistance early from the Director of OEHP, FPO, EO, REO, or EHP Program Coordinator, as needed, through the appropriate lines of authority to ensure EHP compliance;
  - vi. Perform appropriate outreach and communication, in coordination with the Director of OEHP, FPO, EO, REO, or EHP Program Coordinator, as appropriate, with Federal, State, tribal, local, and public interests; and
  - vii. Ensure completion of appropriate EHP documentation for actions within their responsibility. This responsibility includes ensuring that the action or project record includes adequate EHP documentation.
- 3) Support staff to uphold EHP performance through the following measures:
- i. Ensure EHP staff and contractors meet technical qualifications and training requirements as established in Program Implementation Plans and other relevant policies and guidance;
  - ii. Ensure program staff consult with EHP Program Coordinators as appropriate and necessary for proposed headquarters level actions that may affect EHP resources or otherwise require EHP review; and
  - iii. Establish EHP performance metrics and targets for grant programs in coordination with the Director of OEHP, FPO, and Office of Policy and Program Analysis. Track EHP performance to meet targets.
- 4) Integrate EHP considerations into program operations through the following measures:
- i. Ensure fulfillment of Program EHP Endorsement responsibility through appropriate officials accepting or rejecting EHP technical recommendations for proposed actions;
  - ii. Ensure transparency and consistency in approach to EHP compliance through routine consultation and communication with the EHP Program

- Coordinator, Director of OEHP, or appropriate designee when considering or implementing significant changes in approach to program delivery;
- iii. In coordination with OEHP and The Office of Chief Administrative Officer Sustainability, Energy, Environmental and Asset Management Program (SEE&AM) when appropriate, for actions/projects where FEMA has full decision-making authority (non-grant projects):
    - a. Obtain any and all required permits;
    - b. Ensure that actions occurring at leased and owned facilities as described in FEMA Directive 108-3 are identified in the Environmental Management System (EMS).
    - c. Identify and incorporate EHP mitigation into the proposed action/project;
    - d. Comply with the conditions and EHP mitigation as established through the EHP review process; and
    - e. Develop compliance action and monitoring plans and engage in monitoring activities to support EHP mitigation commitments and environmental management program requirements.
  - iv. In coordination with OEHP when appropriate, for FEMA grant-funded actions/projects:
    - a. Develop guidance describing the level and scope of EHP information that applicants must provide to be eligible for FEMA funding;
    - b. Make guidance on EHP requirements readily available to applicants;
    - c. Establish and communicate project EHP review process timelines to applicants;
    - d. Assist applicants in identifying EHP requirements, including those with time and cost implications, triggered by their proposed projects and any potential EHP mitigation measures that may affect project design;
    - e. Assist applicants with the development of monitoring plans and ensure mitigation and monitoring requirements are met;
    - f. Provide notice to recipients of possible consequences for FEMA grant projects that are not in compliance with FEMA and applicant agreed-upon EHP mitigation; and
    - g. Initiate enforcement actions for FEMA grant projects that have received a non-compliance notice and have not come into compliance:
      - 1. For awards made on or after Dec. 26, 2014, 2 CFR 200.338 applies. (“Remedies for Noncompliance”);
      - 2. For awards made prior to Dec. 26, 2014 to State and local governments, 44 CFR 13.43 applies; and
      - 3. For awards made prior to Dec. 26, 2014 to institutions of higher education, hospitals or other non-profits, 2 CFR 215.62 applies.

C. The **FEMA Regional Administrators (RA)** oversee all operations and missions in their respective regions. The RA supports the long-term value of incorporating environmental stewardship and EHP compliance into the planning and development of all FEMA missions and operations in their regions. The RA upholds Program EHP Endorsement in his/her region. See EHP Instruction Section 1.6, Part S for a definition of Program EHP Endorsement. The RA shall:

- 1) Support development and incorporation of EHP policies into FEMA programs and mission-related activities at the regional level through the following measures:
  - i. Integrate EHP requirements early in the planning and decision-making for all policies, programs, activities, and operations in their regions, to reflect environmental and historic preservation values and avoid delays;
  - ii. Ensure that FEMA regional programs incorporate EHP compliance and stewardship efforts into their mission requirements and maintain understanding of the potential impacts of their programs and projects;
  - iii. Provide advice and information to tribes, States, counties, municipalities, institutions, and individuals that promotes restoration, maintenance, and enhancement of environmental quality;
  - iv. Promote the purpose and role of OEHP across FEMA including maintaining the transparency of the EHP review process to applicants and other stakeholders within and outside of FEMA;
  - v. Develop EHP review policies for programs in coordination with the Director of OEHP, FPO, EO, REO, and the Heads of Offices, Programs, and Directorates in FEMA;
  - vi. Ensure FEMA regional programs use EHP mitigation as appropriate when carrying out the agency's mission and implementing programs and projects; and
  - vii. Support early, proactive, and comprehensive outreach processes for EHP in their regions with resource/regulatory agencies, applicants, and the public.
- 2) Support EHP compliance at the regional level through the following measures:
  - i. Ensure that all policies, programs, activities, and operations in their regions comply with all applicable EHP requirements;
  - ii. Consider the effects of their decisions on environmental, historic, and cultural resources in accordance with NEPA, CEQ regulations, the DHS Instruction 023-01, the EHP Instruction, and this EHP Directive;
  - iii. Plan, program, and budget for the EHP requirements in their regions;
  - iv. Plan, program, and budget for EHP mitigation to avoid or minimize harm to natural and cultural resources, and, in particular, harm to and within floodplains and wetlands;
  - v. Coordinate with the Director of OEHP, the EO, REO, FPO, Environmental and Historic Preservation Advisor (EHAD), and OCC on issues of national

significance including actions that trigger an Environmental Impact Statement (EIS);

- vi. Coordinate with the Director of OEHP, SEE&AM, FPO, EO, and REO for consultations with other agencies as appropriate regarding regional actions;
  - vii. Make determinations on behalf of FEMA as required by 44 CFR Part 9; and
  - viii. Ensure appropriate documentation of EHP compliance for actions within their responsibility, such as Records of Environmental Consideration (RECs) for Categorical Exclusions (CATEXs), and draft, final, and supplemental EISs and environmental assessments (EAs). This includes ensuring that the administrative record incorporates EHP documentation and a public record of decisions made in accordance with the policies and procedures of NEPA and other EHP requirements.
- 3) Support staff to uphold EHP performance through the following measures:
- i. Ensure programs consult with REOs during the scoping process for proposed actions; and
  - ii. Establish EHP performance metrics and strive to meet targets in alignment with those in headquarters.
- 4) Ensure EHP compliance and fulfillment of Program EHP Endorsement at the regional level.
- 5) Integrate EHP considerations into regional operations through the following measures:
- i. Advise and inform applicants on alternatives that promote the restoration, maintenance, and enhancement of environmental quality; and
  - ii. Coordinate, communicate, and routinely share the status of projects with the Director of OEHP, EO, REO, and the Heads of Offices, Programs, and Directorates in FEMA in order to make the EHP review process transparent and ensure consistency in the approach to EHP compliance.

