



Environmental Considerations Greensheet

Environmental and Historic Preservation and Disaster Recovery

Disaster damages cause considerable harm to the environment as well as to public infrastructure. FEMA's Public Assistance Program addresses both by making sure that projects that protect, repair, and rebuild your communities don't do further damage to the environment. Whenever federal funds are spent, FEMA is required to confirm that projects comply with certain environmental and historic preservation requirements. The material presented here will help you better understand the factors that must be considered when applying for FEMA funding. **Understanding these concerns as you formulate your projects can help you avoid funding delays and other hurdles as you undertake recovery efforts.**

This document provides an overview of compliance requirements, procedures, and contacts. Most important is that FEMA's Environmental and Historic Preservation (EHP) staff is committed to helping you identify and meet environmental and historic preservation compliance responsibilities. 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, Waddy Gonzalez**, and in close coordination with his counterpart, **State Coordinating Officer, Captain Emmit McGowan**. Michigan State Police (MSP) serves as the main point of contact for applicants, oversees grant administration, and is committed to following all environmental and historic preservation requirements in its disaster recovery operations under the Stafford Act.

As the Regional Environmental Officer, I can assist in understanding and complying with applicable EHP requirements. **Dan DiGiuseppe leads the EHP field staff**. Please contact him, other FEMA EHP staff, MSP staff, or FEMA Public Assistance staff for any environmental or historic preservation compliance assistance.

Duane Castaldi
Regional Environmental Officer
FEMA Region V

All FEMA-funded projects require some level of environmental review:

Most projects are easily and quickly reviewed by EHP Specialists

- Many types of emergency actions or debris removal /disposal in licensed facilities
- Repairs exactly to pre-disaster condition or temporary repairs

Some require detailed review by Floodplain, Wetland, Endangered Species, or Historic Specialists

- Debris disposal in areas not previously permitted
- Projects that change the pre-disaster condition of the facility
- Repairs that include hazard mitigation or to facilities over 45 years old
- Projects located near bodies of water, wetlands, or floodplains

Some projects require consultation with state or federal agencies

- Projects with significant mitigation actions
- Improved or alternate projects
- Projects that include new ground disturbance

Critical Federal Laws and Executive Orders

- Executive Order 13175 Consultation and Coordination with Indian Tribal Governments
- National Historic Preservation Act
- Endangered Species Act
- Clean Water Act
- Rivers and Harbors Act of 1899
- Coastal Zone Management Act
- Executive Order 11988: Floodplain Management
- Executive Order 11990: Protection of Wetlands
- Executive Order 12898: Environmental Justice

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, such as funding disaster recovery projects. In addition to NEPA, a number of major environmental and historic preservation laws and executive orders that apply when rebuilding or replacing infrastructure.

Some complex projects need very detailed reviews, including consultation with state and federal regulatory agencies, before construction begins. Others require

some consideration for environmental and historic preservation compliance before funding is approved. Many activities with minimal impacts can proceed before environmental or historic review is complete.

In all cases, failure to comply with applicable environmental and historic preservation laws and other requirements could jeopardize or delay funding. If you have questions, be sure to contact FEMA's Public Assistance or EHP staff as soon as possible to avoid compliance issues and funding delays.



Tribal Consultation Requirements

A number of executive orders and federal laws require nation-to-nation consultation with federally recognized Indian Tribes (Tribes) on matters that have effects on Tribal lands and any geographical areas of significance to those tribes. FEMA has defined a process for communicating and collaborating with Tribes to exchange information, receive input, and consider their views on actions that have tribal implications.

This means that any FEMA-funded project that includes ground-disturbing activities in previously undisturbed ground is likely to require consultation with any Tribal nations with potential interests in the area. **Note that undisturbed ground includes agricultural fields and undisturbed road rights-of-way.**

Critical to [FEMA's tribal consultation policy](#) is that "FEMA will commit to an inclusive and collaborative tribal

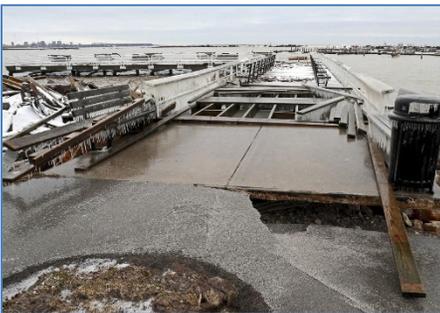
consultation process and provide tribal governments sufficient time to submit input on actions that have tribal implications." Thus, projects requiring tribal consultation require additional time to complete review before work can begin.

The State Historic Preservation Office (SHPO) also requires consultation in such cases, and **by law these consultations must be concluded before work begins.**

Notify your MSP, PA, or EHP contacts as soon as you are aware that your project will include ground disturbance outside of areas required to return your facility to pre-disaster condition (projects with mitigation or alternate / improved projects).

Generally speaking, work needed to return a facility back to its pre-disaster condition (identical number and size of culverts, for example) will not require Tribal / SHPO consultation.

Waterways, Culverts, and Bridges



The Clean Water Act (CWA) and the U.S. Rivers and Harbors Act (RHA) apply to actions affecting "waters of the United States." This includes any part of a surface water system, such as rivers, bays, lagoons, streams, lakes, and wetlands, as well as isolated human-made waters. The U.S. Army Corps of Engineers (USACE) administers these laws.

Many FEMA disaster recovery projects will repair previously permitted existing infrastructure and as such the USACE

Nationwide Permit 3, Maintenance, may be applicable. Applicants are responsible for ensuring their project meets both the eligibility to use a Nationwide permit and the terms and conditions the Nationwide permit.

For projects involving new work proposed or completed in a waterway, CWA permits from the USACE are required. Examples of actions requiring CWA permits include construction, demolition, and any dredging or filling in any part of surface waters, tributaries, or systems.

