

DR-4746-CA
Federal Emergency Management Agency

Environmental and Historic Preservation Considerations Greensheet



Environmental and Historic Preservation and Disaster Recovery

As you protect, repair, and rebuild your disaster-damaged communities, environmental and historic preservation issues may not seem like a priority. Whenever Federal funding is requested, however, certain environmental and historic preservation requirements must be fulfilled. **This brochure is provided to help you better understand environmental and historic preservation factors that you must consider as you apply for FEMA funding.** The information described here will help you avoid funding delays and other hurdles as you undertake recovery efforts.

The most important message is that the FEMA Environmental and Historic Preservation (EHP) staff is committed to helping you identify and meet environmental and historic preservation compliance

responsibilities. This document provides an overview of compliance requirements, procedures, and contacts.

You can help by identifying any potential environmental or historic issues, concerns, or problems related to your projects and discuss these with FEMA staff as soon as possible.

Our work is performed under the direction of FEMA's Federal Coordinating Officer, Andrew Grant. FEMA will serve as the main point of contact for tribal applicants, oversees grant administration, and is committed to following all environmental and historic preservation requirements in its disaster recovery operations.

As the acting Regional Environmental

Officer, I pledge to assist you in understanding and complying with all applicable environmental and historic preservation requirements.

Mary "Tess" Johnson leads the EHP unit from the FEMA Region 9 office at 1111 Broadway, Suite 1200, Oakland, CA 94607-4052. Please contact any FEMA EHP staff, or FEMA Public Assistance staff for any environmental or historic preservation compliance assistance.

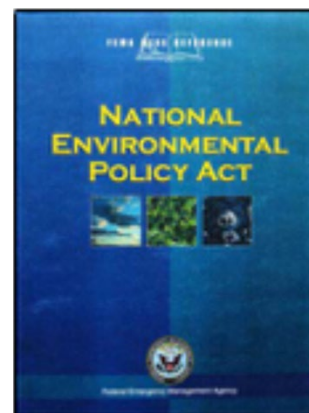
Sincerely,

Aaron Clark
Acting Regional Environmental Officer
FEMA Region 9
12/01/2023

Environmental Laws and Project Requirements

The National Environmental Policy Act (NEPA) is the primary environmental law that directs Federal agencies to consider the environmental effects of their actions (including funding). In addition to NEPA, listed below are the other major environmental and historic preservation laws and executive orders that are triggered when protecting, rebuilding, or replacing public infrastructure.

Many activities can proceed without environmental or historic review, others may require additional consideration for environmental and historic preservation compliance. Some projects need more detailed reviews, such as consultation and (or) permitting/authorization with State, Tribal, and Federal regulatory agencies prior to work being performed. Failure to comply with applicable environmental and historic preservation laws and other requirements could jeopardize or delay potential funding.



Federal Laws and Executive Orders

- National Environmental Policy Act
- National Historic Preservation Act
- Endangered Species Act
- Clean Water Act
- Clean Air Act
- Executive Order 11988: Floodplain Management
- Executive Order 11990: Protection of Wetlands
- Executive Order 12898: Environmental Justice

Additional Laws

- Magnuson-Stevens Fishery Conservation Management Act
- Farmland Protection Policy Act
- Wild and Scenic Rivers Act
- Coastal Zone Management Act

Some projects may not need detailed review

- Many types of emergency actions or debris removal
- Repairs to pre-disaster condition or temporary repairs

Some projects require more extensive review

- Debris disposal in areas not previously permitted
- Projects that change the pre-disaster condition of the facility
- Repairs to facilities over 45 years old or projects that include hazard mitigation
- Projects located in or near bodies of water, wetlands, or floodplains
- Temporary debris staging in a floodplain and/or wetland

Some projects may need review and consultation

- Improved or alternate projects
- Projects that include new ground disturbance



Waterways, Including Culverts, and Bridges



Figure 1: California Red-legged Frog (*Rana draytonii*)

The Clean Water Act (CWA) apply to actions affecting “waters of the United States”. This includes any part of a surface water system: natural waters including oceans, seas, bays, lagoons, streams, lakes, and wetlands; as well as isolated human-made waters. The U.S. Army Corps of Engineers (USACE) regulates this law.

