# environmental Historic Marcservation

#### **PURPOSE OF THIS PUBLICATION**

To provide awareness and guidance for the **preservation** and **protection** of the natural and cultural aspects of **environmental** and **historic resources** when seeking Federal assistance.



#### **INTENDED AUDIENCE**

This publication is intended for local and State officials, Federally recognized Tribal governments and other **disaster-recovery** stakeholders **applying for** and/or **receiving recovery funding** through Federal Emergency Management Agency (FEMA).

## Environmental + Historic Preservation(EHP) review

All Federally funded projects **must** comply with the *National Environmental Policy Act* (NEPA) of 1970, as amended. [42 USC 4321 & 4331-4335] Under NEPA, the Federal agency responsible for funding a project **must consider** the project's *impacts* on the **natural**, **cultural** and **socioeconomic** conditions. In the environmental and historic preservation (EHP) world, you may hear that called **impact**.

Failure to comply with NEPA can result in project **delays** and **denial** of funding. The Federal Emergency Management Agency (FEMA), through the Environmental and Historic Preservation (EHP) Program, engages in a **review process** (EHP review) to ensure FEMA-funded activities comply with NEPA.

To understand the **FEMA EHP review** and formulate a **project schedule** that adheres to **Federal grant-funding requirements**, you need to know about EHP concerns that could have an impact on your project.

### WHAT DETERMINES THE DEPTH OF EHP REVIEW?

All projects funded through FEMA receive an EHP review that identifies if and what conditions are needed to ensure compliance. The depth of EHP review is dependent on a number of factors.

- Special Consideration Questions form as a tool to trigger reviews for possible negative impacts to protected resources from your proposed project.
- Other FEMA-funded grant programs
   utilize the project *Scope of Work* (SOW) to
   determine the level of EHP review needed.

Regardless of the FEMA grant program to which you are applying, the SOW and the **project's location** determine the depth of EHP review.

The FEMA EHP Team considers a range of Federal laws, regulations and *Executive Orders* (EOs) to ensure **compliance** *prior* to funding.

### AVOID DELAYS WITH EHP REVIEW

Those applying for (Applicants) or those receiving (Subrecipients) FEMA assistance can greatly aid FEMA in *streamlining* the EHP review by:

- Writing detailed project descriptions.
- Anticipating requirements under applicable laws
   (see insert).
- Designing projects to address requirements or avoid problem areas by involving FEMA EHP during the early planning stages of your project.

1					
	FEDERAL	RTMENT OF HOMELAND	ENT AGENCY	O.M.B. NO. 1660-0017 Expires October 31, 2008	
	APPLICANT	AL CONSIDERATION Q	PAID NO.	DATE	
	10750000				
	PROJECT NAME	PROJECT NO.	LOCATION		
F					
	1. Does the damaged facility or item of v		ledout - for each project.	(pment vehicles etc.)	
	Comments		, non an inter for Bri on an Bri od		
	2. Is the damaged facility located within	a floodplain or coastal high hazar	d area/or does ti have an impact on	a floodplain or wetland?	
that	Comments				
	DEDADTME				
				D SECURITY	
( FEI	DERAL EME	RGENCY	MANAGE	EMENT AGEN	CY )
S	PECIAL CO	ONSIDE	RATION	QUESTIONS	
				do Lo mone	
	S Dose the applicant by Ves No Unsure	faron hickory or needs giv obb	in the lock interaction of a	hazard mitigation proposal?	_
		e e Provel ( e	u	Construction of the state	
there any hazardou		r adjacht to i	the damaged	a facility and/or iter	n of work?
es 🗂 No 🛛	Unsure				
	7. Are there any pristine or undisturbed Yes No Unsure	areas on, or near, the project site	? Are there large tracts of forestiand	17	
	Comments				
	8. Are there any hazardous materials at	or adjacnt to the damaged facility	and/or item of work?		
	Yes No Unsure Comments				
	Commenta				
ne					
		controversial issues associated wi	th the damaged facility and/or item	of work?	
	9.Are there any other environmental or Yes No Unsure	controversial issues associated wi	ith the damaged facility and/or item	of work?	
	9.Are there any other environmental or Yes No Unsure Comments	controversial issues associated w	Ith the damaged facility and/or item	of work?	
	Yes No Unsure	controvensial issues associated w	ith the damaged facility and/or item	of work?	
	Yes No Unsure		In the damaged facility and/or item	of work?	

