

Environmental Laws and Executive Orders Overview

Public Law/ Executive Order	Description and Intent	FEMA Responsibilities	Administering Agencies
Laws with Requirements Specific to Federal Funding Agencies			
Costal Barrier Resources Act 16 U.S.C., 3501 et seq. <i>44 CFR 206 Subpart J, DOI CBRA Advisory Guidelines</i>	<ul style="list-style-type: none"> Prohibits new Federal Expenditures or financial assistance for development within an established Coastal Barrier Resources System unit or zone. Protects ecologically sensitive coastal barriers along U.S. Atlantic, Gulf and Great Lakes coasts. 	<ul style="list-style-type: none"> Review all actions for compliance with CBRA limitations/requirements Consult with USFWS for exempted actions 	<ul style="list-style-type: none"> U.S. Fish and Wildlife Service Field Office
Coastal Zone Management Act 16 U.S.C., 1451 et seq. <i>15 CFR Part 923 and Part 930, Subpart D</i>	<ul style="list-style-type: none"> Requires Federal agencies conducting or supporting projects affecting the coastal zone to conduct/support those activities to the maximum extent possible in a manner consistent with the State's approved coastal management plan. Requires consistency determination for federal action Action taking entity required to obtain permit from State coastal resource management agency or office 	<ul style="list-style-type: none"> Obtain a Consistency Determination, either directly from State agency (or, in some states, fulfill consistency requirement by obtaining copy of applicant's approved Coastal Zone Permit) 	<ul style="list-style-type: none"> State Office of Coastal Management National Oceanic and Atmospheric Administration
Comprehensive Environmental Response Compensation and Liability Act 42 U.S.C. § 9601 <i>ASTM E1527-97</i>	<ul style="list-style-type: none"> Establish Super Fund, National Priorities List (NPL) of hazardous waste sites targeted for cleanup Establish legal framework (and precedents) for liability for owners, operators, and financers of activities affecting contaminated sites 	<ul style="list-style-type: none"> Applicant <i>and</i> FEMA are potentially liable and should review actions that may involve contaminated sites Consult with applicable State and/or Federal agencies 	<ul style="list-style-type: none"> State agencies with jurisdiction over hazardous waste, storage tanks, contaminated sites U.S. EPA
Endangered Species Act 16 U.S.C., 1531 et seq. <i>50 CFR Part 402,450,451, 452, and 453</i>	<ul style="list-style-type: none"> Prevents or requires modification of projects that could jeopardize endangered/threatened species and/or destroy or adversely modify their critical habitat. Section 7 requires Federal Agency to consult with USFWS and/or NMFS as applicable 	<ul style="list-style-type: none"> Consult with USFWS and/or NMFS when there may be an effect on protected species or their habitat Carry other requirements resulting from consultation(s) Coordinate compliance with Fish and Wildlife Coordination Act, Magnusson-Stevens Act, Marine Mammal Protection Act, and Migratory Bird Treaty Act 	<ul style="list-style-type: none"> U.S. Fish and Wildlife Service Field Office National Marine Fisheries Service Applicable State Agencies for State Protected Species and Their Habitat

Public Law/ Executive Order	Description and Intent	FEMA Responsibilities	Administering Agencies
Farmland Protection Policy Act 7 U.S.C., 4201 et seq. <i>7 CFR 658</i>	<ul style="list-style-type: none"> Requires Federal agencies to consider the adverse effects of their projects on farmlands (including the extent to which prime, unique, and other farmland (of Statewide or local importance) will be affected). 	<ul style="list-style-type: none"> Consult with USDA NRCS Complete Farmland Conversion Form for actions affecting farmland outside incorporated areas (e.g., towns, cities) FEMA makes its own determination 	<ul style="list-style-type: none"> USDA Natural Resource Conservation Service State Office State agencies for soils (e.g., soil and water conservation districts)
Fish and Wildlife Coordination Act 16 U.S.C., 661 et seq. <i>No regulations</i>	<ul style="list-style-type: none"> Requires Federal agencies to consider the effects that projects may have on fish and wildlife resources, take action to prevent loss or damage to these resources, and support the development or improvement of these resources Protects fish and wildlife when Federal actions result in the control or modification of waterways, water bodies, or associated wetlands. 	<ul style="list-style-type: none"> Consult with USFWS and/or NMFS for actions in, near, or potentially affecting wetlands, waterways, or water bodies 	<ul style="list-style-type: none"> U.S. Fish and Wildlife Service Field Office National Marine Fisheries Service
National Environmental Policy Act 42 U.S.C.A., 4321 <i>40 CFR Parts 1500-1508 (CEQ)</i> <i>44 CFR Part 10 (FEMA)</i>	<ul style="list-style-type: none"> Requires Federal agencies to use a multidisciplinary process to independently evaluate and provide environmental impact information to federal decision makers, State, tribal and local offices and the affected public before making decisions on major Federal actions that may significantly affect the environment NEPA requires a decision-making process and documentation (not a specific outcome) Agency must involve public in actions that may have significant adverse impacts 	<ul style="list-style-type: none"> Implement NEPA process and document NEPA review (including public involvement) Applicant and FEMA must consider practicable alternatives when a project may adversely affect or conflict with resources Non-federal Applicants can prepare NEPA documents, however <u>FEMA is responsible</u> for final document completeness, correctness, and approval or denial. 	<ul style="list-style-type: none"> President's Council on Environmental Quality
National Historic Preservation Act 16 U.S.C., 470 et seq. <i>36 CFR Parts 60, 61, 63, 68, 79, and 800</i>	<ul style="list-style-type: none"> Requires Federal agencies to "take into account" the impact of their actions on historic properties listed (or eligible for listing) on the National Register for Historic Places 	<ul style="list-style-type: none"> Consult with State Historic Preservation Officer (and Advisory Council on Historic Preservation if needed) and provide an opportunity to comment on undertakings that may affected historic properties FEMA and Applicant must consider alternatives FEMA makes its own determination Implement required conditions to mitigate adverse effects 	<ul style="list-style-type: none"> State Historic Preservation Officer Tribal Historic Preservation Officer Advisory Council on Historic Preservation National Park Service