D. The **Federal Coordinating Officer (FCO)**, **Federal Disaster Recovery Coordinator (FDRC)**, and **Recovery Office Directors** manage the Federal response and recovery to a disaster. The FCO/FDRC /Recovery Office Directors coordinate relief through field offices and take action to provide Federal assistance. At the JFO or other deployment location, the FCO/FDRC/Recovery Office Directors are responsible for ensuring fulfillment of Program EHP Endorsement. See EHP Instruction Section 1.6, Part S for a definition of Program EHP Endorsement. The FCO/FDRC /Recovery Office Directors shall:

- 1) Support EHP compliance during disaster response and recovery activities through the following measures:
- i. Oversee the implementation of the Unified Federal Review (UFR) Process;

- ii. Perform oversight and monitoring of the EHP review process and ensure appropriate EHP staff and funds are available when needed to meet EHP requirements;
  - iii. Coordinate with the Director of OEHP, EO, REO, FPO, EHAD, and OCC on EHP issues of national significance including actions that trigger an EIS;
  - iv. Coordinate with the REO, EHAD, UFR Advisor, and Regional Counsel on EHP issues;
  - v. Coordinate with the EHAD and UFR Advisor for consultations with other agencies;
  - vi. Ensure appropriate documentation of the EHP review process for actions within their responsibility;
  - vii. Incorporate EHP mitigation measures as appropriate and practicable; and
  - viii. Respond to requests for copies of EHP documents, reports, or other information related to the implementation of EHP requirements.
- 2) Support staff to uphold EHP performance through the following measures:
- i. Direct programs to coordinate, communicate, and routinely share the development and status of projects with the EHAD and UFR Advisor in order to make the EHP review process transparent and to ensure consistency in the approach to EHP compliance; and
  - ii. Establish EHP performance metrics and strive to meet targets in alignment with those in regions and headquarters.
- 3) Integrate EHP considerations into JFO or other deployment location operations, ensure fulfillment of Program EHP Endorsement through appropriate officials accepting or rejecting EHP technical recommendations for proposed actions, and enforce any required EHP mitigation and monitoring measures for a proposed action; and redelegate this responsibility to JFO or Recovery Office program heads, as appropriate.

E. The **Director of the Office of Environmental Planning and Historic Preservation (OEHP)** is designated by the FEMA Administrator and has the authority and responsibility to administer the OEHP and ensure its functional integration into FEMA missions. The Director of OEHP also serves as the Environmental Planning Program Manager (EPPM) in accordance with DHS Instruction 023-01, Section IV, Part K. As the EPPM, the Director of OEHP has the delegated EHP Approval Authority from DHS. The Director of OEHP is also designated as the Agency's Senior Executive Environmental Manager by the FEMA Administrator and is responsible for administering FEMA's historic preservation compliance responsibilities under the National Historic Preservation Act (NHPA) of 1966, as amended, and Executive Order 13287. The Director of OEHP may authorize the Deputy Director of OEHP to act on his/her behalf and take on his/her responsibilities and authorities. The Director shall:

## FEMA DIRECTIVE 108-1

- 1) Support development and incorporation of EHP policies and procedures into FEMA programs and mission-related activities through the following measures:
  - i. Promote the purpose and role of OEHP across FEMA to effectively carry out the EHP review process;
  - ii. Develop policy, guidance, systems, and training to enable and further the reliable, timely, and cost effective performance of EHP functions throughout FEMA in order to fulfill the Administrator's EHP objectives and other requirements;
  - iii. Inform EHP staff, regions, and the Heads of Offices, Programs, and Directorates of current developments in EHP policy and programs;
  - iv. Support early, proactive, and comprehensive public outreach processes for EHP reviews;
  - v. Review and update FEMA Agency Specific Procedures in accordance with the Principles, Requirements, and Guidelines that replaced the 1983 Principles and Guidelines for Water and Land Related Resources Implementation Studies;
  - vi. Review all EHP regulations, procedures, and policies every three years to determine whether updates are needed unless otherwise specified; and
  - vii. Review this EHP Directive and the EHP Instruction every three years in coordination with OCC:
    - a. Following review, and in consultation with DHS, determine whether updates are needed to this EHP Directive and the EHP Instruction;
    - b. If updates are necessary, follow DHS Instruction 023-01, Section IV, Part K (2) to undertake such revisions and submit revisions to DHS SEP for review and approval according to DHS Instruction 023-01, Section IV, Part C (10); and
    - c. For proposals to revise FEMA CATEXs, submit proposed language to DHS SEP for review and evaluation according to DHS Instruction 023-01, Section IV, Part C (12).
- 2) Support EHP compliance across FEMA through the following measures:
  - i. Provide the quality assurance and quality control function for OEHP including notification to RA, Program Head, FEMA Administrator, or other relevant authority and requirements for corrective action in cases of identified EHP compliance risks and/or non-compliance with EHP requirements;
  - ii. Maintain open, proactive, and clear communications on EHP review process matters, status updates, requirements, and objectives, both internal and external to FEMA;
  - iii. Make final decisions on any disputes related to the applicability of the EHP Review process and associated technical requirements including, but not

- limited to, decisions on the appropriate level of NEPA analysis, consultation requirements, or the need for public involvement;
- iv. Coordinate EHP strategies for matters within FEMA's responsibility;
  - v. Advocate and develop, as appropriate, agreements with Federal, tribal, and State resource/regulatory agencies;
  - vi. Coordinate with other DHS components and other Federal agencies on EHP issues that affect FEMA programs;
  - vii. Notify and coordinate with DHS SEP on EHP issues to be brought before CEQ, the Office of Management and Budget, the Advisory Council on Historic Preservation (ACHP), U.S. Environmental Protection Agency headquarters, or other Federal agency headquarters, and on all activities described in DHS Instruction 023-01, Section IV, Part C: *Activities Requiring Notification to SEP*;
  - viii. Coordinate and communicate with OCC on legal matters related to the EHP review process; and
  - ix. Review and approve Program Implementation Plans.
- 3) Support staff to uphold EHP performance through the following measures:
- i. Ensure overall readiness of FEMA's EHP function and workforce to support EHP requirements in disaster operations; ensure FEMA mechanisms are in place to support a unified Federal EHP review process during disaster recovery; and ensure an overall quality assurance/quality control review and reporting of FEMA's EHP compliance;
  - ii. Develop and approve EHP-related training for FEMA staff and programs to provide the appropriate skills to fulfill their duties; and
  - iii. Establish EHP performance metrics and targets in coordination with DHS SEP, the Office of Policy and Program Analysis, and the Heads of Offices, Programs, and Directorates.
- 4) Integrate EHP considerations into FEMA operations through the following measures:
- i. Coordinate, communicate, and routinely share the status of the EHP review process for projects with the Heads of Offices, Programs, and Directorates;
  - ii. Coordinate with the Heads of Offices, Programs, and Directorates to:
    - a. Support the completion of the appropriate EHP review process, including the analysis and documentation required by EHP requirements, before FEMA makes a decision that has potential for significant and/or adverse environmental or historic preservation effects or limits the choices of alternatives in order to satisfy an objective, fix a problem, or address a weakness;
    - b. Plan, program, and budget to meet EHP requirements;

