EHP

environmental + historic preservation

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.

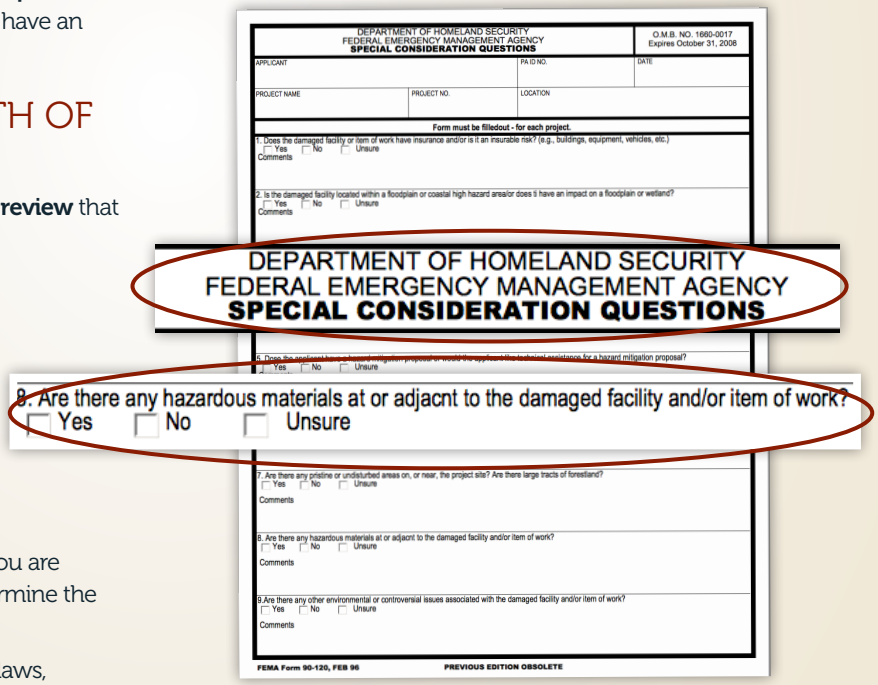
Regardless of the FEMA grant program to which you are applying, the SOW and the **project's location** determine the depth of EHP review.

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.


DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY
SPECIAL CONSIDERATION QUESTIONS

O.M.B. NO. 1660-0017
Expires October 31, 2008

APPLICANT | PA ID NO. | DATE
PROJECT NAME | PROJECT NO. | LOCATION

Form must be filledout - for each project.

1. Does the damaged facility or item of work have insurance and/or is it an insurable risk? (e.g., buildings, equipment, vehicles, etc.)
☐ Yes ☐ No ☐ Unsure
Comments

2. Is the damaged facility located within a floodplain or coastal high hazard area/or does ti have an impact on a floodplain or wetland?
☐ Yes ☐ No ☐ Unsure
Comments

DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY
SPECIAL CONSIDERATION QUESTIONS

8. Are there any hazardous materials at or adjacnt to the damaged facility and/or item of work?
☐ Yes ☐ No ☐ Unsure

7. Are there any pristine or undisturbed areas on, or near, the project site? Are there large tracts of forestland?
☐ Yes ☐ No ☐ Unsure
Comments

8. Are there any hazardous materials at or adjacnt to the damaged facility and/or item of work?
☐ Yes ☐ No ☐ Unsure
Comments

9.Are there any other environmental or controversial issues associated with the damaged facility and/or item of work?
☐ Yes ☐ No ☐ Unsure
Comments

FEMA Form 90-120, FEB 96 PREVIOUS EDITION OBSOLETE

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 &10]

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)]

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

EXCLUSIONS TO ENVIRONMENTAL ASSESSMENTS (EAs)

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

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.

