



Unified Federal Environmental and Historic Preservation Review Guide

For Federal Disaster Recovery Assistance Applicants



FEMA



Disclaimer: Applicants must always seek guidance from the program’s governing statute, regulation, and their Federal representative when contemplating the eligibility and regulatory compliance of any proposed activity and for each separate funding stream. This guide does not speak to the environmental requirements of a given project. Project examples used in this Guide are intended to demonstrate the meaning of the text and are not guarantees of funding eligibility. The authors are not specifically endorsing or promoting any activities described in this guide.

Table of Contents

ABBREVIATIONS AND ACRONYMS	III
PURPOSE.....	1
WHAT IS THE PURPOSE OF THIS GUIDE?	1
WHO CAN USE THIS GUIDE?	1
WHY WAS THIS GUIDE DEVELOPED?	1
INTRODUCTION.....	2
WHAT ARE EHP REQUIREMENTS AND EHP REVIEWS?	3
WHY IS IT IMPORTANT FOR YOU TO UNDERSTAND EHP REVIEWS?	3
WHEN DO EHP REQUIREMENTS AND REVIEWS BECOME IMPORTANT TO YOU FOLLOWING A DISASTER?	4
WHAT TYPES OF PROJECTS REQUIRE MINIMAL EHP REVIEWS?	5
WHAT TYPES OF PROJECTS REQUIRE HIGHER-LEVEL EHP REVIEWS?	6
ROLES AND RESPONSIBILITIES	6
WHAT IS YOUR ROLE AS AN APPLICANT?.....	7
WHAT ROLES DO FEDERAL AGENCIES PLAY IN DISASTER RECOVERY?.....	8
WHAT ROLE DOES FEMA PLAY IN DISASTER RECOVERY?.....	10
WHAT ROLES DO EHP PRACTITIONERS PLAY?.....	11
WHAT ROLES DO INDIAN TRIBES PLAY?	11
WHAT ROLES DO NHOS PLAY IN DISASTER RECOVERY?	12
EHP REVIEWS	13
HOW DO EMERGENCIES AFFECT EHP REQUIREMENTS?.....	13
HOW DO YOU INTEGRATE EHP REQUIREMENTS INTO DISASTER RECOVERY PLANNING?	14
WHAT TYPES OF PROJECTS MAY REQUIRE PERMITS?	16
WHAT TYPES OF PROJECTS MAY REQUIRE AGENCY CONSULTATION?.....	16
WHAT HAPPENS IF I FAIL TO MEET THE FEDERAL ASSISTANCE OR APPROVAL CONDITIONS OR MAKE CHANGES TO MY PROJECT?	17
ADDITIONAL RESOURCES ON THE UFR PROCESS AND FEDERAL ASSISTANCE PROGRAMS.....	17
WHERE CAN YOU FIND ADDITIONAL FEDERAL RESOURCES ON THE UFR PROCESS?	17
WHAT SOURCES OF FEDERAL ASSISTANCE ARE AVAILABLE TO YOU?	18
APPENDICES.....	19
APPENDIX A: GLOSSARY	A-1
APPENDIX B: OVERVIEW OF APPLICABLE FEDERAL EHP REQUIREMENTS	B-1