- c. Support awareness of the potential EHP impacts of their programs, projects, plans, and policies;
  - d. Provide advice on policy and guidance documents that have the potential to affect FEMA's EHP review process;
  - e. Support open communications across the Agency and with applicants related to the status and requirements of the EHP review process;
  - f. Identify EHP qualifications and training needs for the Agency's workforce; deliver and coordinate that training on EHP requirements;
  - g. Apply FEMA policy on EHP compliance costs for all actions of offices, programs, and directorates as described in Section 2.3 of the EHP Instruction; and
  - h. Support the EHP review and compliance process across all FEMA offices, programs, and directorates, and their ownership of those processes, by providing technical expertise and cross program oversight; and
- iii. Designate FEMA positions and delegate authority necessary for FEMA to comply with EHP requirements and implement this EHP Directive, including redelegation of EHP Approval Authority according to Section VII of this EHP Directive. Delegate specific responsibilities to the Deputy Director of OEHP and EO including:
- a. Both Deputy Director of OEHP and EO will be delegated EIS/ROD level EHP Approval Authority;
  - b. The Deputy Director of OEHP may redelegate and oversee delegations of EHP Approval Authority within offices, programs, and directorates at FEMA Headquarters; and
  - c. The EO may redelegate and oversee delegations of EHP Approval Authority to REOs, DREOs, and EHADs as appropriate in accordance with Section VII, Part C of this Directive.
- F. The **Federal Preservation Officer (FPO)** is designated by the Director of OEHP and is responsible for overseeing FEMA's historic preservation compliance responsibilities under the National Historic Preservation Act (NHPA) of 1966, as amended, and Executive Order 13287. The FPO shall have expert knowledge of Sections 106 and 110 of the NHPA and related laws and meet specific qualifications set forth by the Secretary of Interior. The FPO shall:
- 1) Oversee FEMA's historic preservation compliance responsibilities;
  - 2) Ensure FEMA personnel and contractors engaged in relevant actions meet all required professional qualifications and standards as established by the Secretary of the Interior;
  - 3) Provide the quality assurance and quality control function for historic and cultural analyses and documents on behalf of the Director of OEHP;

## FEMA DIRECTIVE 108-1

- 4) Advocate and develop, as appropriate, agreements with Federal, tribal, State, and local agencies to meet historic preservation requirements;
- 5) Coordinate with the Director of OEHP on historic preservation issues to be brought before the ACHP, U.S. Department of the Interior, other Federal agencies, tribes, and preservation organizations; and
- 6) Coordinate with the Director of OEHP on historic preservation issues to be brought before DHS SEP, whether for notification or when OEHP is seeking DHS guidance or formal involvement. Issues which will trigger such notification or request for assistance include:
  - i. Disputes between FEMA and the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) that will result in FEMA requesting a determination of eligibility from the Secretary of the Interior;
  - ii. Disputes between FEMA and another consulting party that will result in a consulting party requesting ACHP comments;
  - iii. Disputes between FEMA and another consulting party that will result in a consulting party terminating its participation in Section 106 consultation;
  - iv. FEMA funded undertakings that FEMA determines in concurrence with SHPO/THPO will result in an adverse effect to a National Historic Landmark;
  - v. FEMA funded undertakings that presents important questions on how the ACHP's regulations or a programmatic alternative to the ACHP regulations are being applied, including possible foreclosure or anticipatory demolition;
  - vi. FEMA funded undertakings resulting in potential substantial public controversy or potential litigation directly or indirectly related to historic preservation compliance review; and
  - vii. FEMA funded undertakings that result in issues of concern to Indian tribes or Native Hawaiian organizations.

G. The **Environmental Officer (EO)** is designated by the Director of OEHP as FEMA's point of contact in accordance with CEQ regulations for implementing NEPA at 40 CFR Part 1507.2(a). The EO must have expert knowledge on environmental planning issues such as compliance with NEPA, Endangered Species Act (ESA), Clean Water Act (CWA), Executive Order 11988, Executive Order 11990, and Executive Order 12898. The EO shall complete training or a certificate program on NEPA and have similar job related experience to be considered qualified for the position. The Director of OEHP will delegate EIS/ROD level EHP Approval Authority to the EO. The EO shall:

- 1) Support development and implementation of EHP policies and procedures into FEMA programs and mission-related activities through the following measures:
  - i. Review proposed changes or additions to the list of categorical exclusions; and
  - ii. Act as the single point of contact for all matters in FEMA related to environmental planning on behalf of the Director of OEHP.

- 2) Support EHP compliance through the following measures:
  - i. Oversee the EHP review process for FEMA;
  - ii. Delegate EHP Approval Authority to REOs, DREOs, and EHADs as appropriate in accordance with Section VII, Part C of this Directive;
  - iii. Liaise with tribes and Federal, State, and local agencies regarding EHP analyses for FEMA actions, as appropriate, in accordance with EHP Instruction Section 2.1, Part A and Section 3.4, Part D;
  - iv. Provide assistance in the preparation of environmental documentation in the regions and programs, as appropriate, and assign lead agency responsibility when more than one FEMA office or administration is involved;
  - v. Review draft and final environmental documentation and analyses prepared by OEHP or other headquarters offices when EHP Approval Authority has not been delegated to those offices;
  - vi. Coordinate requests from non-Departmental agencies regarding cooperating agency status, in consultation with DHS SEP as appropriate; and
  - vii. Review and comment upon, as appropriate and following notification to and approval by DHS SEP, EAs and EISs prepared by other Federal agencies or State and local entities that affect FEMA programs.
- 3) Integrate EHP considerations into FEMA operations, including assistance to the Heads of Offices, Programs, and Directorates to integrate requirements for environmental planning into their activities. This assistance shall, at a minimum, involve the following objectives:
  - i. Promote EHP mitigation as part of applicant projects and support enforcement of associated monitoring and EHP mitigation measures; and
  - ii. Determine which FEMA program will serve as the Program Lead for the EHP review process for a project that crosses multiple FEMA programs when the FEMA programs involved in the project cannot agree upon who will serve as lead.

H. The **Regional Environmental Officers (REO)** are designated by the FEMA RA, in consultation with the Director of OEHP, the EO, and the FPO, and are responsible for establishing and directing the regional EHP program and supporting its functional integration into the FEMA mission. The REO shall support the RA, SEE&AM, Director of OEHP, EO, and FPO in implementing national EHP policy and guidance and in carrying out the responsibilities of those offices. The REO may authorize the Deputy REO (DREO) to act on his/her behalf and take on his/her responsibilities and authorities. The REO must have expert knowledge on EHP issues such as compliance with NEPA, NHPA, ESA, CWA, Executive Order 11988, Executive Order 11990, and Executive Order 12898. The REO shall complete training or a certificate program on NEPA and have similar job related experience to be considered qualified for the position. The REO shall:

## FEMA DIRECTIVE 108-1

- 1) Support the development and incorporation of EHP policies into FEMA programs and mission-related activities in their regions through the following measures:
  - i. Promote coordination across FEMA and with other agencies to support the UFR Process including maintaining the transparency of the EHP review process to program staff, other funding agencies, resource/regulatory agencies, applicants, and other stakeholders;
  - ii. Develop EHP guidance in coordination with the Director of OEHP, FPO, EO, and the Heads of Offices, Programs, and Directorates; and
  - iii. Support early, proactive, and comprehensive public outreach processes for EHP compliance.
- 2) Support EHP compliance within their regions through the following measures:
  - i. Act as a single point of contact for the EO, FPO, and RA on all EHP matters related to the region;
  - ii. Oversee the EHP review process for the region and act to further the region's compliance with EHP requirements with the ultimate authority for EHP compliance and EHP issue resolution in the region;
  - iii. Coordinate EHP strategies for matters within the region;
  - iv. Coordinate with, or act as, an EHAD or UFR Advisor during a disaster declaration;
  - v. Use EHP Approval Authority, if delegated by the EO, for actions proposed in the region;
  - vi. Redelegate EHP Approval Authority, if delegated by the EO, to regional EHP staff and program staff as appropriate in accordance with Section VII, Part C of this Directive;
  - vii. Enter into consultation with resource/regulatory agencies pursuant to EHP requirements;
  - viii. Provide technical assistance and guidance to FEMA offices, programs, and directorates, such as for the development of EHP mitigation measures and monitoring plans, to help satisfy EHP compliance responsibilities;
  - ix. Ensure that adverse impacts to environmental and historic resources as a result of proposed FEMA actions or undertakings are adequately addressed;
  - x. Advocate and develop, as appropriate, agreements with tribes and Federal, State, and local resource/regulatory agencies concerning NEPA and other EHP requirements;
  - xi. Elevate EHP issues through the EHP Program Coordinator, when applicable, or the EO or FPO to coordinate with DHS SEP, CEQ, Office of Management and Budget, the ACHP, U.S. Environmental Protection Agency, and other Federal agencies, when appropriate; and consult with the

- EHP Program Coordinator, if applicable, or the EO or FPO to determine when elevation would be appropriate;
- xii. Coordinate and communicate with the FPO, EO, and OCC and alert the FPO, EO, and OCC any time a potential legal issue or regulatory question arises through the following measures:
    - a. Coordinate with the FPO on historic preservation issues affecting a FEMA program or activity in the region that are to be brought before the ACHP, Department of Interior headquarters, or other Federal agency headquarters. All draft Section 106 Memoranda of Agreement (MOAs), Programmatic Agreements, and other legally binding agreements that describe how Section 106 review will be accomplished should go to the FPO for review and comment early enough that FEMA has the ability to further refine its negotiation position; and
    - b. Respond to requests from non-Departmental agencies regarding cooperating agency status in consultation with the EO.
  - xii. Review and comment upon, as appropriate, EAs and EISs of other Federal agencies and of State and local entities that affect the region in accordance with the requirements in the DHS Instruction 023-01, Section IV, Part J.
- 3) Support staff to uphold EHP performance through the following measures:
- i. Define appropriate EHP training requirements for staff with EHP responsibilities within their regions in consultation with the Director of OEHP, the FPO, EO, RA, and Heads of Offices, Programs, and Directorates; and
  - ii. Provide technical oversight for EHP staff working within their regions, including DREOs, Cadre of On-Call Response/Recovery Employees, EHADs, and others.
- 4) Integrate EHP considerations into regional operations through the following measures:
- i. Consult, communicate, and routinely share the status of project EHP review processes with the EO and the RA to make the EHP review process transparent and ensure consistency in the approach to EHP compliance;
  - ii. Coordinate with other Federal agencies, tribes, State and local entities, the public, and others, as appropriate, on EHP issues that affect FEMA programs in their respective regions;
  - iii. In coordination with FEMA programs in their regions:
    - a. Support completion of the appropriate EHP review process, including the analyses and documentation for EHP requirements, before FEMA makes a decision that has potential for significant and/or adverse EHP effects or limits the choices of alternatives in order to satisfy an objective, fix a problem, or address a weakness;
    - b. Plan, program, and budget to meet EHP requirements;

- c. Support program staff's understanding of potential EHP impacts of their programs and projects;
  - d. Support enforcement of appropriate EHP mitigation and monitoring measures;
  - e. Provide technical assistance and guidance to applicants regarding EHP review processes; and
- iv. Work with OEHP and regional programs to develop and implement appropriate EHP performance metrics.
- I. **Environmental and Historic Preservation Advisors (EHAD)** are EHP Incident Management positions during disaster operations and recognized as experts in the field of EHP. The EHAD is responsible for establishing and directing the incident's EHP program and ensuring its functional integration into the FEMA mission. The EHAD must have knowledge of EHP issues such as compliance with NEPA, NHPA, ESA, CWA, Executive Order 11988, Executive Order 11990, and Executive Order 12898. EHADs carry REC level EHP Approval Authority and may be delegated EA/FONSI level EHP Approval Authority by the EO. The EHAD shall meet the requirements necessary to be delegated EHP Approval Authority as described in Section VII, Part C (9)(ii) of this Directive. The EHAD shall:
- 1) Support EHP compliance at a JFO or other deployment location through the following measures:
    - i. Oversee the EHP review process at a disaster and act as a single point of contact for the REO or DREO on all EHP matters related to FEMA's regulatory compliance for the emergency or disaster declaration or post-disaster recovery;
    - ii. Use EHP Approval Authority for actions proposed at a disaster;
    - iii. Coordinate and conduct, in consultation with the UFR Advisor (if applicable) and REO or the DREO, as appropriate, all EHP strategies for FEMA's regulatory compliance within the area where the disaster or emergency has been declared;
    - iv. Coordinate with FEMA offices, programs, and directorates during response and recovery to the declared emergency or disaster in order to fulfill EHP requirements;
    - v. Support outreach processes to promote understanding of EHP compliance in response to or recovery from the declared emergency or disaster;
    - vi. Coordinate requests from non-Departmental agencies regarding cooperating agency status in consultation with the UFR Advisor (if applicable), REO, and DREO;
    - vii. Incorporate EHP mitigation measures where practicable; and
    - viii. Coordinate and communicate with the JFO and OCC on legal matters related to FEMA's EHP responsibilities.