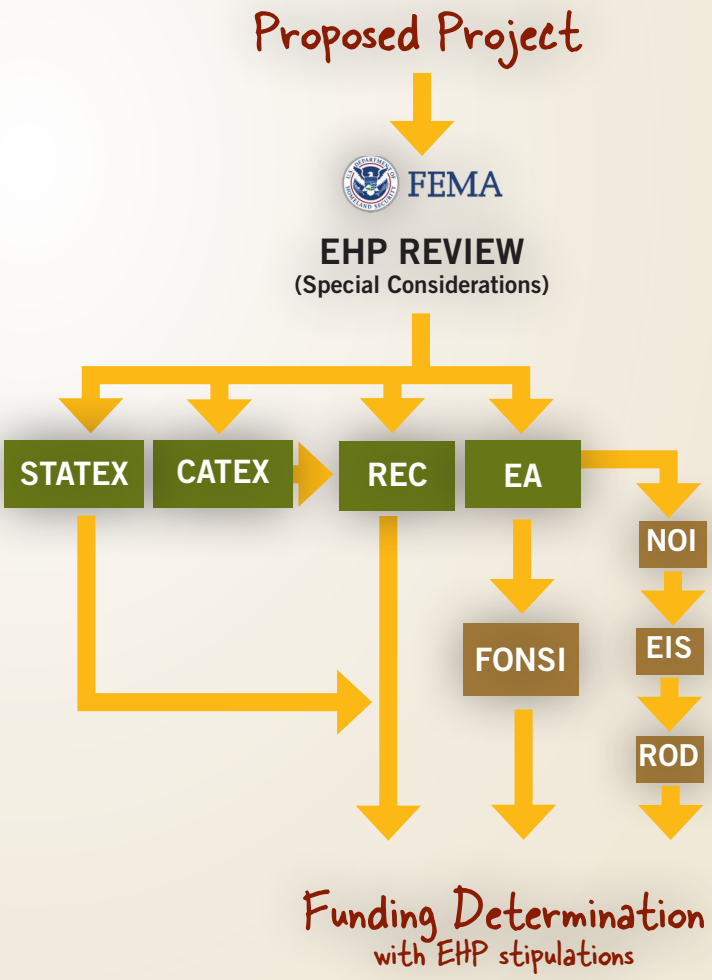
If an EA has a finding of **significant impact**, an environmental impact statement (EIS) will be required. A notice of intent (NOI) to implement an EIS will be issued by the agency through **public notice** and to the Subrecipient (Applicant) stating reasons why an EIS is required.

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.)

1 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

2 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.

3 Comply with permit requirements!

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

4 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 I 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	Area of Potential Effect
CATEX	Category Exclusion
CFR	*Code of Federal Regulations*
DHS	U.S. Department of Homeland Security
EA	Environmental Assessment
EIS	Environmental Impact Statement
EHP	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=55b626c34d6c81858c72b0fddaaeff48&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-and-historic-preservation-program/executive-order-11988-floodplain-management

EO 11990 - *Protection of Wetlands*
fema.gov/environmental-planning-and-historic-preservation-program/executive-order-11990-protection-wetlands

EO 12898 - *Environmental Justice*
fema.gov/environmental-planning-and-historic-preservation-program/executive-order-12898-environmental-justice

Farmland Protection Policy Act (FPPA)
ecfr.gov/cgi-bin/text-idx?SID=56ce33b5e99e8b6a50471df99176f272&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.