U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) FEMA SPECIAL CONSIDERATIONS QUESTIONS. FF 90-120

Remember . . . any changes to approved SOW results in an additional EHP review!

### FEMA ROLE

FEMA EHP reviews the **proposed SOW** for **compliance** with Federal environmental and historic preservation laws and EOs. The FEMA EHP program integrates the protection and enhancement of environmental, historic and cultural resources into FEMA's mission, programs and activities, to include disaster response, recovery and emergency preparedness.

FEMA consults with **regulatory agencies** and **other interested parties** to determine the impacts and requirements for project compliance. FEMA is required to notify **the public, Tribal government** representatives, **historic societies** and **other stakeholders.** [44 CFR Parts 9 610]

FEMA EHP provides environmental and historic preservation **technical assistance** to local, State, and Federal partners, grantees, and Subrecipients for compliance with Federal environmental and historic preservation laws and EOs. [44 CFR 200.207(c)]

### EXCLUSIONS TO ENVIRONMENTAL ASSESSMENTS (EAS)

REVIEW EXCLUSIONS					
STATEX	CATEX				
Emergency/critical + essential needs.	<ul> <li>Project will not have significant effect on the environment.</li> <li>FEMA creates a list of project tasks with no adverse effects on EHP concerns. [44 CFR 10.8(d)]</li> </ul>				
Must <b>comply</b> with applicable local + State + Federal regulations.	<b>Stipulations</b> may be attached to the grant to ensure that the project is performed as proposed in <b>compliance</b> with CATEX regulations + all local + State + Federal regulations.				
<ul> <li>Examples:</li> <li>Emergency debris removal.</li> <li>Establishing a temporary medical triage/clinic.</li> </ul>	<ul><li>Examples:</li><li>Window/roof replacement on a non- historic facility.</li><li>Procurement of goods/services for emergency operational activities.</li></ul>				

### **GOHSEP ROLE**

#### We can help.

The Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) has a vested interest in the success of your projects and in helping you **keep** eligible funding obligated for your project.

 GOHSEP EHP staff monitors projects to ensure appropriate implementation. Technical support is available for compliance with FEMA regulations and grant supported activities. [2 CFR 200.328(a)]

HISTORIC JACKSON SQUARE IN NEW ORLEANS, LA



Action taken or assistance provided in support of local and State **emergency assistance** efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe [44 CFR 10.8(c)] can be **statutorily excluded** (STATEX) from an *Environmental Assessment* (EA).

Other projects may be *categorically excluded* (CATEX) because they are so common and have **little** or **no effect** on environmental and historic preservation concerns. [44 CFR 10.8(d)]

FEMA EHP reviews the *Special Considerations Questionnaire* to determine the **level of impact** a proposed project might have on the landscape.

If a project is granted a STATEX or CATEX, the project is allowed to **move forward** through the grant approval process.

### PERMITS

Prior to starting work, you must **obtain** and **retain** the appropriate **permits** and **approval letters** from the **respective agencies** for compliance with NEPA requirements. [2 CFR 200.333]

GOHSEP **encourages** Subrecipient (Applicant) to upload all **important grant documentation** to the **documents** tab on the appropriate Louisiana grants management website – **LouisianaPA.com** or **LouisianaHM.com**.

These permits must be retained for **future project compliance verification** and grant closeout.

Approvals + permits first Do not act first and then seek forgiveness!

## Outcomes of EHP review

### RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

FEMA EHP reviews the proposed project to determine if the undertaking has the potential to pose *adverse impacts* to **protected resources**. If the project work does not pose any known adverse impacts, FEMA issues a record of environmental consideration (REC) and the project is allowed to *move* **forward** through the approval process.

### **PROJECT AGREEMENTS**

Some projects may *require* certain measures to be taken to meet compliance. FEMA may request the Subrecipient (Applicant) and other stakeholders sign an agreement that specifies measures to take in order to **avoid**, *minimize*, or **mitigate** the adverse effects resulting from the undertaking. For example: FEMA will coordinate programmatic agreements, memorandums of understanding (MOUs), or memorandums of agreement (MOAs) to comply with Federal regulations.

### ENVIRONMENTAL ASSESSMENT (EA)

Projects with **complex** concerns to consider require a more **in-depth** project evaluation. In these cases, an environmental assessment (EA) is used to analyze the SOW and consider alternatives.

