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# FEMA POLICY

## *Grant Programs Directorate*

## *Environmental Planning and Historic*

## *Preservation Policy Guidance*

**FEMA Policy #108-023-1**

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### **BACKGROUND**

All Federal Emergency Management Agency (FEMA) Directorates are responsible for their activities' Environmental Planning and Historic Preservation (EHP) legal compliance requirements. However, the Grant Program Directorate (GPD) recipients and subrecipients also have significant roles in assisting FEMA with those responsibilities. This policy directs recipients and subrecipients in their legal compliance. This policy applies to all non-disaster Preparedness Grants and Fire Grants, administered and managed by FEMA GPD.

### **PURPOSE**

This policy is intended to ensure that all FEMA GPD non-disaster grant programs and activities comply with applicable Federal EHP laws, Presidential Executive Orders (EOs) and regulations.

### **PRINCIPLES**

- A. Provide clear guidance to FEMA grant recipients on their requirements for completing the EHP compliance review process.
- B. Provide clear, simple statements of how FEMA intends to implement its authorities, actions, and/or programs.

### **REQUIREMENTS**

#### **A. EHP Review Process**

Purpose: Provide guidance for applicants on the EHP review process required for GPD-funded projects.

1. Who participates in the EHP review process: Recipients or subrecipients proposing projects that involve changes to the natural or built environment, including but not limited to construction of communication towers; modification or renovation of existing buildings, structures, facilities, and infrastructure; or that involve new construction, including replacement or relocation of facilities, must participate in the EHP review process.



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2. The EHP review process begins when the grant recipient submits an EHP Screening Form, including a detailed project description, the proposed project's purpose and need (goals and/or objectives), and supporting documentation to GPD for their evaluation to determine if the proposed project may impact environmental resources and/or historic properties.
3. Timelines for the completion of the EHP review for each project will vary depending on the proposed project's complexity, the project grant application and supporting documents' completeness and accuracy, and the project's potential to impact environmental resources and/or historic properties. An EHP review may take 30 to 45 working days for proposed activities having little potential to impact environmental resources and/or historic properties; whereas a project that has the potential for significant impacts may take up to one year or more to review. During the project planning phase, recipients and subrecipients should consider these timelines and allot sufficient time for their projects' EHP reviews. Inadequate project descriptions or documentation of the presence of environmental resources and historic properties in a project site and surrounding project area may significantly delay the review timeliness and delay project implementation.
4. Recipients and subrecipients are responsible for providing all necessary documentation, as well as responding to requests for additional information. Recipient or subrecipient failure to meet all applicable Federal, State, Tribal, and local EHP legal requirements, to comply with project conditions established during the EHP review, or to obtain applicable permits and approvals may result in project delays or loss of funds.
5. To help ensure EHP compliance, recipients, including State Administrative Agencies, are responsible for ensuring subrecipients have completed the EHP Process before releasing funds to carry out the proposed project.
6. Costs incurred to comply with FEMA's EHP requirements are the responsibility of recipients. Recipients may use grant funds or the recipient's own funds for these costs. FEMA will not amend grant awards to provide additional funds to cover these costs. See FEMA GPD Information Bulletin 404, issued on April 13, 2015, for additional information.

## **B. EHP Screening Form**

Purpose: Describe the standardized review process using the [EHP Screening Form](#) (FEMA Form Number 024-0-1 and an OMB Number 1660-0115) approved by Office of Management and Budget (OMB).

1. Recipients and subrecipients are required to complete an [EHP Screening Form](#) for all GPD-funded projects except those projects delineated in Section B below. The [EHP Screening Form](#) must be submitted to GPD by the direct recipient of FEMA funds.