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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. • Impact to **archaeological resources**, to include shipwrecks within State waterways. • 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). • Impact to **historic districts**. • Human remains **50 years** or older. • Unmarked + marked cemeteries.	• Louisiana Office of Cultural Development – Louisiana State Historic Preservation Office (SHPO) • Division of Historic Preservation – Structures and Historic Districts • Division of Archaeology – Ground Disturbance Activities and Discovery Human Remains crt.state.la.us/cultural-development/historic-preservation/ **(225) 342-8160**
• 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**
• Conflicts associated with: - Archaeological discoveries. - Inadvertent discovery of human remains. - Unmarked burials.	• Louisiana Governor's Office of Indian Affairs **gov.state.la.us/index.cfm?md=pagebuilder&tmp=home&cpid=186** **(225) 219-8715**
• Conflicts associated with: - Impact to **historic properties**. - Impact to **archaeological** resources. - Unmarked burials.	• Advisory Council of Historic Places (ACHP) **achp.gov**
• Impact to navigable **water-ways** and tributaries to include lakes/ponds + stock tanks + mining pits. • **Wetlands/floodplains.**	• **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**
• Impact within **wetlands/floodplains.** • **Flood elevation** requirements.	• **Local Floodplain Manager** **lfma.org/contactus.htm**
• Impact to natural + scenic **rivers.** • **Hazardous material** spills.	• **Louisiana Department of Transportation and Development** (DOTD) **http://wwwsp.dotd.la.gov/Inside_LaDOTD/Pages/Contact_Us.aspx** **(877) 452-3683**
• Environmental justice – **impact to minority** + low income populations.	• **U.S. Department of Justice** **(202) 514-2000** **http://www.justice.gov**
• Conflicts associated with: - Impacts to the **natural environment.** - Remediation of contaminants.	• **Environmental Protection Agency** (EPA)**, Council of Environmental Quality** **epa.gov/compliance/contact/nepa.html**
• Unmarked **cemeteries.** • **Human remains.**	• **Louisiana Attorney General** **(225) 326-6079** **https://www.ag.state.la.us**

Environmental regulatory agencies

PROJECT CONCERNS	WHO TO CALL
• **Wetlands/floodplains.** • **Endangered species** – threats to the wildlife + fishery. • Impact to **coastal barrier** resources. • Impacts to **coastal zone** resources.	• **Louisiana Department of Wildlife and Fisheries** (LDWF) wlf.louisiana.gov/ (225) 765-2800 • **Environmental Protection Agency** (EPA), **Council of Environmental Quality** epa.gov/compliance/contact/nepa.html • **Louisiana Department of Natural Resources** (LDNR) wlf.louisiana.gov/ (225) 765-2800 • **U.S. Fish and Wildlife Services** (USFWS) fws.gov/offices/Directory/ListOffices.cfm?statecode=22
• **Hazardous spills.**	• **Louisiana State Police** (LSP) lsp.org/contact.html • **Louisiana Department of Transportation and Development** (DOTD) http://wwwsp.dotd.la.gov/Inside_LaDOTD/Pages/Contact_Us.aspx (877) 452-3683 • **Louisiana Department of Environmental Quality** (LDEQ) deq.louisiana.gov/portal/ABOUT/ContactInformation.aspx (866)-896-LDEQ • **Environmental Protection Agency** (EPA), **Council of Environmental Quality** epa.gov/compliance/contact/nepa.html
• **Endangered** marine species. • Disposal of **dredged** soil.	• **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
• Protection of **farmlands.** • Impact to **coastal zone** resources. • Coastal use **permits**.	• **U.S. Department of Agriculture** (USDA) usda.gov/wps/portal/usda/usdahome?navtype=MA&navid=AGENCIES_OFFICES • **National Resources Conservation Service** nrcs.usda.govt
• Impact to **drinking water.**	• **Louisiana Department of Health and Hospitals** (DHH) http://new.dhh.louisiana.gov (225) 342-9500 • **Louisiana Department of Environmental Quality** (LDEQ) deq.louisiana.gov/portal/ABOUT/ContactInformation.aspx (866)896-LDEQ
• **Cremation + burial** of animal carcasses. • **Animal carcasses.** • **Termite infested** demolition properties.	• **U.S. Department of Agriculture** (USDA) usda.gov/wps/portal/usda/usdahome?navtype=MA&navid=AGENCIES_OFFICES • **Louisiana Department of Environmental Quality** (LDEQ) deq.louisiana.gov/portal/ABOUT/ContactInformation.aspx (866) 896-LDEQ • **Louisiana Department of Agriculture and Forestry** (LDAF) (225) 922-1234
• **Debris** + **solid waste** disposal. • **Hazardous materials** + hazardous **waste**. • **Contaminants** + **discharges** + **spills**. • Cremation of **animal carcasses.**	• **Louisiana Department of Environmental Quality** (LDEQ) deq.louisiana.gov/portal/ABOUT/ContactInformation.aspx (866) 896-LDEQ • **Environmental Protection Agency** (EPA), **Council of Environmental Quality** epa.gov/compliance/contact/nepa.html

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.