SUMMARY INFORMATIONB-1

APPENDIX C: PROJECT INFORMATION REQUEST CHECKLISTC-1

APPENDIX D: APPLICANT CHECKLISTD-1

APPENDIX E: TABLES OF REQUIREMENTS.....E-1

TABLE 1: REQUIREMENTS APPLICABLE TO FUNDING AGENCIES.....E-1

TABLE 2: REQUIREMENTS APPLICABLE TO APPLICANTS.....E-14

Abbreviations and Acronyms

ACHP – Advisory Council on Historic Preservation

BLM – U.S. Bureau of Land Management

CAA – Clean Air Act

CATEX – Categorical Exclusion

CBRA – Coastal Barrier Resources Act

CDBG – Community Development Block Grant

CDBG-DR – Community Development Block Grant Disaster Recovery

CEQ – Council on Environmental Quality

CWA – Clean Water Act

CZMA – Coastal Zone Management Act

DOT – U.S. Department of Transportation

EA – Environmental Assessment

EDA – U.S. Economic Development Administration

EFH – Essential Fish Habitat

EHP – Environmental and Historic Preservation

EIS – Environmental Impact Statement

EPA – U.S. Environmental Protection Agency

ESA – Endangered Species Act

FEMA – Federal Emergency Management Agency

FONSI – Finding of No Significant Impact

FPPA – Farmland Protection Policy Act

FWCA – Fish and Wildlife Coordination Act

FWS – U.S. Fish and Wildlife Service

HCP – Habitat Conservation Plan

HHS – U.S. Department of Health and Human Services

HUD – U.S. Department of Housing and Urban Development

MBTA – Migratory Bird Treaty Act

MOA – Memorandum of Agreement

MOU – Memorandum of Understanding

MMPA – Marine Mammal Protection Act

MSA – Magnuson-Stevens Fishery Conservation and Management Act

NDRF – National Disaster Recovery Framework

NEPA – National Environmental Policy Act

NHPA – National Historic Preservation Act

NHOs – Native Hawaiian organizations

NMFS – National Marine Fisheries Service

NOAA – National Oceanic and Atmospheric Administration

NPDES – National Pollutant Discharge Elimination System

NPS – U.S. National Park Service

NRCS – Natural Resources Conservation Service

POC – Point of Contact

RCRA – Resource Conservation and Recovery Act

RE – Responsible Entity

ROD – Record of Decision

SBA – U.S. Small Business Administration

SHPO – State Historic Preservation Officer

SRIA – Sandy Recovery Improvement Act of 2013

THPO – Tribal Historic Preservation Officer

UFR – Unified Federal Environmental and Historic Preservation Review

USACE – U.S. Army Corps of Engineers

USDA – U.S. Department of Agriculture

USFS – U.S. Forest Service

WSRA – Wild and Scenic Rivers Act

Purpose

What is the purpose of this guide?

The purpose of this guide is to provide you, the **Applicant**,¹ with an overview of the typical **environmental and historic preservation (EHP) review** process for **disaster recovery projects**. It acknowledges that every Federal Agency may not have the same process. For this reason, this guide empowers you to reach out to each Agency from which you are seeking **Federal assistance** (i.e. grants, permits, licenses, or other approvals) to learn about their programs and applicable requirements to receive assistance. This guide applies when you are seeking Federal assistance for your disaster recovery project following a **Presidentially-declared disaster**. Federal assistance can be provided directly from a Federal Agency or sometimes indirectly through a state or local agency. Using this guide will prepare you to assist with gathering and providing the information that Federal Agencies need to complete the required EHP review. Assisting with EHP reviews and coordinating with the Federal Agency(ies) involved will help to expedite the EHP review for your project.

Who can use this guide?

This guide is for Applicants seeking Federal assistance for disaster recovery projects. Many types of individuals and organizations can qualify as Applicants: state government Agencies, Federally recognized **Indian Tribes**, **Native Hawaiian organizations (NHO)**, individual home and business owners, local governments and special districts, and private non-profit organizations. This guide was written broadly to be useful to a variety of Applicants with different levels of experience.

Why was this guide developed?

The guide was developed in accordance with the Unified Federal Environmental and Historic Preservation Review (UFR) Process. The **Sandy Recovery Improvement Act (SRIA)** added Section 429 to the **Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)** on January 29, 2013, and mandated the establishment of the **UFR Process**. The UFR Process uses existing **EHP requirements** and best practices, through **Tools and Mechanisms**, to improve EHP reviews for disaster recovery projects. Overseeing the UFR Process and its implementation, the UFR Steering Group consisting of the Advisory Council on Historic Preservation (ACHP), the Council on Environmental Quality (CEQ), the U.S. Department of Homeland Security (DHS), and the Federal Emergency Management Agency (FEMA) developed this guide in coordination with a Federal interagency working group.