- 2) Support staff to uphold EHP performance through the following measures:
    - i. Provide technical EHP advice related to FEMA activities to FCOs/ FDRCs/Recovery Office Directors or designees;
    - ii. Establish EHP performance metrics and strive to meet targets in alignment with those in regions and headquarters; and
    - iii. Monitor EHP compliance at the disaster.
  - 3) Integrate EHP considerations into JFO or other deployment location operations, including consultation, communication, and routine sharing of the status of project EHP review processes with the FCO/FDRC/Recovery Office Director or designee, UFR Advisor (if applicable), JFO program staff, the REO, and DREO to make the EHP review process transparent and ensure consistency in the approach to EHP compliance.
- J. The **UFR Advisor** is a specialty developed by the UFR Process to act as a liaison and coordinator between Federal agencies on EHP compliance issues in order to promote unification during disaster recovery. The UFR Advisor is often a FEMA employee, but if FEMA is unable to fill the role during a disaster due to capacity issues, the UFR Advisor may come from other support agencies of the Natural and Cultural Resources Recovery Support Function.<sup>1</sup> If the Federal disaster recovery leadership determines the need for a UFR Advisor, the UFR Advisor will deploy to support leadership in the JFO or other deployment location. There may be multiple UFR Advisors if there are multiple JFOs. For more information on the UFR Advisor and the UFR Process refer to the UFR Advisor Concept of Operations and UFR Advisor Standard Operating Procedure. See also the UFR Guidance for EHP Practitioners at <https://www.fema.gov/unified-federal-environmental-and-historic-preservation-review-presidentially-declared-disasters>. The UFR Advisor shall:
- 1) Act as a liaison between Federal, State, tribal, and local agencies to promote coordination during EHP reviews.
  - 2) Assist the parties to the UFR MOU (signatory agencies) in negotiating disaster-specific mechanisms deemed necessary by identifying cooperating agencies and State, local, and tribal entities as necessary parties to the agreements and their roles and responsibilities.
  - 3) Facilitate cooperation and participation of Federal, State, local, and tribal entities in the implementation of a unified approach to EHP reviews through organization of inter-jurisdictional EHP working group meetings, promotion of information sharing, and support of ongoing communication regarding EHP issues.
  - 4) Participate in the Natural and Cultural Resources (NCR) Recovery Support Function (RSF) coordination meetings to identify compliance needs and strategies.
  - 5) Work with Federal disaster recovery leadership, Federal, State, tribal, and local agencies, and non-governmental organizations to identify needs related to EHP

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<sup>1</sup> For more information on the Natural and Cultural Resources Recovery Support Function, visit the National Disaster Recovery Framework website located at: <http://www.fema.gov/national-disaster-recovery-framework>

reviews and the UFR Process, including information about potential EHP issues and resources that could affect recovery projects.

- 6) Work with the Recovery Support Functions to identify EHP compliance issues in recovery projects.
- 7) Support multiple Federal agency involvement in the disaster recovery process and the roles of various agencies and stakeholders in the EHP review process.
- 8) Employ the Tools and Mechanisms, developed as part of the UFR Process, to carry out his/her mission, as appropriate, for the scale of the disaster.
- 9) Enhance the capabilities of and work closely with the EHAD by supporting interagency coordination.

K. The **Office of Chief Counsel (OCC)** is ultimately responsible for all of FEMA's legal determinations and ensures that all FEMA's regulatory actions comply with relevant statutes and Executive orders. OCC shall:

- 1) Support development and incorporation of EHP policies and procedures into FEMA programs and mission-related activities in coordination with the Director of OEHP through the following measures:
  - i. Assist in review of this EHP Directive and the EHP Instruction every three years:
    - a. Following review, and in consultation with DHS, determine whether updates are needed to this EHP Directive and the EHP Instruction;
    - b. If updates are necessary, support the Director of OEHP to update the EHP Directive and EHP Instruction and coordinate with DHS SEP for review and approval according to DHS Instruction 023-01, Section IV, Part C (10);
  - ii. Review FEMA Agency Specific Procedures to determine whether revisions are needed in accordance with the Principles, Requirements, and Guidelines that replaced the 1983 Principles and Guidelines for Water and Land Related Resources Implementation Studies;
  - iii. Review all EHP regulations, procedures, and policies every three years to determine whether updates are needed unless otherwise specified; and
  - iv. Assist in review of proposed changes or additions to the list of categorical exclusions.
- 2) Support EHP compliance through the following measures:
  - i. Advise FEMA on whether a proposed action is subject to the procedural requirements of NEPA, NHPA, ESA, or other EHP laws and regulations;
  - ii. Assist programs and OEHP to identify discretionary activities within FEMA and ensure that the applicable EHP requirements are fully integrated into the planning and implementation of those activities;
  - iii. Advise FEMA on compliance responsibilities with EHP laws, regulations, applicable Executive orders, and other planning requirements;

## FEMA DIRECTIVE 108-1

- iv. Provide FEMA with legal sufficiency reviews on EHP analyses and documents, programmatic agreements, interagency agreements, Memoranda of Agreement, consultations with other Federal agencies, and general legal advice; and
  - v. Provide guidance to the Director of OEHP, FPO, EO, EHP Program Coordinators, the Heads of Offices, Programs, and Directorates, and others, as appropriate, to assist FEMA in maintaining EHP compliance.
- 3) Integrate EHP considerations into FEMA operations by reviewing environmentally complex or controversial projects, as appropriate, prior to final decisions being made by FEMA offices, programs, and directorates. This includes projects that have controversial issues, open opposition, or potential for litigation; projects that cause Federal agencies to disagree over EHP issues; and projects that are precedent setting or different from what FEMA has done in the past.
- L. The **EHP Program Coordinator** is designated by OEHP and serves as a technical EHP resource for a specific headquarters program office. The EHP Program Coordinator shall:
- 1) Support EHP compliance in a FEMA program through the following measures:
    - i. Advise the program on the EHP review process and act to further the program's compliance with EHP requirements;
    - ii. Work closely with the EHP Program Liaison, if one is assigned, to ensure EHP considerations are incorporated in key program decisions;
    - iii. Provide subject matter expertise and advice to the program on implementing EHP responsibilities;
    - iv. Provide guidance to programs to support early, proactive, and comprehensive public outreach processes for EHP;
    - v. Coordinate with the EO and FPO for consultations with other agencies;
    - vi. Act as facilitators and technical experts in consultation with resource/regulatory agencies for EHP matters pertaining to their program;
    - vii. Assist with incorporation of EHP mitigation measures as appropriate;
    - viii. Support the completion of appropriate EHP documentation for actions within the program's responsibility. This includes supporting EHP documentation for the action or project record; and
    - ix. Use EHP approval authority, if delegated, for headquarters-managed actions.
  - 2) Support staff to uphold EHP performance through the following measures:
    - i. Support program staff achieve their priorities while ensuring compliance with all EHP requirements and their approved EHP Program Implementation Plans;

- ii. Help to develop and provide training to Directorate staff on EHP responsibilities;
  - iii. Strive to meet measurable EHP performance targets; and
  - iv. Perform oversight and monitoring of EHP review processes.
- 3) Integrate EHP considerations into program operations through the following measures:
- i. Coordinate, communicate, and routinely share the status of project EHP review processes with the Director of OEHP, FPO, EO, and the Heads of Offices, Programs, and Directorates to make the EHP review process transparent and ensure consistency in the approach to EHP compliance;
  - ii. Help programs establish and communicate project timelines and explain consequences to applicants for failure to provide EHP information;
  - iii. Integrate the EHP review process into project lifecycles; and
  - iv. Coordinate with the program to:
    - a. Support program staff awareness of potential EHP impacts of their programs and projects;
    - b. Monitor the preparation and EHP review process for compliance with all applicable scheduling, scoping, consultation, internal review, and public involvement requirements;
    - c. Support the enforcement of appropriate EHP mitigation and monitoring measures; and
    - d. Monitor program staff with delegated EHP Approval Authority and advise them in meeting EHP requirements.