For projects involving work proposed or completed in a waterway, CWA permits from the USACE may be required. Repairs to previously permitted structures may require amendments or modifications to existing permits. Examples of actions

requiring CWA permits include construction, demolition, and any dredging or filling in any part of surface waters, tributaries, or systems.

Obtaining CWA permits is the responsibility of the applicant and must be done prior to any work being performed. Exceptions exist for emergency actions that address immediate threats to life or property, in which case USACE should have been notified and there should be documentation of the contact made by the applicant.

Floodplains, Wetlands, and the Coastal Zone

Executive Order 11988 requires FEMA to review all projects for the potential to affect or be affected by the floodplain. For projects that take place in or may affect a floodplain, FEMA must seek ways to avoid, minimize, or mitigate long and short-term impacts associated with occupancy and modification of the floodplain. Depending on the potential impacts, an alternative analysis and public notice may be required. For additional information about work in or

affecting a floodplain, contact FEMA and the California National Flood Insurance Program (NFIP) Coordinator.

Executive Order 11990 requires FEMA to review all projects and evaluate the potential affects to a wetland. The applicant may be required to obtain a permit/authorization from USACE. Depending on the potential impacts, an alternative analysis and public notice may

be required for work affecting a wetland.

Projects within coastal zones must be consistent with California coastal zone management programs. A Federal Consistency Determination from the State planning board may be required for certain projects. The applicant is responsible for obtaining any such approval.

Protected Species and Habitats



Figure 2: Northern Spotted Owl (*Strix occidentalis caurina*)

Under the Endangered Species Act (ESA), for any project that has the potential to affect federally threatened or endangered species and/or their habitats, FEMA must consult with the U.S. Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS). Typically, this process results in the development of measures to avoid or minimize impacts to such species and/or habitats.

It is important to know whether a proposed project might impact protected species and/or habitats. Applicants can contact experts at FEMA, USFWS, NMFS, or environmental state agencies that can help determine whether protected species and/or habitats may be affected by a proposed project.

The applicant must also comply with the Magnuson-Stevens Fishery Conservation and Management Act (MSA). MSA protects marine fisheries management in U.S. federal waters and “Essential Fish Habitat” (EFH). FEMA must consult with NMFS if a project may adversely affect EFH for any species. FEMA, NMFS, and environmental state agencies can assist with identification of and impacts to EFH.



Historic Preservation



Figure 3: San Diego County Courthouse (1889)

All proposed projects that have the potential to affect historic properties must be reviewed by FEMA and the Tribal Historic Preservation Officer (THPO). A historic property is any precontact or historic district, building, site, structure, or

object that is listed in, or eligible for listing in, the National Register of Historic Places (NRHP) and includes artifacts, records, and material remains located within such properties. A historic property may have significance at the local, state, or national level. Properties of religious and cultural importance to Indian tribes may be eligible for listing in the National Register of Historic Places.

Any structure (e.g., buildings, walls, bridges, culverts) 45 years or older is considered a historic property and may be eligible for listing on the National Register of Historic Places. **Archaeological resources require special attention and may also require coordination with THPO.** Any proposed project that may alter previously

undisturbed ground (e.g., new construction, utility relocation, road realignment, borrow pit development, site preparation for debris or equipment staging) must be evaluated for potential effects to historic properties before work can begin. **Land that has been graded, plowed, or used for agriculture is not necessarily considered previously disturbed and must also be reviewed.**

Various strategies can be taken if historic properties are affected. It is critical to involve FEMA and the THPO to identify and evaluate potential historic properties, to make determinations of effect, and to decide what measures might be taken to avoid or mitigate effects.