¹ Words in **bold text** are terms defined in the Glossary located in Appendix A or a reference to an individual Appendix. Terms are only bolded the first time they are used in this Guide. Understanding that Federal Agencies may have different definitions, the definitions used in this document were created to align with the **National Disaster Recovery Framework (NDRF)** and assist in interagency disaster recovery efforts.

Introduction

EHP review is an important component of the Federal assistance application process and benefits from close coordination between Federal Agencies and you, as an Applicant. Federal Agencies and Applicants have similar roles in EHP reviews that involve information gathering, conducting analyses, and other documentation activities. Additionally, multiple **Funding Agencies** can provide assistance for the same project or group of projects. This guide will help you to better understand how to coordinate with Federal Agencies to complete EHP reviews for your disaster recovery project.

This guide will also help you to better understand Federal EHP requirements. There are more than twenty Federal EHP requirements that require Federal Agencies to address the potential impacts of proposed **Federal actions** on **natural** and **cultural resources**. Federal actions are not only actions taken directly by a Federal Agency, but also include:

1. Actions funded by a Federal Agency, such as when a Federal Agency provides funding to rebuild a school damaged by a **disaster**; and
2. Actions permitted by a Federal Agency, such as when a property owner seeks a Federal permit to stabilize a riverbank along a navigable waterway.²

This guide provides you with answers to questions about EHP requirements and reviews, including roles and responsibilities, guidance for submitting EHP information in project applications, potential funding sources, and an overview of the most common EHP requirements that may apply to your project. Additionally, the appendices, found at the end of the document, are printable materials to help you to gather data and determine applicable EHP requirements. These appendices include:

- **Glossary** (Appendix A): Lists frequently used terms in EHP reviews or the UFR Process. Words found in the glossary, as well as the names of materials in the appendices, are signified in **bold**.
- **Overview of Applicable Federal EHP Requirements** (Appendix B): Lists typical EHP requirements triggered by disaster recovery projects.

What is a Disaster Recovery Project?

An action taken *after* the immediate threat to life and property in a Presidentially-declared disaster has been addressed. Disaster recovery projects restore a community's homes and facilities to pre-disaster condition or to pre-disaster capacity with such changes as may, for example, aid efficiency, resilience, or sustainability in those capabilities, or provide **hazard mitigation** activities. The UFR Process is focused on **disaster recovery** rather than **disaster response**, but these phases often occur concurrently as a community works to recover from a disaster.

UFR Webpage

The Tools and Mechanisms and more information on the UFR Process are available at the [UFR Webpage](#).

² Under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act (CWA), if applicable, a permit from the U.S. Army Corps of Engineers may be required to stabilize a riverbank.

- **Project Information Request Checklist** (Appendix C): Provides a checklist of typical documentation or data collection requirements applicable to your project.
- **Applicant Checklist** (Appendix D): Identifies each step of the typical application process as well as actions you should take to help you successfully and efficiently complete each step.
- **Tables of Requirements** (Appendix E): Identifies generally your role and the roles of Federal Agencies for each EHP requirement. The tables also list the potential permits that may be required, which will depend on your proposed disaster recovery activities and the natural or cultural resources that may be affected.

What are EHP requirements and EHP reviews?

When an Applicant applies for Federal assistance or requires Federal permits for a proposed disaster recovery project, the project must be reviewed for compliance with EHP laws, regulations, and Executive Orders, referred to collectively as EHP requirements. These requirements are intended to protect water, air, coastal, wildlife, land, agricultural, historic, and cultural resources as well as to minimize disproportionately adverse effects to low-income and minority populations. There are more than twenty Federal EHP requirements that may be applicable to disaster recovery projects. The **Overview of Applicable Federal EHP Requirements** found in Appendix B provides information on each of these EHP requirements.

EHP reviews are the processes used by Federal Agencies to ensure that Federal actions comply with EHP requirements. Following a disaster, you may apply for Federal assistance and permits to support a variety of disaster recovery needs. When Federal Agencies review your application, they must comply with EHP requirements before they can approve or issue your Federal assistance or permit. EHP reviews may be performed by an **EHP Practitioner** at a Federal Agency or by a **responsible entity**, depending upon the Federal Agency from which you are seeking funding. More discussion on roles and responsibilities is contained on page 6.