Regulatory agencies and stakeholders are consulted about possible **impacts** to the protected resources being considered. If the resulting analysis produces no significant impact to the protected resources, then a **finding of no significant impact** (FONSI) is issued under the EA. FEMA **prepares and submits an EA if required** [44 CFR 10.5(a)] and allows the project to **continue** through the approval process.

If an EA has a finding of **significant impact**, an environmental impact statement (EIS) will be required. A notice of intent (NOI) to implement an EIS will be issued by the agency through **public notice** and to the Subrecipient (Applicant) stating reasons why an EIS is required.

### ENVIRONMENTAL IMPACT STATEMENT (EIS)

An Environmental Impact Statement (EIS) is **required** when the project work has an *irreversible* and **negative effect** on **protected resources**, as well as the **community**.

A detailed study of the project's impact to the environment, historic resources, economy and landscape is conducted with **proposed alternatives** identified. This study is open to the public for review and comments.

The final EIS will result in a record of decision (ROD) after all **sensitive issues** are **evaluated**, **studied** and public **meetings** are conducted.



## Four (4) Steps to compliance

(Failure to comply can jeopardize funding.)

## 2 Plan your project with sufficient detail!

Depending on the project, most reviews that require design need sufficient **plans** that include:

- To-scale drawings
- Elevation views
- Site location along with a narrative of the proposed SOW

### Obtain permits and FEMA approval before proceeding with non-emergency work!

Regardless of the project (STATEX or CATEX included), *all regulatory permits* and **consultation letters** must be obtained *prior* to physical work.

## Comply with permit requirements!

You must **comply** with *all* stipulations identified in the permits, consultation letters and grant requirements.

### - Ret

### Retain documentation!

All permits and consultation letters must be **retained** for *future* **project compliance verification** and grant closeout.

You may elect to proceed without FEMA approval. However, failure to meet EHP regulations puts Federal funding at extreme risk.

### What else do l need to know?

It is YOUR responsibility to have a working knowledge of AND comply with local + State + Federal laws, regulations and policy.

#### ACRONYMS

APE CATEX CFR DHS	Area of Potential Effect Category Exclusion <i>Code of Federal Regulations</i> U.S. Department of Homeland Security
EA	Environmental Assessment
EIS	Environmental Impact Statement
ЕНР	Environmental and Historic
	Preservation
FEMA	Federal Emergency Management
	Agency
FONSI	Finding of No Significance
GOHSEP	Governor's Office of Homeland
	Security and Emergency
	Preparedness
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NOI	Notice of Intent
REC	Record of Environmental
	Consideration
ROD	Record of Decision
SOW	Scope of Work
STATEX	Statutory Exclusion

### REFERENCES

2 CFR

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ ecfrbrowse/Title02/2cfr200\_main\_02.tpl

42 USC

http://uscode.house.gov/browse/prelim@ title42/chapter55&edition=prelim

#### 44 CFR

ecfr.gov/cgi-bin/text-idx?SID=55b626c34d 6c81858c72b0fddaaeff48&mc=true&tpl=/ ecfrbrowse/Title44/44chapterI.tpl

Clean Air Act (CAA) epa.gov/air/caa/

Clean Water Act (CWA) epa.gov/oecaagct/lcwa.html

Coastal Barriers Resources Act (CBRA) fws.gov/cbra/

Coastal Zone Management Act (CZMA) epa.gov/oecaagct/lzma.html

Endangered Species Act (ESA) fws.gov/ENDANGERED/laws-policies/ index.html

EO 11988 Floodplain Management fema.gov/environmental-planning-andhistoric-preservation-program/executiveorder-11988-floodplain-management

EO 11990 - Protection of Wetlands fema.gov/environmental-planning-andhistoric-preservation-program/executiveorder-11990-protection-wetlands

EO 12898 - Environmental Justice fema.gov/environmental-planning-andhistoric-preservation-program/executiveorder-12898-environmental-justice Farmland Protection Policy Act (FPPA) ecfr.gov/cgi-bin/text-idx?SID=56ce33b5e9 9e8b6a50471df99176f272&node=7:6.1.3.6. 28&rgn=div5

Fish and Wildlife Conservation Act (FWCA) fws.gov/laws/lawsdigest/fwcon.html

Louisiana Historic Cemetery Preservation Act

crt.state.la.us/cultural-development/ archaeology/state-legislation/chapter-21-B/index

