



# Severe Storms, Flooding, and Landslides DR-4793-HI Federal Emergency Management Agency Environmental 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 discussing these with our environmental and historic preservation staff as soon as possible.**

Our work is performed under the direction of FEMA's Federal Coordinating Officer, Curtis Brown and in close coordination with his counterpart, Hawaii State Coordinating Officer, James Barros. In fact, the Hawaii Emergency Management Agency (HI-EMA) 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 pledge to assist you in understanding and complying with all applicable environmental and historic preservation requirements.**



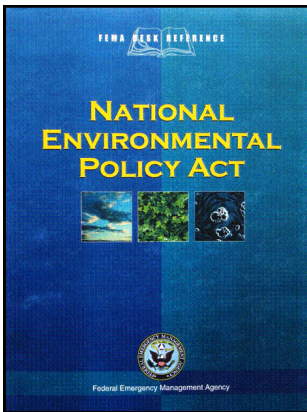
Lydgate Beach Park, April 2024

Mary Tess Johnson leads the EHP unit from the Region IX Office in Oakland, California. Please contact her, FEMA EHP staff, HI-EMA staff, or FEMA Public Assistance staff for any environmental or historic preservation compliance assistance.

Sincerely,

Aaron Clark  
Acting Regional Environmental Officer  
FEMA Region 9

July 2024



## 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 require some consideration for environmental and historic preservation compliance, and some projects need very detailed reviews, including consultation with state and federal regulatory agencies, before construction begins.

**Failure to comply with applicable environmental and historic preservation laws and other requirements could jeopardize or delay**

### Federal Laws and Executive Orders

- National Historic Preservation Act
- Endangered Species Act
- Clean Water Act (Section 404)
- Magnuson-Stevens Act
- Executive Order 11988: Floodplain Management
- Executive Order 11990: Protection of Wetlands
- Executive Order 12898: Environmental Justice
- Resource Conservation and Recovery Act

### Some projects proceed without complex review

- Emergency Protective Actions and Debris Removal from Rights-of-Way
- Repairs to pre-disaster condition or temporary repairs

### Some projects require more extensive review

- Debris disposal in areas not previously permitted
- Change to the pre-disaster condition of the facilities, including footprint
- Repairs that include hazard mitigation
- Involvement of threatened/endangered species, wetlands, or floodplains

### Some projects may need review and consultation

- Improved or alternate projects
- New ground disturbance and/or potential to affect listed species

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## Waterways, Including 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: natural waters including oceans, seas, bays, lagoons, streams, lakes, and wetlands. The U.S. Army Corps of Engineers (USACE) and Hawaii Department of Health (DOH) administer the laws in Hawaii.



**For projects involving work proposed or completed in a waterway, CWA or RHA permits from the USACE and DOH are required.** Repairs to previously permitted structures may require amendments or modifications to existing permits. Examples of actions requiring CWA or RHA permits include construction, demolition, and any dredging or filling in any part of surface waters, tributaries, or systems.

**Obtaining CWA and RHA 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 and DOH should have been notified and the contact documented 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 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.**

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 and DOH.

Some projects are exempt from floodplain and wetland review, including debris removal and permanent repairs when the cost is less than \$5,000.

**Debris should never be stored in a wetland or a floodplain, even temporarily.** Debris removal from a wetland should be coordinated with USACE and DOH.

The “8-Step” process, which evaluates practicable alternatives and includes public review, may be required if the project has potential to impact a floodplain or modify a wetland. For addition-

al information about work in or affecting a floodplain, contact FEMA and the Hawaii National Flood Insurance Program (NFIP) Coordinator.

All land in Hawaii is designated a coastal zone. **However, FEMA-funded projects are not subject to federal consistency certification and review under the Hawaii Coastal Zone Management (CZM) Program.** If a project requires permitting or other authorization under the Hawaii CZM Program, the applicant is responsible for obtaining approval.

## Protected Species and Habitats

**Under the Endangered Species Act (ESA), for any project that has the potential to affect federally threatened or endangered species 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 or habitats.