Why is it important for you to understand EHP reviews?

Federal Agencies and communities use EHP reviews to ensure that natural and cultural resources are considered in the decisions that are made to rebuild communities following disasters. It is important for you to understand how these EHP reviews can contribute to the protection of important natural and cultural resources and the resiliency of your community. It is also important for you to support Federal Agency efforts by complying with all relevant EHP requirements because failure to comply with applicable EHP requirements

The Importance of EHP Requirements

Compliance with EHP requirements is necessary for you to receive Federal funding or other assistance for your disaster recovery project. EHP requirements and reviews are integral to project planning because they may:

- Have time and cost implications for your project;
- Require you to consider **alternatives**;
- Require timing restrictions or other restrictions; and
- Require grant or permit conditions.

may jeopardize your funding and pose a risk of enforcement actions including civil or criminal lawsuits. It is critical that you provide complete, accurate, and timely submissions of all project-related materials and information. Project funds and permits will not be released until EHP reviews are complete, and the Funding Agency and/or **Resource/Regulatory Agency** have approved the project. For these reasons, EHP requirements and reviews should be part of your project planning process. More information about required project-related materials and information is provided in the **Project Information Request Checklist** found in Appendix C.

When do EHP requirements and reviews become important to you following a disaster?



Figure 1 - Disaster Recovery Timeline

As shown in Figure 1, the disaster recovery timeline has interdependent phases: disaster response, recovery planning, and disaster recovery. Each phase is characterized by different objectives, project types, and actions that together result in a restored and more resilient community. While the objectives of each phase are distinct, for some disasters, the phases can overlap and occur simultaneously.

Disaster response is the phase immediately after a Presidentially-declared disaster occurs. Disaster response projects and actions are those necessary to save lives, protect property and the environment, meet basic human needs, stabilize the incident, restore basic services and community functionality, and establish a safe and secure environment moving toward the transition to recovery. Disaster response activities may be considered emergency actions that require compliance with EHP requirements specific for emergencies. Federal Funding Agencies and Resource/Regulatory Agencies define emergency or emergency actions differently, so you should contact the Agency you are seeking assistance or permits from to ensure that you understand what the Agency considers to be an emergency. Agencies make the determination of whether your action qualifies as an emergency action. More information on emergency projects is provided in this guide on page 13. As disaster response activities begin to wind down, disaster recovery planning and disaster recovery projects begin to take on a more critical role. Disaster recovery activities are the primary focus of this guide and the UFR Process.

Disaster recovery planning is the stage when you begin planning disaster recovery projects for long-term restoration of your community. In this planning stage, it is important for you to consider EHP requirements and reviews. Planning activities that occur early in the recovery process, such as identifying community needs and priorities and developing projects to rebuild stronger and more resiliently through hazard mitigation, will have a cascading effect to speed the recovery of your community. During this phase, you should gather EHP information that will be submitted as part of your Federal assistance application. Ways to incorporate EHP requirements into disaster recovery project planning are discussed in this guide on page 14. Further, the **Applicant Checklist** found in Appendix D will assist you in incorporating EHP requirements into your decision making and planning.

Disaster recovery involves projects and actions necessary to assist communities affected by a disaster to recover effectively. Examples of disaster recovery projects and actions include rebuilding infrastructure systems; providing adequate interim and long-term housing for survivors; restoring health, social, and community services; promoting economic development; and restoring natural and cultural resources. During the disaster recovery phase, recovery planning for these projects or actions continues; Federal Agencies perform formal EHP reviews if necessary; Federal assistance is approved or denied; and projects are implemented, monitored, and closed out.

What types of projects require minimal EHP reviews?