Work in lakes and streams may require EGLE permitting.

Obtaining CWA permits is the responsibility of the applicant performing the work and must be done prior to initiating any site activity.

Exceptions exist for emergency actions that address immediate threats to life or property, in which case USACE

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 affect a floodplain, FEMA must seek ways to avoid, minimize, or mitigate to the extent practicable long- and short-term impacts associated with occupancy and modification of the floodplain.

For projects that do more than return the facility to pre-disaster condition, depending on the potential for impacts, an alternative analysis and public review may be required. For additional information about work in or affecting a floodplain, contact FEMA EHP or the Michigan National Flood Insurance Program (NFIP) Coordinator.

Executive Order 11990 requires FEMA to review all projects to evaluate the potential to affect a wetland. The applicant may be required to obtain a permit from USACE. As with projects affecting the floodplain, depending on the potential for impacts, an alternative analysis and public review may be required for work affecting a wetland.

Note that debris should never be placed, even temporarily, in a wetland or a floodplain. Debris removal from a wetland should be coordinated with USACE.

Projects within Coastal Zones must be consistent with the Michigan coastal zone management program. An individual Federal Consistency Determination from the State planning board may be required for certain projects. The applicant is responsible for obtaining any such approval.

should have been notified and there should be documentation of the contact made by the applicant.



Historic Preservation

All proposed projects which may affect historic properties must be reviewed by FEMA and the State Historic Preservation Officer (SHPO). A historic property is any prehistoric or historic building, site, district, structure, or object significant in American or state history, architecture, archaeology, engineering, or culture. **Under federal law, FEMA is required to conduct consultation with the SHPO regarding all FEMA-funded actions.**

Any structure (e.g., buildings, walls, bridges, culverts) 45 years old or older may be eligible for listing on the National Register of Historic Places and considered a historic property.

Debris Disposal and Hazardous Materials

Management of storm-related debris (removal, staging, storage, sorting, and disposal) must be conducted in accordance with federal and state solid and hazardous waste regulations.

Private Property debris disposal site requires EHP review prior to utilization.

No FEMA or disaster-specific contacts, approvals, or permits are required to transfer solid waste debris to a licensed landfill. **Reopening closed landfills or hardfills, using unlicensed sites, or creating temporary debris staging areas requires FEMA and Michigan EGLE review.**

Management of storm-related debris (removal, staging, storage, sorting, and disposal) must be conducted in accordance with federal and state solid and hazardous waste regulations.

Facilities potentially containing asbestos building materials must be tested prior to demolition. Asbestos building materials, if present, 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.](#)

Archaeological resources require special attention and generally require coordination with SHPO and Tribal Nations. 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 considered previously disturbed and must also be reviewed.**

Various strategies can be taken if historic properties are affected, which may occur with any project that is not strictly returning a facility to pre-disaster condition. **It is critical to involve FEMA early in project**



development to identify and evaluate potential historic properties, to make determinations of effect, and to decide what measures, if any, can be taken to avoid or mitigate effects. FEMA must handle the coordination with Tribes and SHPO for all FEMA-funded undertakings, even if the subrecipient consults directly with SHPO for non-disaster work.

Protected Species and Habitats



Under the Endangered Species Act (ESA), any project that has the potential to affect federally threatened or endangered species or their habitats, requires FEMA to consult with the U.S. Fish and Wildlife Service (USFWS).

Typically, this process results in the development of measures to avoid or minimize impacts to such species or habitats.

Projects that affect the following species or habitat types may require consultation with USFWS.

Eastern massasauga rattlesnake

Spring and fall - wetlands; Summer - dry uplands, prairies, and fields

Indiana and Northern long-eared bats

Winter hibernation in caves or abandoned mines; Spring, summer, and fall - individual trees for roosting

Rufa red knot

Spring and fall - occurs on the Great Lakes shorelines along with inland wetland and marshes in Midland and Saginaw Counties.

Piping plover

Iosco County Beaches

Kirtland's Warbler

Iosco County Jack Pine Stands

Applicants can contact experts at FEMA, USFWS, or Michigan DNR that can help determine if protected species or habitat may be affected by a proposed project.



Other Considerations

Executive Order 12898 on environmental justice 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 from participating in the EHP review process because of race, color, national origin, income, education, or language.

Remember that **any project involving ground disturbance outside the previously disturbed footprint will require archaeological and possibly biological reviews prior to construction.** This is true even if within an existing right-of-way (such as facility relocation, material borrowing, utility pole or fence replacement, and access road construction).

Complying with **local, county, and state laws and ordinances** and other approvals is the responsibility of the



subrecipient. **Note the subrecipient remains responsible for complying with any other federal EHP laws that may apply regardless of whether FEMA-funding is requested.**

Contacts

This brochure presents an overview of a number of environmental and historic preservation laws. FEMA must document compliance with these and other laws and executive orders before funding for Public Assistance projects can be obligated. The contacts listed below can provide more information on these requirements, as well as guidance on environmental and historic preservation review, permitting, and approval processes.

FEMA staff in the Joint Field Office and the Region V 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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MI NFIP Coordinator

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U.S. Army Corps of Engineers

Regulatory Bay City Field Office
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989-684-5969
<https://www.lre.usace.army.mil/Missions/Regulatory-Program-and-Permits/Contact-Us/Bay-City-Field-Office/>

EGLE MI Debris Contact

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confert@michigan.gov
989-225-7968
<https://www.michigan.gov/egle/0,942,9,7-135-3312--,00.html>

MI DNR

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Michigan Dept. of Natural Resources
Lansing Main Wildlife Division Office

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MI EGLE Water Management Specialist

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MI Coastal Management Program

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