Public Law/ Executive Order	Description and Intent	FEMA Responsibilities	Administering Agencies
Wild and Scenic Rivers Act 16 U.S.C., 271 et seq. 36 CFR Part 297, Subpart A	<ul style="list-style-type: none"> Prohibits Federal Agencies from assisting projects having direct, adverse effects on rivers listed in the National Wild Scenic River System (or under study for inclusion in the system) 	<ul style="list-style-type: none"> Consult with managing agency for designated river affected by FEMA funded action 	<ul style="list-style-type: none"> National Park Service Managing agency for that river
Executive Order 11988 (Floodplain Management) <u>and</u> Executive Order 11990 (Wetland Protection) <i>44 CFR Part 9</i>	<ul style="list-style-type: none"> Requires Federal agencies to avoid, to the fullest extent possible, long- and short-term adverse impacts on floodplains and wetlands 	<ul style="list-style-type: none"> Implement/document 8 step decision making process Consider practicable alternatives to actions in or affecting floodplains and/or wetlands Implement mitigation measures Notify public of actions and decision Coordinate compliance with CWA Section 404 FEMA makes its own determinations 	<ul style="list-style-type: none"> FEMA USACE-FWS (wetlands)
Executive Order 12898 (Environmental Justice)	<ul style="list-style-type: none"> Requires fair treatment of all ethnic and income groups regarding public health and environmental effects from agency laws, regulations, policies, programs, and projects. Requires Federal agencies to address applicable environmental justice concerns 	<ul style="list-style-type: none"> Assess and mitigate highly disproportionate and adverse impacts on minority or low-income populations Conduct public notice and involvement with affected populations FEMA makes its own determinations 	<ul style="list-style-type: none"> None
Laws with Requirements Jointly Applicable to Action Entities (Applicants) <u>and</u> Federal Funding Agencies			
Clean Water Act – Section 404 (Wetlands) 33 U.S.C., 1251-1387. <i>33 CFR Part 3300</i>	<ul style="list-style-type: none"> Establish permit requirements for action entity (FEMA Applicant) to prevent unauthorized obstruction (or alteration) of “waters of the United States” <u>Section 404</u> focuses on the need to obtain a permit to discharge dredged or fill materials into U.S. waters Implemented in conjunction with Rivers and Harbors Act – for actions that may affect navigable waterways 	<ul style="list-style-type: none"> Applicant has primary responsibility FEMA, where beneficial, facilitates Applicant compliance requirements Coordinate with EO 11990 compliance process 	<ul style="list-style-type: none"> Authorized State agency U.S. Army Corps of Engineers district U.S. Coast Guard for RHA

Public Law/ Executive Order	Description and Intent	FEMA Responsibilities	Administering Agencies
<p>Clean Water Act – Sections 313, 401 and 402 (Water Quality) 33 U.S.C., 1251-1387. <i>33 CFR</i></p>	<ul style="list-style-type: none"> • Applies to action taking entity (FEMA applicant) • Section 313 – storm water management requirements • Section 401 – water quality certification (or waiver) required for any discharge regulated under Section 404. (Varies considerably by state) • Section 402 – limits pollutant quantities that may be discharged into surface waters by industries and municipalities (e.g., a sewage treatment plant). National Pollution Discharge Elimination System (NPDES) discharge permits may be required from EPA or the state 	<ul style="list-style-type: none"> • Applicant has primary responsibility • FEMA, where beneficial, facilitates Applicant compliance requirements 	<ul style="list-style-type: none"> • State agency for water quality in states with delegated regulatory responsibility (otherwise U.S. EPA)
<p>Resource Conservation and Recovery Act 42 U.S.C., 6922 <i>40 CFR, Parts 240-282</i></p>	<ul style="list-style-type: none"> • Governs the management of solid and hazardous wastes and underground storage tanks • Action entity must assess the adverse effects that debris, debris removal, hazardous wastes, and hazardous waste clean-up projects may have on air and water quality, and on public and other environmental health, and take actions to prevent degradation • May be required to obtain permit or approval from State agency governing solid waste and storage tanks • Provides for planning requirements in disposal and recycling of debris 	<ul style="list-style-type: none"> • Monitor debris operations and coordinate with action entities to recycle waste materials • Applicant has primary responsibility for compliance with permitting <u>and</u> specific regulatory requirements • FEMA facilitates Applicant’s compliance requirements and cooperation among multiple agencies involved in regulating debris operations 	<ul style="list-style-type: none"> • State agencies with delegated authority (otherwise, U.S. EPA; Office of Solid Waste)
<p>Clean Air Act 42 U.S.C., 7401-7671</p>	<ul style="list-style-type: none"> • Requires protection and enhancement of the nation’s air resources • Review and permitting requirements for action entities • Implemented through State plans, regulations and agencies 	<ul style="list-style-type: none"> • Applicant has primary responsibility • FEMA, where beneficial, facilitates Applicant’s compliance requirements 	<ul style="list-style-type: none"> • State agency with delegated authority (otherwise, U.S. EPA)