Certain types of disaster recovery projects will require minimal EHP review. Minimal EHP reviews still require that EHP requirements be satisfied but can usually be completed more quickly and have fewer project requirements because the projects typically do not have the potential to affect a natural or cultural resource. The following list provides examples of projects that may qualify for minimal EHP reviews:

- Projects intended to restore back to pre-disaster condition using in-kind or equivalent materials and craftsmanship;
- Projects with minor hazard mitigation or upgrades;
- Projects involving replacement of supplies and equipment;
- Projects involving minor repair, restoration, or construction on buildings or structures less than 50 years old and that are not listed in or eligible for listing in the National Register of Historic Places;
- Projects involving minor surveys and studies with surface collection; or
- Projects involving minor facility improvements.

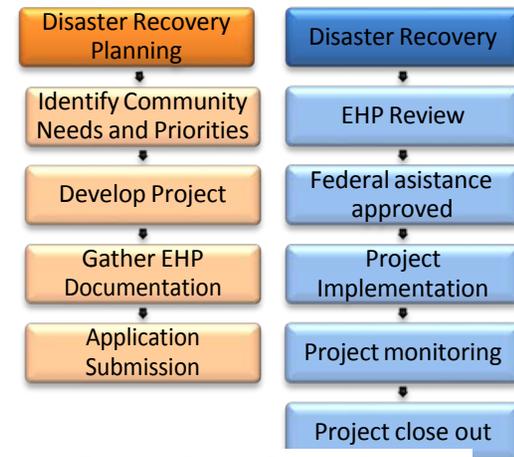


Figure 2 – Disaster Recovery Phases

While these projects typically require minimal EHP reviews, more analysis may be required in certain situations. You should consult with the Funding Agency, and potentially the Resource/Regulatory Agencies involved in your project, to determine what EHP review is required. Even if one or more EHP requirements are not triggered, other EHP review and **consultation** requirements may be needed. For example, if an action is statutorily exempt through the Stafford Act from a National Environmental Policy Act (NEPA) review, the Endangered Species Act (ESA) and other EHP requirements still apply and must be considered.

What types of projects require higher-level EHP reviews?

Most disaster recovery projects can be reviewed quickly. However, certain types of projects with more complex EHP issues will require a higher level of review that could involve coordination and consultation with other Federal, Tribal, NHO, and state Agencies. A higher level of EHP review typically requires more time to complete and can result in more project requirements because the project has the potential to affect a natural or cultural resource. Examples of disaster recovery projects that may require a higher level of review include:

- Projects involving repair, restoration, or construction on buildings or structures that are listed in or eligible for the National Register of Historic Places;
- Project work in a waterway, including construction, bank stabilization, demolition, dredging, or filling;
- Projects that impact a previously undisturbed area, such as relocating a utility, road realignment, debris staging, stockpiling or burning, and material borrow for construction; and
- Projects involving cleanup or disposal of oil and hazardous materials.

To help understand what level of EHP review your project may require please see the **Overview of Applicable Federal EHP Requirements** (Appendix B), which lists typical EHP requirements triggered by disaster recovery projects.

Roles and Responsibilities

In order to expedite EHP reviews, it is important for you to understand your roles and responsibilities in the process as well as the roles and responsibilities of Agency staff involved during the review, consultation, and permitting processes. This knowledge can simplify the EHP review and application process by allowing you and the Agencies to communicate better, determine if EHP requirements or reviews overlap, and begin to develop strategies to coordinate EHP reviews minimizing duplication of effort. Figure 3 depicts the parties that may play a role



Figure 3 – Potential EHP Review Roles

in your EHP review. These include: you (the Applicant), EHP Practitioners, Federal Funding and Resource/Regulatory Agencies, Tribes, and NHOs.

What is your role as an Applicant?

During EHP reviews, your primary role as an Applicant is to provide information to the Agencies from which you are seeking Federal assistance or permits about your proposed disaster recovery project and its potential to affect natural and cultural resources. Once your assistance has been awarded or approval has been granted, you have a continuing responsibility to ensure that you implement all applicable conditions and requirements related to your project. These conditions could include best management practices, monitoring of site conditions, or **EHP mitigation**. You should work with program staff to ensure that you are aware of and understand all applicable conditions and requirements, which may vary depending on the Agency or the Agency program from which you are seeking assistance.