2. The [EHP Screening Form](#) and associated documentation is submitted to GPD in order to begin the project's EHP review. Recipients and/or subrecipients are encouraged to use the most recent version of the EHP Screening Form.
3. The [EHP Screening Form](#) must include all requested information and documentation for the project type, which may include maps, photographs, brochures, and other relevant project information. The EHP Screening Form includes instructions to help grant recipients provide the correct information for their project. While the [EHP Screening Form](#) has been designed to address the information required for most projects, GPD may request additional information in order to complete the EHP review.
4. Completed [EHP Screening Forms](#) should be emailed to [GPDEHPinfo@fema.dhs.gov](mailto:GPDEHPinfo@fema.dhs.gov).
5. Questions about filling out an [EHP Screening Form](#), the status of the EHP review, or any other questions related to the EHP review process, may be addressed to the assigned GPD Program Analyst or the GPD EHP team by e-mail at [GPDEHPinfo@fema.dhs.gov](mailto:GPDEHPinfo@fema.dhs.gov).

### C. Streamlined EHP Review of GPD Projects

Purpose: Provide a streamlined EHP review process for certain types of GPD-funded projects.

1. FEMA has determined that some GPD project types have no environmental impacts, as documented in the 2010 Programmatic Environmental Assessment (PEA).<sup>1</sup> Recipients and subrecipients are not required to provide any further EHP documentation for project types identified in the PEA. Specifically these project types include:
  - a. *Planning*: Development of policies, plans, procedures, mutual aid agreements, strategies, and other publications that comply with relevant laws, EOs, regulations, and guidance and are needed to perform assigned missions and tasks.
  - b. *Management and Administration*: Hiring personnel; overtime and backfill expenses. This includes regular-time operational costs for existing positions assigned to full-time counterterrorism duties; development, revision, documentation, and/or distribution of regulations, directives, manuals, Information Bulletins, and other guidance documents; technical assistance activities that involve no resources other than manpower and/or funding; and other personnel, administrative, fiscal and management activities that involve no resources other than manpower or funding.
  - c. *Classroom-based Training*: Training conducted in a classroom setting to include the establishment, support, conducting, and attendance of classroom-based training. This excludes training involving any hazardous activities, hazardous materials, toxic waste, or other controlled substances or materials. Training topics may include, among

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<sup>1</sup> <http://www.fema.gov/media-library/assets/documents/18407>



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others, chemical, biological, radiological, nuclear, and explosives (CBRNE) responsiveness, national security threats and catastrophic events, cyber/agriculture/food security, intelligence gathering and analysis, citizen and community preparedness, and volunteers' training.

- d. *Table-top Exercises and Functional Exercises:* These include seminars, workshops, tabletop exercises, and games. These types of exercises are only hypothetical actions on the part of the participants, and are strictly notional. Functional exercises are a type of operations-based exercise that examine and/or validate the coordination, command, and control between various multi-agency coordination centers, such as emergency operation centers and joint field offices. A functional exercise does not involve any "boots on the ground", or first responders or emergency officials responding to an incident scenario in real time. All actions are simulated and may include CBRNE, cyber, agricultural, and natural or technological disaster scenarios.
- e. *Drills and full-scale exercises:* An [EHP Screening Form](#) will not need to be provided for exercises planned to take place at facilities such as fire and police academies, search and rescue training facilities, and explosive testing centers provided the type of activity planned is one that the facility was designed to conduct.

*NOTE:* Recipients contemplating exercises, drills or trainings (i.e., activities not exempted by the PEA) at any other facility will need to submit the [EHP Screening Form](#). Any type of exercise that requires any type of land, water, or vegetation disturbance or building of temporary structures must undergo an EHP review.

- f. *Purchase of Mobile and Portable Equipment (no installation):* These are equipment devices that do not require any fixed installation and may be transported, such as hand-held radios, personal protective equipment (PPE), mobile/satellite phones, dive equipment, boats, response and mobile command vehicles, and other similar devices that do not require installation.
2. EHP Review for Previously Approved Facilities - FEMA has determined that GPD EHP often performs environmental reviews of multiple projects proposed for the same facility, such as upgrades and renovations or exercises, drills, and trainings held in successive years. GPD EHP does not keep a list of facilities that have been previously approved for training activities, or construction. In order to reduce repetitive reviews, GPD EHP has developed a strategy for "previously approved facilities".