M. The **EHP Program Liaison** coordinates resolution of EHP considerations on behalf of a program. At headquarters, the EHP Program Liaison works with the EHP Program Coordinator, who coordinates with OEHP staff to support all program needs. In the regions, the EHP Program Liaison works closely with program staff and EHP staff, including the REO, DREO, EHAD, or other staff to support EHP compliance. The EHP Program Liaison shall:

- 1) Support EHP compliance in a FEMA program through the following measures:
- i. Advise the program on the EHP review process and EHP compliance requirements;
  - ii. Work closely with the EHP Program Coordinator, if one is assigned, to ensure EHP considerations are incorporated in key program decisions;
  - iii. Provide subject matter expertise and advise the program on the implementation of EHP responsibilities;
  - iv. Facilitate communication between programs and EHP staff regarding complex or controversial EHP issues;
  - v. Support early, proactive, and comprehensive outreach processes for EHP;

- vi. Assist with incorporation of EHP mitigation measures as appropriate; and
  - vii. Support the completion of appropriate EHP documentation for actions within the program's responsibility. This includes supporting EHP documentation for the action or project record.
- 2) Support staff to uphold EHP compliance through the following measures:
- i. Support program staff to prioritize projects according to their approved EHP Program Implementation Plans;
  - ii. Strive to meet measurable EHP performance targets;
  - iii. Perform oversight and monitoring of EHP review processes; and
  - iv. Train program staff on EHP requirements.
- 3) Integrate EHP considerations into program operations by coordinating between program staff and EHP staff to address EHP considerations, identifying gaps in program delivery and developing tools to promote efficient and effective EHP considerations at the program level.

## **VII. Procedures**

This EHP Directive establishes a dual signatory process for Findings of No Significant Impact (FONSI) and Records of Decision (RODs). Both a program decision-maker and a technical EHP expert must review and approve EHP decision documents. The program decision-maker's responsibility to approve EHP decision documents, referred to as Program EHP Endorsement, confirms understanding of and commitment to decisions described in decision documents. The authority to provide the technical approval and signature is referred to as EHP Approval Authority, and it represents the EHP expert's concurrence that the analyses are scientifically sound, based on best available data, and meet the requirements of NEPA, CEQ regulations, other relevant EHP requirements, DHS Instruction 023-01, this EHP Directive, and the EHP Instruction. See EHP Instruction 1.6, Part E for a more detailed definition of EHP Approval Authority.

### **A. General**

- 1) Each FEMA program or office whose actions are regularly subject to EHP review shall submit a Program Implementation Plan to OEHP explaining how the program will carry out this EHP Directive and the EHP Instruction. A FEMA program is required to submit to OEHP a Program Implementation Plan that is consistent with this EHP Directive and the EHP Instruction for its staff to receive delegations of EHP Approval Authority. Refer to Section 2.8 of the EHP Instruction for more information on Program Implementation Plans.
- 2) Officials responsible for Program EHP Endorsement may agree or disagree with the EHP expert's technical recommendation, but both must commit to decisions described in EHP decision documents for the proposed action to move forward. If there is disagreement, either may request conflict resolution in accordance with Section 2.4 of the EHP Instruction. The Director of OEHP retains final authority to resolve disputes regarding EHP reviews.

- 3) In order to comply with Executive Order 13604: Improving Performance of Federal Permitting and Review of Infrastructure Projects and in direct support of FEMA's efforts to reduce EHP compliance costs, offices, programs, and directorates shall use project code ENVEHP to track all costs associated with EHP compliance, including but not limited to: 1) salaries and benefits of EHP staff; 2) contract funding used for the development of EHP policy, guidance, tools, systems, training, program/project compliance documentation, or mitigation of adverse effects to EHP resources; 3) grant funding used to complete program/project compliance documentation or for the mitigation of adverse effects to EHP resources; and 4) travel funding used to support EHP compliance activities.

**B. Management of the EHP Review Process**

- 1) Reviews of CATEXs shall be carried out in accordance with the requirements outlined in the EHP Instruction and reflected in Program Implementation Plans.
- 2) Environmental Assessments and other EHP decision documents
  - i. EAs specific to a regional action shall be managed at the regional level. EAs may be managed by REOs or by regional programs in coordination with the REO, but the EHP Approval Authority for EAs always remains with the REO (if delegated the authority by the EO) unless otherwise delegated in accordance with this directive. Programs cannot receive EHP Approval Authority for EAs or EISs.
  - ii. Nationwide programmatic EAs shall be managed by the FEMA headquarters office, program, or directorate in coordination with the EHP Program Coordinators and with support from OEHP and the EO.
  - iii. Multi-region and multi-program EAs shall be managed by OEHP or at the regional level in consultation with OEHP. The regional program or REO may manage the EA if agreed to by OEHP, but the EHP Approval Authority remains with the REO.
  - iv. EA/FONSI level EHP Approval Authority is required to sign other EHP decision documents (e.g. Section 106 MOAs, Biological Assessments, and others). Requirements are described in Section VII, Part C (9) of this Directive.
- 3) EISs shall be managed by OEHP or by REOs at the regional level with OEHP concurrence and support, as appropriate. Prior to initiating an EIS, OEHP shall notify the DHS Director of SEP. The Director of OEHP, Deputy Director of OEHP, and EO maintain EHP Approval Authority for all EISs regardless of who prepares or manages them. The accompanying ROD shall be signed by the Director, Deputy, or EO, as the EHP Approval Authority. For Program EHP Endorsement the ROD shall be signed by the RA for regional actions or by an appropriate Director-level official for headquarters or programmatic actions. REOs do not have final EHP Approval Authority for EISs or RODs.

- 4) REOs shall determine whether to elevate to OEHP analysis of regional programmatic analyses, controversial analyses, or otherwise sensitive EHP reviews.
- 5) See also DHS Instruction 023-01, Section IV, Part C: *Activities Requiring Notification to SEP*, which requires that such notifications be made at the earliest possible stage.
- 6) See also DHS Instruction 023-01, Section IV, Part D: *Collaboration* for guidance on coordination and elevation of issues to DHS.

**C. Delegation Procedures for EHP Approval Authority**

- 1) EHP Approval Authority is a tiered authority to sign RECs, FONSI, RODs, or other EHP decision document as the EHP technical recommendation. The EHP signature indicates a complete, accurate, and legally sufficient EHP review process and associated document. The Director of SEP delegates EHP Approval Authority to the Director of OEHP; the Director of OEHP may further delegate EHP Approval Authority. The Director of OEHP will redelegate EHP Approval Authority to the Deputy Director of OEHP and EO.
- 2) Statutory Exclusions (STATEXs) do not require EHP Approval Authority under NEPA, but other EHP requirements with separate review, coordination, and approval requirements may still apply to projects statutorily excluded from NEPA review.
- 3) The Deputy Director of OEHP or REO may delegate EHP Approval Authority to specific program staff within FEMA programs whose actions trigger EHP review. Delegation of EHP Approval Authority to program staff is limited to approval authority for CATEXs and associated RECs.
- 4) Staff with EHP Approval Authority may grant EHP Reviewer status to program staff. Staff with EHP Approval Authority are ultimately responsible for EHP compliance and supervision of any staff to whom they grant EHP Reviewer status. See EHP Instruction Section 1.6, Part K for definition of EHP Reviewer.
- 5) The Deputy Director of OEHP or REO may delegate EHP Approval Authority for all documents except EISs to staff in the chains of command of the Director of OEHP or REO, provided they meet eligibility requirements described in Section VII, Parts C (9) and (10)(ii) of this Directive.
- 6) Delegations of EA/FONSI level EHP Approval Authority are region specific. If, for example, a DREO or REO who had been delegated EA/FONSI level EHP Approval Authority is deployed as an EHAD to a JFO outside his/her home region, the individual would not carry EA/FONSI level EHP Approval Authority to that JFO.
- 7) Requests for Delegation of EHP Approval Authority
  - i. Staff requesting delegation of EHP Approval Authority must submit a memorandum pursuant to the procedures specified below that describes the need for the delegation and provides documentation showing that training and qualifications requirements as described in this Directive, in Section 2.6