It is very important to know whether a proposed project might impact protected species or habitat. **Applicants can contact experts at FEMA, USFWS, NMFS, and the Hawaii Division of Forestry and Wildlife (DOFAW), who can help determine if protected species or habitat may be affected by a proposed project.**

FEMA must also comply with the Magnuson-Stevens Fishery Conservation and Management Act (MSA). MSA protects “essential fish habitat” (EFH) of commercial and recreational coastal fisheries. FEMA must consult with NMFS if a project may adversely affect EFH for any species. **FEMA, NMFS, and DOFAW can assist with identification of and impacts to EFH.**





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## Historic Preservation

All proposed projects that may affect historic properties must be reviewed by FEMA and the Hawaii Historic Preservation Officer (SHPO). A historic property is any pre-historic or historic building, site, district, structure, or object significant in American or Hawaiian history, architecture, archaeology, engineering, or culture.

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.

**Archaeological resources require special attention and may also require coordination with the Office of Hawaiian Affairs (OHA) and Native Hawaiian Organizations.**



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.**

Different measures can be implemented if historic properties are affected. It is critical to involve FEMA, the SHPO and OHA to identify and evaluate potential

historic properties, to make determinations of effect, and to decide what measures, if any, can be applied to avoid or mitigate effects.

## Debris Disposal and Hazardous Materials



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

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 DOH review.**

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.

Further information on FEMA's Public Assistance Program's debris removal policy and guidance can be found at [https://www.fema.gov/sites/default/files/documents/fema\\_pa-category-a-debris-removal-ppdr-factsheet.pdf](https://www.fema.gov/sites/default/files/documents/fema_pa-category-a-debris-removal-ppdr-factsheet.pdf).

## Other Considerations

**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 and may trigger longer compliance review timelines.

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



**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 public EHP review because of race, color, national origin, income, education, or language.

### **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, State/Territorial governments and to private nonprofit arts, cultural, and history organizations regarding the salvage of records and collections. HENTF's online resources include guidance to help survivors salvage photos and other cherished belongings at <https://culturalrescue.si.edu/resources>

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## 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 at 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 regarding FEMA's EHP program is available at [www.fema.gov/environmental-planning-and-historic-preservation-program](http://www.fema.gov/environmental-planning-and-historic-preservation-program).

### FEMA EHP Advisor

Mary (Tess) Johnson, EHP Advisor  
mary.johnson@fema.dhs.gov  
(202) 341-2109 (mobile)

### U.S. Fish and Wildlife Service

Earl Campbell, Project Leader  
Pacific Islands Fish and Wildlife Office  
U.S. Fish and Wildlife Service  
300 Ala Moana Boulevard, Suite 3-122  
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pifwo\_admin@fws.gov  
(808) 792-9400

### National Marine Fisheries Service

Dawn Golden, Assistant Regional Administrator  
Office of Protected Resources  
Pacific Islands Regional Office  
National Marine Fisheries Service  
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(808) 725-5130

### U.S. Army Corps of Engineers

Jennifer Martin, Interim Chief  
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Honolulu District  
U.S. Army Corps of Engineers  
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### Hawai'i Emergency Management Agency

James Barros, Administrator  
4204 Diamond Head Road  
Honolulu, Hawai'i 96816-4495  
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(808) 733-4300

### Division of Forestry and Wildlife

David Smith, Forestry & Wildlife Administrator  
Division of Forestry and Wildlife  
Department of Land and Natural Resources  
1151 Punchbowl Street, Room 325  
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dlnr@hawaii.gov  
(808) 587-0160

### Department of Health

Kathleen Ho, Deputy Director  
Environmental Health Administration  
Department of Health  
1250 Punchbowl Street  
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webmail@doh.hawaii.gov  
(808) 586-4424  
Kauai: (808) 241-3323

### State Historic Preservation Officer

Dawn N. S. Chang  
DLNR Chairperson  
State Historic Preservation Division  
Department of Land and Natural Resources  
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### Hawaii NFIP Coordinator

Carol Tyau-Beam, State NFIP Coordinator  
Department of Land and Natural Resources  
Engineering Division  
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carol.l.tyau@hawaii.gov  
(808) 587-0267

### Office of Hawaiian Affairs

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### Heritage Emergency National Task Force

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<https://culturalrescue.si.edu/hentf>