- a. Training

"Previously approved facilities" for exercises, drills, and trainings are facilities for which a recipient or subrecipient has received environmental review and approval by GPD EHP for a specific activity, or group of activities at a specific location. The location can be indoors and/or outdoors, but must be clearly defined. The approval of



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facilities is done on a case-by-case basis with each recipient or subrecipient in the following manner:

- i. After an EHP Screening Form has been submitted for a specific activity at a specific location, and that project has been approved by GPD EHP, that facility can be considered an “approved facility” for that specific type of activity.
- ii. All “previously approved facilities” under this definition will remain valid for an individual recipient, and its sub recipients, for the year in which a project has been approved plus two additional calendar years.
- iii. During the valid project period, the recipient is not required to submit additional EHP Screening Forms for subsequent activities of the same type at that location.
- iv. An EHP Screening Form must be submitted for all training activities that are different than those previously approved or that take place at a different location, even within the approved facility.
- v. If there are environmental concerns at a previously approved facility that would make it ineligible for a three year approval, such as the presence of endangered species or habitat in the vicinity, those concerns will be noted as a condition on the EHP Approval Memo, and those facilities would require more frequent reviews of training exercises, as indicated in the EHP Approval Memo.
- vi. This updated definition includes training activities or exercises that take place at facilities that are not specifically designed for a specific training activity.

## b. Construction Projects Inside Buildings Less than Forty-Three Years of Age

As with exercises, drills, and trainings, the approval of facilities for construction projects at buildings that are less than forty-three years of age is done on a case-by-case basis with each recipient or subrecipient in the following manner:

- i. After an EHP screening form has been submitted for construction on the interior of a building that is less than forty-three years of age, and that project has been approved by GPD EHP, that facility can be considered “previously approved” for subsequent interior construction projects at that location.
- ii. All “previously approved facilities” under this definition will remain valid for an individual recipient, and its subrecipients, for the year in which a project has been approved plus two additional calendar years.
- iii. All proposed activities at the location that include exterior changes or ground disturbance do require submittal of an EHP screening form.



## D. EHP Requirements for GPD-Funded Communications Projects

Purpose: Applicants understand when an EHP Screening Form and EHP review process is required for GPD-funded communications projects, and understand and comply with the process and requirements for NHPA Section 106 review for communications facilities.

1. When upgrading communications systems or otherwise implementing communications projects, FEMA's recipients or subrecipients carry out a wide range of activities, from replacing and retuning mobile and portable equipment to replacing or upgrading fixed equipment to constructing communication facilities. GPD has identified several communications projects that will NOT require the submission of the [EHP Screening Form](#) or any other documentation. Those activities are:
  - a. Software upgrades and/or retuning/reprogramming of existing equipment.
  - b. Purchase of mobile and portable or plug-in equipment where no equipment requires permanent installation in or on existing buildings or structures.
  - c. Replacement of components within existing consoles, sirens or radios.
2. FEMA-funded communications projects or activities involving installation of equipment on or in existing buildings or structures and all other communications projects not described above will require the completion of an [EHP Screening Form](#) as described in Section A above.
3. National Historic Preservation Act (NHPA) Section 106 Review Requirements for Communication Facilities

[NHPA Section 106](#) requires all Federal agencies to take into account the effect of their undertakings on historic properties through consultation with the relevant State Historic Preservation Office (SHPO), Tribal Historic Preservation Office for Federally-recognized tribes, and Native Hawaiian organizations. Many GPD-funded towers are also regulated by the Federal Communications Commission (FCC). The FCC has executed two Programmatic Agreements (PAs) with the Advisory Council on Historic Preservation (ACHP) which were put in place to streamline and expedite the Section 106 review of the project. These PAs are as follows:

- The Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (Nationwide PA) (October 2004)
  - The Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (FCC Collocation PA) (March 2001).
4. The ACHP issued a [Program Comment](#) (Issued in 2009, amended in 2015) on the



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Nationwide PA and the FCC Collocation PA to avoid duplicating the FCC's Section 106 reviews when other Federal agencies are funding communications projects and, thus, required to comply with Section 106. Under this guidance, FEMA may adopt the FCC's Section 106 findings and, as such, does not have to complete its own Section 106 process for the effects of the construction or modification of communication facilities. If, however, the proposed GPD-funded communication facilities project contains additional components not covered by the FCC's Section 106 review, GPD must ensure compliance with Section 106 and complete appropriate consultations.