Louisiana Unmarked Human Burial Sites Preservation Act

crt.state.la.us/cultural-development/ archaeology/state-legislation/chapter-10-A/index

National Environmental Policy Act (NEPA) epa.gov/compliance/basics/nepa.html

National Historic Preservation Act (NHPA) achp.gov/docs/nhpa%202008-final.pdf

Resource Conservation and Recovery Act (RCRA)

epa.gov/oecaagct/lrca.html



### For more information on EHP, contact GOHSEP at 225.925.7500.

This public document is published by the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), State of Louisiana. **One Thousand (1,000)** copies of this public document were published in this **1st printing** at a cost of **\$945.33**. The total cost of all printings of this document, including reprints is **\$945.33**. This document was published for the purpose of providing public information and education. This material was printed in accordance with standards for printing by State agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes. This document was prepared under grants from the United States Department of Homeland Security (DHS), Federal Emergency Management Agency's (FEMA) Public Assistance (PA) grant program. Grant Catalogue of Federal Disaster (CFDA) number is PA 97.036. Points of view or options expressed in this document are those of the authors and do not necessarily represent the official position or policies of DHS or FEMA.

## Who to call?



Please use the following contacts for further information on your specific project concerns.

### Historic preservation regulatory agencies

PROJECT CONCERNS	WHO TO CALL	
Ground-disturbing activities.		
<ul> <li>Impact to archaeological resources, to include shipwrecks within State waterways.</li> <li>Impact/repairs to properties – 45 years or older or that have cultural significance to history and eligible for listing on the National Register of Historic Place (NRHP).</li> <li>Impact to historic districts.</li> <li>Human remains 50 years or older.</li> <li>Unmarked + marked cemeteries.</li> </ul>	<ul> <li>Louisiana Office of Cultural Development – Louisiana State Historic Preservation Office (SHPO)</li> <li>Division of Historic Preservation – Structures and Historic Districts</li> <li>Division of Archaeology – Ground Disturbance Activities and Discovery Human Remains crt.state.la.us/cultural-development/historic-preservation/ (225) 342-8160</li> </ul>	
Discovery of human remains.	Local Coroner + Police     louisianasca.org/parish-offices/	
• Activities within or along the boundary of a designated national park.	National Parks Service (NPS) nps.gov/contacts.htm     Southeastern Archaeology Center (SEAC) nps.gov/seac/index.htm	
<ul> <li>Conflicts associated with:         <ul> <li>Archaeological discoveries.</li> <li>Inadvertent discovery of human remains.</li> <li>Unmarked burials.</li> </ul> </li> </ul>	<ul> <li>Louisiana Governor's Office of Indian Affairs gov.state.la.us/index.cfm?md=pagebuilder&amp;tmp=home&amp;cpid=186 (225) 219-8715</li> </ul>	
<ul> <li>Conflicts associated with:         <ul> <li>Impact to historic properties.</li> <li>Impact to archaeological resources.</li> <li>Unmarked burials.</li> </ul> </li> </ul>	Advisory Council of Historic Places (ACHP)     achp.gov	
<ul> <li>Impact to navigable water-ways and tributaries to include lakes/ponds + stock tanks + mining pits.</li> <li>Wetlands/floodplains.</li> </ul>	U.S. Army Corps of Engineers (USACE)     usace.army.mil/Contact.aspx	
Bridges over navigable water-ways.	• U.S. Coast Guard (USCG) uscg.mil (225) 298-5400	
<ul> <li>Impact within wetlands/floodplains.</li> <li>Flood elevation requirements.</li> </ul>	Local Floodplain Manager Ifma.org/contactus.htm	
<ul> <li>Impact to natural + scenic rivers.</li> <li>Hazardous material spills.</li> </ul>	Louisiana Department of Transportation and Development (DOTD) http://wwwsp.dotd.la.gov/Inside_LaDOTD/Pages/Contact_Us.aspx (877) 452-3683	
• Environmental justice – <b>impact to minority</b> + low income populations.	U.S. Department of Justice     (202) 514-2000     http://www.justice.gov	
<ul> <li>Conflicts associated with:         <ul> <li>Impacts to the natural environment.</li> <li>Remediation of contaminants.</li> </ul> </li> </ul>	Environmental Protection Agency (EPA), Council of Environmental Quality epa.gov/compliance/contact/nepa.html	
<ul> <li>Unmarked cemeteries.</li> <li>Human remains.</li> </ul>	Louisiana Attorney General (225) 326-6079 https://www.ag.state.la.us	