Debris Disposal and Hazardous Materials



Management of storm-related debris (e.g., removal, staging, storage, sorting, and disposal) must be conducted in accordance

with federal and state solid and hazardous waste regulations.

The action of collecting and hauling debris does not require a permit. Depending on the debris materials, debris must be disposed of at a permitted landfill. If the applicant utilizes the method of chip and toss or recycling, a permit is not required.

Reopening closed landfills or hardfills, using non-permitted sites, and/or creating temporary debris staging areas requires a more detailed FEMA review.

For the use of a permitted landfill, the applicant is responsible for sharing the

landfill information, address, GPS and current permit. The applicant is also responsible for identifying debris material types and ensuring the permitted landfill can accept the debris.

Buildings suspected of containing asbestos must be tested prior to demolition. If asbestos material is present, it must be abated and disposed of in compliance with federal and state requirements.

More information is available at [FEMA's Public Assistance Program's debris removal policy and guidance](#).

Other Considerations



Any project involving ground disturbance outside the previously disturbed footprint, even if within an existing right-of-way (e.g., facility relocation, material borrowing, utility pole or fence

replacement, and access road construction), may require archaeological and biological reviews prior to construction.

Executive Order 12898 strives to minimize adverse health or environmental impacts on minority and low-income populations. FEMA evaluates projects to avoid these impacts. In addition, FEMA must not exclude any persons or populations because of race, color, national origin, income, education, or language.

Complying with **tribal laws, ordinances, and obtaining permits** are the responsibility of the applicant. **In addition, the applicant is responsible for complying with any Federal EHP laws that would be triggered if FEMA-funding was not being requested.**

Hazard mitigation projects reduce the threat of future disaster damage. Examples include retrofitting roofs or windows against wind damage and elevating facilities for flood protection. All hazard mitigation projects are subject to a more thorough environmental and historic preservation review.

The Heritage Emergency National Task Force (HENTF) is a partnership between FEMA and the Smithsonian Institution with members from over 60 federal agencies and national service organizations. After a disaster, HENTF provides technical assistance to local, county, tribal, and state governments and to private nonprofit arts, cultural, and historical organizations regarding the salvaging of records and collections.



Contacts

This brochure presents an overview of many environmental and historic preservation laws that FEMA and applicants must comply with before approving Public Assistance projects. There are, of course, details beyond the scope of this document that may prove useful for you to better understand environmental and historic preservation requirements. You may contact the agencies listed below for more information on these requirements and for guidance on environmental and historic preservation review, permitting, and approval processes. **FEMA staff in the Joint Field Office and the Region 9 Office can assist in answering questions and directing you to the appropriate agencies to ensure that environmental and historic preservation considerations are adequately addressed for FEMA-funded projects.** More information is available at [FEMA's EHP program website.](#)

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California Dept. of Fish and Wildlife Habitat Conservation Planning

1416 Ninth Street, 12th Floor Sacramento, CA 95814
(916) 653-4875

National Marine Fisheries Service

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Floor Sacramento, CA
95814
(916) 653-4875

EPA Hazardous Debris and Materials

Bill Jones
75 Hawthorne Street, San Francisco, CA
4105
(415) 972-3275
Jones.bill@epa.gov

California Environmental Protection Agency (CalEPA)

Scott Lichtig
Deputy Secretary for Environmental Policy
and Emergency Response
(916) 883-0958
<https://calepa.ca.gov/>

U.S. Fish and Wildlife Service

See website link below for
appropriate office contact:
<https://www.fws.gov/offices/Directory/ListOffices.cfm?satecode=6>

California State Water Resource Control Board

See website link below for appropriate office contact:
https://www.waterboards.ca.gov/waterboards_map.html

US Army Corps of Engineers Regulatory Program

See website link below for
appropriate office contact:
<https://offices.sc.egov.usda.gov/locator/app>

U.S. Army Corps of Engineers

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California Historic Preservation Officer

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