5. For GPD-funded projects, the Program Comment only provides exemptions from Section 106 requirements; the Program Comment does not provide exemption from any other EHP laws, EOs, regulations, or consultation process.
6. GPD recipients and subrecipients must complete the FCC's Section 106 review process using the *National Historic Preservation Act Section 106 Review Requirements for Communication Facilities* when submitting the [EHP Screening Form](#) to GPD for review. This will enable FEMA and GPD to determine if the proposed project complies with Section 106 under FCC's PAs and process or if FEMA must comply through its own Section 106 consultation.
7. Questions about the Section 106 review process should be directed to the designated GPD Program Analyst or through email at [GPDEHPinfo@fema.dhs.gov](mailto:GPDEHPinfo@fema.dhs.gov).

## **E. Projects Initiated or Completed without EHP Review**

Purpose: Federal environmental planning and historic preservation laws and executive orders are followed by completing EHP reviews before GPD-funded projects are initiated or completed.

1. It is FEMA policy to coordinate with applicants as early as possible in order to comply with Federal EHP laws and executive orders, including the review process required by NEPA.
2. GPD grant applicants proposing actions described in Section A of this Policy must submit an [EHP Screening Form](#) or and wait for the completion of EHP review before work on the project can begin.
3. If an [EHP Screening Form](#) is submitted for a project that has already been initiated and/or completed, or if work is initiated and/or completed during the course of EHP review, the project may not be funded, depending on the scope of work, the level of NEPA review required, and any EHP regulations that apply. These reviews are limited to the criteria defined in FEMA Instruction 108-1-1 Section 3.7. (link to FEMA Instruction (<https://www.fema.gov/media-library/assets/documents/118323>))
4. It is at the discretion of FEMA to determine if a project complies with Federal EHP laws and executive orders.



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**F. Contact Information**

Outcome: Provide a single point of contact for applicants to submit EHP review information, and to get answers to EHP review questions.

1. All EHP materials should be submitted to the GPD-EHP Inbox ([GPDEHPinfo@fema.dhs.gov](mailto:GPDEHPinfo@fema.dhs.gov)) which is capable of receiving files up to 15 MB in size.

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Thomas DiNanno  
Assistant Administrator for Grant Programs

July 26, 2018  
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Date

*This policy represents FEMA's interpretation of a statutory or regulatory requirement and/or sets forth standard operating procedures. The policy itself does not impose legally enforceable rights and obligations, but sets forth a standard operating procedure or agency practice that FEMA employees must follow to be consistent, fair, and equitable in the implementation of the Agency's authorities.*



## ADDITIONAL INFORMATION

### REVIEW CYCLE

FEMA Policy 108-023-1, Grant Programs Directorate Environmental Planning and Historic Preservation Policy Guidance will be reviewed, reissued, revised, or rescinded within four (4) years of the issue date.

### AUTHORITIES

Environmental planning and historic preservation legal compliance is governed by the following authorities:

- A. National Environmental Policy Act of 1969, as amended (PL 91-190)
- B. National Historic Preservation Act of 1966, as amended (PL 89-665)
- C. Endangered Species Act of 1973, as amended (PL 93-205)
- D. Fish and Wildlife Coordination Act, as amended (PL 73-121)
- E. Migratory Bird Treaty Act of 1918, as amended (PL 65-186)
- F. Bald and Golden Eagle Protection Act of 1940, as amended (PL 76-567)
- G. Magnuson-Stevens Fishery Conservation and Management Act, as amended (PL 94-265)
- H. Clean Water Act, as amended (PL 92-500)
- I. Wild and Scenic Rivers Act, as amended (PL 90-542)
- J. Coastal Barrier Resources Act, as amended (PL 97-348)
- K. Coastal Zone Management Act, as amended (PL 92-583)
- L. Clean Air Act of 1963, as amended (PL 88-206)
- M. Resource Conservation and Recovery Act, as amended (PL 94-580)
- N. Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (PL 96-510)
- O. Farmland Protection Policy Act (PL 97-98)
- P. FEMA Directive 108-1: Environmental Planning and Historic Preservation Responsibilities and Program Requirements
- Q. FEMA Instruction 108-1-1: Instruction on Implementation of the Environmental Planning and Historic Preservation Responsibilities and Program Requirements
- R. Department of Homeland Security Directive 023-01: Implementation of the National Environmental Policy Act
- S. 40 CFR Part 1508, Protection of Environment, Terminology and Index
- T. 36 CFR Part 800, Protection of Historic Properties
- U. Executive Order 11988, Floodplain Management, May 24, 1977
- V. Executive Order 11990, Protection of Wetlands, May 24, 1977
- W. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 16, 1994
- X. Executive Order 13112, Invasive Species, February 3, 1999



## DEFINITIONS

- A. **Environmental Assessment** is defined as a National Environmental Policy Act (NEPA) document consisting of the analysis of a proposed federal action on the quality of the human environment.
- B. **Historic Property** is defined as a property that is listed in, or eligible for listing in, the National Register of Historic Places.
- C. **Major Federal Action** is defined as an action with effects that may be major and potentially subject to Federal control and responsibility. “Major” reinforces but does not have meaning independent of “significantly” (see 40 CFR § 1508.27). Actions include new and continuing activities, including programs and projects entirely or partly funded, assisted, conducted, regulated, or approved by Federal agencies and approval of specific projects such as construction or management activities located in a defined geographic area including actions approved by permit or other regulatory decision as well as Federal and Federally assisted activities.
- D. **National Historic Preservation Act (NHPA) Section 106** is defined as a process that requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the ACHP a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP.
- E. **Programmatic Environmental Assessment** is defined as a NEPA document including the analysis of multiple individual actions’ individual and cumulative environmental impacts, or impacts that are generic or common to a class of proposed Federal agency actions.
- F. **Recipient** is a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.
- G. **Regional Environmental Officer/Deputy Regional Environmental Officer** is defined as the individuals in each of FEMA’s 10 regions that provide environmental planning and historic preservation technical assistance, guidance, and other services for all FEMA Programs in the region.
- H. **State Historic Preservation Office (SHPO)** is defined as offices established in all States and Territories that were created by the Federal government in 1966 under NHPA Section 101 to help Federal agencies administer the Section 106 review process (see NHPA Section 106, above) in their state or territory. Each SHPO has a State Historic Preservation Officer to administer their programs.



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- I. **Subrecipient** is defined as a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
  
- J. **Tribal Historic Preservation Office(r)** is defined as an office(r) designated by a Federally-recognized Indian tribe to assume SHPO functions on Tribal lands as authorized by NHPA Section 101(d)(2) provisions.
  
- K. **Undertaking** is defined as a program, project, or activity funded in part or whole under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and, those requiring a Federal permit, license or approval.

## MONITORING AND EVALUATION

FEMA's Office of Environmental Planning and Historic Preservation (OEHP) will monitor the GPD EHP Branch implementation of the processes outlined in this document as well as Regional Environmental Office (REO) involvement in GPD's EHP review process. In addition, input from recipients on the clarity and usefulness of this policy will be used to determine if this policy is working as intended, and if and how the policy should be revised in the future.

## QUESTIONS

Please address any questions or concerns regarding this policy to [FEMA- GPD- Policy@fema.dhs.gov](mailto:FEMA-GPD-Policy@fema.dhs.gov).