of the EHP Instruction, and in Program Implementation Plans, or as otherwise required by OEHP through supplemental guidance, have been met. The request must state whether it is for REC level or EA/FONSI level EHP Approval Authority. When the staff member meets the requirements of this EHP Directive, the EHP Instruction, and Program Implementation Plans (if applicable), the approving official will provide delegation of EHP Approval Authority by written memorandum.

- ii. Delegations of EHP Approval Authority at Headquarters
  - a. Headquarters program staff and OEHP staff requesting delegation of EHP Approval Authority must submit a memorandum to the Deputy Director of OEHP or his/her designee through the appropriate Branch Chief or supervisor detailing completion of all requirements.
  - b. Field staff who are national assets requesting delegation of EHP approval Authority must submit a memorandum to the EO or his/her designee through the appropriate Branch Chief or supervisor detailing completion of all requirements.
  - c. The Director of OEHP, EO, or his/her designee is responsible for ensuring consistency of reviews among all staff with delegated EHP Approval Authority.
  - d. The Director of OEHP will delegate regional delegation decisions and responsibilities to the EO, who will delegate to REOs as appropriate.
- iii. Delegations of EHP Approval Authority in the Regions
  - a. The EO may delegate EHP Approval Authority to an REO by memorandum based on a request signed by either the RA or Deputy RA. An REO who has been delegated EHP Approval Authority may redelegate that authority to regional EHP staff who meet the appropriate knowledge, skills, and abilities criteria for REC or EA/FONSI level EHP Approval Authority described in this Directive. The REO is responsible for oversight of their delegates as described in Section VII, Part D of this Directive.
  - b. In cases where the REO does not have EHP Approval Authority, the EO may delegate EHP Approval Authority to qualified DREOs, regional EHP staff, and regional program staff by memorandum, provided that the REO and RA have clearly defined EHP roles and responsibilities, and both the REO and RA concur with the need for DREO, regional EHP staff, or regional program staff to have EHP Approval Authority.
  - c. An REO who has been delegated EHP Approval Authority may delegate REC level EHP Approval Authority to program staff by memorandum, provided the staff member has met all requirements described in this Directive, the EHP Instruction, and the applicable Program Implementation Plan.
  - d. If there is a dispute between the REO and regional program staff regarding delegation of EHP Approval Authority that cannot be resolved at

the regional level, the REO may elevate the dispute to the EO for review and resolution.

- e. In cases where the EO has approved a request to delegate EHP Approval Authority to a DREO, an REO who also has EHP Approval Authority remains responsible for ensuring consistency of reviews throughout the region. To ensure consistency among reviews in the region, the EO must approve specific situations when the DREO has EHP Approval Authority and the REO does not; these will be handled on a case-by-case basis.
- 8) Responsibilities Associated with Delegation of EA/FONSI level EHP Approval Authority
- i. When an REO or OEHP staff member who has been delegated EHP Approval Authority serves as a subject matter expert, he/she may request EO review on an as-needed basis, but maintains ultimate responsibility for signing the FONSI or recommending the preparation of an EIS.
  - ii. The REO and the EO continue to serve as regional and OEHP subject matter experts, respectively, advising any EHP and program staff who have been delegated EHP Approval Authority and ensuring consistency among EHP reviews.

9) Requirements for Receiving EA/FONSI level EHP Approval Authority

An individual who has the authority to sign a technical recommendation for a FONSI must be an expert in the NEPA process and well versed in other applicable EHP subjects. A person with EHP Approval Authority is not required to be an expert in every resource area, though they must be able to recognize when to seek additional expert and legal advice.

The following attributes are required of EHP staff to be eligible for delegation of EA/FONSI level EHP Approval Authority:

- i. General
  - a. Individual is in the chain of command of the Director of OEHP or the REO.
  - b. The individual must consult with the EO or REO, provided the REO has already reviewed and signed at least two EAs as the EHP Approval Authority, and demonstrate that they are capable of discussing the scoping process, affected environment, the evaluation of impacts, and project specific issues and concerns before EHP Approval Authority will be delegated.
  - c. Program staff are not eligible for EA/FONSI level EHP Approval Authority.
- ii. Knowledge, Skills, and Abilities
  - a. Individual is at a GS-13 level or higher and has demonstrated that they meet the knowledge, skills, and abilities for an Environmental Protection Specialist, GS-0028-13.
  - b. Individual has sufficient specific education, training, and experience

necessary to make decisions regarding compliance with the various EHP review processes, including but not limited to NEPA, NHPA, ESA, and Executive Orders 11988, 11990, and 12898.

- c. Individual has met training requirements described in this EHP Directive and the EHP Instruction. At a minimum, Independent Study (IS) 253: *Overview of FEMA's Environmental and Historic Preservation Review* is required; if this course title changes, the equivalent class applies. The EO or REO may include additional requirements above and beyond those outlined in this Directive and the EHP Instruction prior to delegating EHP Approval Authority.
- iii. Management Approvals
  - a. For regional delegations, the RA (and the REO for DREO delegation) will approve the individual's roles and responsibilities and establish the chain of command for that individual in their region.
  - b. For OEHP delegations, the Director of OEHP or his/her designee will approve the individual's roles and responsibilities and establish the chain of command for that individual within the individual's office or program.

#### 10) Delegation of REC level EHP Approval Authority

- i. The Deputy Director of OEHP or REO may delegate authority for CATEXs and RECs to specific program staff provided OEHP has approved that program's implementation plan, it includes a request for EHP Approval Authority, and satisfactorily explains how the program will implement this EHP Directive and EHP Instruction.
- ii. To be eligible for delegation of REC level EHP Approval Authority, FEMA staff must meet one of the following minimum requirements:
  - a. Individual demonstrates a basic knowledge of EHP requirements and meets the knowledge, skills, and abilities necessary to perform as a GS-0028-11/12 Environmental Protection Specialist; OR
  - b. Qualified as EHP Advisor or EHP Manager in the FEMA Qualifications System.
- iii. Programs must notify OEHP when personnel changes occur that may affect their delegations of EHP Approval Authority.
- iv. Program staff with EHP responsibilities working on EHP related matters work under the technical guidance of OEHP, REO, or EHAD.
- v. Program staff cannot be delegated EA/FONSI level EHP Approval Authority.
- vi. If a program has no staff with EHP Approval Authority, EHP Approval Authority remains with the EO or other EHP staff.