### Environmental regulatory agencies

PROJECT CONCERNS	WHO TO CALL	
<ul> <li>Wetlands/floodplains.</li> <li>Endangered species – threats to the wildlife + fishery.</li> <li>Impact to coastal barrier resources.</li> <li>Impacts to coastal zone resources.</li> </ul>	<ul> <li>Louisiana Department of Wildlife and Fisheries (LDWF) wlf.louisiana.gov/ (225) 765-2800</li> <li>Environmental Protection Agency (EPA), Council of Environmental Quality epa.gov/compliance/contact/nepa.html</li> <li>Louisiana Department of Natural Resources (LDNR) wlf.louisiana.gov/ (225) 765-2800</li> <li>U.S. Fish and Wildlife Services (USFWS) fws.gov/offices/Directory/ListOffices.cfm?statecode=22</li> </ul>	ی جی ایک
• Hazardous spills.	<ul> <li>Louisiana State Police (LSP) Isp.org/contact.html</li> <li>Louisiana Department of Transportation and Development (DOTD) http://wwwsp.dotd.la.gov/Inside_LaDOTD/Pages/Contact_Us.aspx (877) 452-3683</li> <li>Louisiana Department of Environmental Quality (LDEQ) deq.louisiana.gov/portal/ABOUT/ContactInformation.aspx (866)-896-LDEQ</li> <li>Environmental Protection Agency (EPA), Council of Environmental Quality epa.gov/compliance/contact/nepa.html</li> </ul>	
<ul> <li>Endangered marine species.</li> <li>Disposal of dredged soil.</li> </ul>	National Marine Fisheries Service (NMFS) nmfs.noaa.gov/aboutus/contactus.html     U.S. Army Corps of Engineers (USACE) usace.army.mil/Contact.aspx     U.S. Fish and Wildlife Services (USFWS) fws.gov/offices/Directory/ListOffices.cfm?statecode=22	NOAA FISHERIES SERVICE
<ul> <li>Protection of farmlands.</li> <li>Impact to coastal zone resources.</li> <li>Coastal use permits.</li> </ul>	U.S. Department of Agriculture (USDA) usda.gov/wps/portal/usda/usdahome?navtype=MA&navid=AGENCI OFFICES     National Resources Conservation Service nrcs.usda.govt	ES_USDA
• Impact to drinking water.	<ul> <li>Louisiana Department of Health and Hospitals (DHH) http://new.dhh.louisiana.gov (225) 342-9500</li> <li>Louisiana Department of Environmental Quality (LDEQ) deq.louisiana.gov/portal/ABOUT/ContactInformation.aspx (866)896-LDEQ</li> </ul>	ADD MOSPITALS
<ul> <li>Cremation + burial of animal carcasses.</li> <li>Animal carcasses.</li> <li>Termite infested demolition properties.</li> </ul>	<ul> <li>U.S. Department of Agriculture (USDA) usda.gov/wps/portal/usda/usdahome?navtype=MA&amp;navid=AGENCI OFFICES</li> <li>Louisiana Department of Environmental Quality (LDEQ) deq.louisiana.gov/portal/ABOUT/ContactInformation.aspx (866) 896-LDEQ</li> <li>Louisiana Department of Agriculture and Forestry (LDAF) (225) 922-1234</li> </ul>	ES_ USDA DEQ ESDA
<ul> <li>Debris + solid waste disposal.</li> <li>Hazardous materials + hazardous waste.</li> <li>Contaminants + discharges + spills.</li> <li>Cremation of animal carcasses.</li> </ul>	<ul> <li>Louisiana Department of Environmental Quality (LDEQ) deq.louisiana.gov/portal/ABOUT/ContactInformation.aspx (866) 896-LDEQ</li> <li>Environmental Protection Agency (EPA), Council of Environmental Quality epa.gov/compliance/contact/nepa.html</li> </ul>	

DISCLAIMER – Subrecipient (Applicant) is required to comply with all local, State and Federal laws, regulations and policies regardless of whether concerns are referenced or not. Example: Local tree protection ordinances may be imposed by Parish and city government agencies and is not referenced under this brochure. Many laws and regulations require compliance regardless of FEMA funding like the *Clean Water Act* (CWA), Resource Conservation and Recovery Act (RCRA) and National Flood Insurance Program (NFIP). This brochure is to offer assistance only and should not be considered all inclusive.