#### 11) EHP Reviewer Status

- i. FEMA staff with EHP Approval Authority may grant program staff EHP Reviewer status. See EHP Instruction Section 1.6, Part K for definition of EHP Reviewer.
- ii. EHP Reviewers must be minimum GS 9 with relevant experience and/or job title (e.g. Environmental Protection Specialist) AND/OR qualified as an Environmental Compliance Review Specialist, Environmental Floodplain Specialist, Environmental Specialist, and/or Historic Preservation Specialist in the FEMA Qualifications System. Historic Preservation Specialists shall meet professional qualifications as determined by the FEMA Federal Preservation Officer.
- iii. EHP Reviewers may support EHP review in their particular area of expertise, but require oversight of an individual who holds EHP Approval Authority. EHP Reviewers participate in drafting RECs and other EHP decision documents, but are not authorized to sign any EHP decision documents or enter into consultations with resource/regulatory agencies.
- iv. EHP Reviewer Status may be revoked by the EO, REO, or individual who granted EHP Reviewer status for unsatisfactory performance.

12) Use of EHP Approval Authority at a JFO or other location

- i. The REO, DREO, EHAD, and any other FEMA staff with delegated EHP Approval Authority are authorized to use REC level EHP Approval Authority at a JFO or other deployment location.
- ii. Program staff with delegated REC level EHP Approval Authority may exercise the authority at JFOs or other deployment locations.
- iii. For any FEMA staff with delegated EHP Approval Authority, upon deployment to a region or JFO where he/she had not been working on EHP related matters, he/she must report to the appropriate EHAD or REO and agree to work under the EHAD or REO's technical guidance.
- iv. The REO for the region in which a JFO is located or in which any EHP review occurs oversees EHP compliance at that location. The REO for that region resolves any disputes over EHP compliance or exercise of EHP Approval Authority.

13) At both headquarters and regional levels EHP staff who have not been delegated EHP Approval Authority may still serve as subject matter experts in managing and reviewing EHP documents. In such cases an individual with the appropriate level of EHP Approval Authority must review draft EAs and RECs and provide comments, as appropriate, until he/she determines the EHP Review is acceptable and merits his/her signature as the EHP Approval Authority. EHP Approval Authority is required to sign final decision documents.

**D. Oversight of EHP Approval Authority Delegation**

- 1) Quality Assurance. As part of quality assurance for this EHP Directive, any FEMA staff who delegates EHP Approval Authority shall periodically review EHP documentation completed by the delegate in order to:

## FEMA DIRECTIVE 108-1

- i. Ensure the quality of documentation to support good decision-making;
- ii. Ensure that all EHP review analyses and methodologies are quantitatively accurate and appropriate;
- iii. Review performance to ensure EHP targets are met;
- iv. Ensure EHP mitigation and monitoring commitments are enforced; and
- v. Ensure satisfaction of EHP training and expertise requirements detailed in this EHP Directive, the EHP Instruction, and Program Implementation Plans before individuals are delegated EHP Approval Authority.

### 2) OEHP Oversight

- i. The Director of OEHP will review NEPA analyses and other relevant EHP reviews prepared by regions or programs by conducting a quality check of a random sampling of documents for consistency with the requirements of this EHP Directive and the EHP Instruction.
- ii. Programs are required to submit to OEHP annual reports detailing performance in implementation of this Directive and their respective Program Implementation Plans. Reports shall include names of program staff involved in EHP review and their authorities/responsibilities, summaries of EHP metrics including EHP compliance costs, and discussion of advancements and concerns regarding quality assurance in performing EHP reviews.

### 3) Revoking delegations for noncompliance

- i. If the Director of OEHP determines that the delegate is not acting in accordance with these procedures or other EHP guidance that FEMA may issue, then the Director of OEHP may revoke delegations of EHP Approval Authority.
- ii. If the REO determines that the delegate is not acting in accordance with these procedures or other EHP guidance that FEMA may issue, then the REO may revoke delegations of EHP Approval Authority upon EO approval.
- iii. Once EHP Approval Authority is revoked, the individual whose delegation was revoked may demonstrate to the Director of OEHP that he/she is capable of complying with EHP requirements and policies. The Director of OEHP, or REO with concurrence of the EO, may redelegate EHP Approval Authority after working with the individual to validate his/her ability to satisfactorily perform EHP compliance procedures.

  
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W. Craig Fugate  
Administrator  
Federal Emergency Management Agency

Date: July 26, 2016

**ACRONYMS**

The following list contains acronyms commonly used in this EHP Directive.

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- |    |  |    |   |
|----|--|----|---|
| 4  | <b>ACHP</b> – Advisory Council on Historic   | 37 | <b>OEHP</b> – Office of Environmental         |
| 5  | Preservation                                 | 38 | Planning and Historic Preservation            |
| 6  | <b>CATEX</b> – Categorical Exclusion         | 39 | <b>RA</b> – Regional Administrator            |
| 7  | <b>CEQ</b> – Council on Environmental        | 40 | <b>REC</b> – Record of Environmental          |
| 8  | Equality                                     | 41 | Consideration                                 |
| 9  | <b>CFR</b> – Code of Federal Regulations     | 42 | <b>REO</b> – Regional Environmental Officer   |
| 10 | <b>CWA</b> – Clean Water Act                 | 43 | <b>ROD</b> – Record of Decision               |
| 11 | <b>DHS</b> – Department of Homeland          | 44 | <b>SEE&amp;AM</b> – Office of Chief           |
| 12 | Security                                     | 45 | Administrative Officer Sustainability,        |
| 13 | <b>DREO</b> – Deputy Regional                | 46 | Energy, Environmental and Asset               |
| 14 | Environmental Officer                        | 47 | Management Program                            |
| 15 | <b>EA</b> – Environmental Assessment         | 48 | <b>SEP</b> – DHS Office of Sustainability and |
| 16 | <b>EHAD</b> – Environmental and Historic     | 49 | Environmental Programs                        |
| 17 | Preservation Advisor                         | 50 | <b>UFR</b> – Unified Federal Review           |
| 18 | <b>EHP</b> – Environmental Planning and      |    |   |
| 19 | Historic Preservation                        |    |   |
| 20 | <b>EIS</b> – Environmental Impact Statement  |    |   |
| 21 | <b>EO</b> – Environmental Officer            |    |   |
| 22 | <b>ESA</b> – Endangered Species Act          |    |   |
| 23 | <b>FCO</b> – Federal Coordinating Officer    |    |   |
| 24 | <b>FDRC</b> – Federal Disaster Recovery      |    |   |
| 25 | Coordinator                                  |    |   |
| 26 | <b>FEMA</b> –Federal Emergency               |    |   |
| 27 | Management Agency                            |    |   |
| 28 | <b>FONSI</b> – Finding of No Significant     |    |   |
| 29 | Impact                                       |    |   |
| 30 | <b>FPO</b> – Federal Preservation Officer    |    |   |
| 31 | <b>JFO</b> – Joint Field Office              |    |   |
| 32 | <b>NEPA</b> – National Environmental Policy  |    |   |
| 33 | Act  |    |   |
| 34 | <b>NHPA</b> – National Historic Preservation |    |   |
| 35 | Act  |    |   |
| 36 | <b>OCC</b> – Office of Chief Counsel         |    |   |