After a disaster, to learn about available Federal assistance programs and the related EHP review, you should attend at least one Applicant Briefing and at least one Funding Agency program meeting. Applicant Briefings are meetings held by the state, Tribe, and/or NHO to inform you and other prospective Applicants of available assistance and **eligibility requirements** for obtaining Federal assistance under the declared disaster.

Funding Agency program meetings are typically sponsored by Federal Funding Agency programs, for example, the FEMA **Kickoff Meeting** hosted by the Public Assistance Program. Funding Agency Program meetings are an opportunity for you to meet Funding Agency program staff and EHP Practitioners and learn about the necessary paperwork and steps to apply for Federal assistance and the associated EHP reviews. If you are seeking assistance from more than one Funding Agency, you should attend a meeting for each Funding Agency from which you are seeking assistance, if they are offered. Resource/Regulatory Agencies may not be in attendance, although you should schedule a meeting or call those agencies when appropriate, for guidance regarding requirements.

In addition to these meetings, you may reach out to other Funding Agencies from which you are seeking funding to request an individual meeting or request their participation in other program meetings to discuss projects and EHP reviews.

Funding Agency Program Meetings

Funding Agency programs may host meetings to inform Applicants of Federal assistance application requirements and EHP reviews. These meetings are an opportunity for you to inform Funding Agencies that you are seeking assistance from another Agency and encourage collaboration for EHP reviews.

FEMA's Kickoff Meeting is an example of the Funding Agency program meeting. FEMA's Public Assistance grant program hosts this meeting to inform Applicants of grant requirements and EHP reviews.

Your role may also include:

- Assisting in data collection and documentation to help Funding Agencies determine which EHP requirements apply to your project. The **Project Information Request Checklist** found in Appendix C provides you with a list of typical information and data that Agencies will request from you;
- Providing information about what you are proposing to do, where your project will be located, and what natural and cultural resources may be impacted by your proposed project;
- Obtaining permits for your project if it may impact the quality of natural or cultural resources;
- Serving as a non-Federal representative to conduct informal consultations for EHP requirements such as ESA, Magnuson-Stevens Fishery Conservation and Management Act (MSA), or the National Historic Preservation Act (NHPA);
- Carrying out EHP mitigation measures if required by agreements, award documents, permits, or other EHP requirements;
- Supporting public engagement by publishing notices or arranging **stakeholder** engagement meetings; or
- Helping prepare draft EHP analyses, depending on the procedures and policies of the Funding Agency and your qualifications.

For more information on your role in relation to specific EHP requirements, see the **Tables of Requirements** located in Appendix E.

What roles do Federal Agencies play in disaster recovery?

Many Federal Agencies have a role in disaster recovery. Some Agencies may only be involved in certain aspects of your project, for example, the part of the project that has the potential to affect a natural or cultural resource or the part of the project for which they are providing funding. These Federal agencies may be classified as Funding

Important Questions for EHP Reviews Questions Funding and Resource/Regulatory Agencies May Ask You:

- From what other Agencies are you seeking funding?
- Are there any existing EHP reviews for this project?
- Have the necessary permits been granted for your project?
- Have all necessary state and local permits been granted for your project? (If applicable)
- Have alternatives to your project been considered?

Questions You Should Ask Funding Agencies and Resource/Regulatory Agencies:

- What does your Agency define as emergency or emergency action?
- What Agency resources are available to help me with EHP reviews, permitting, licensing, and project approval processes?
- Does this program offer funding assistance for EHP reviews?
- What do I need to provide to meet my EHP compliance responsibilities?
- What information does your Agency need from me to support the consultation process?
- Can I hire a contractor to help support the Agencies' EHP review?
- Who is the appropriate person to contact if I have additional questions and how should I best contact them?
- What permits are required?
- What information do you need from me to begin the permit or consultation review?
- How long is a typical consultation or permitting process for this type of project?
- What activities are allowed under this permit?
- What are the post-award requirements that I must follow?
- Who pays for EHP mitigation?
- What happens if unforeseen issues arise following the Federal assistance award?

Agencies or Resource/Regulatory Agencies. Funding Agencies can provide you with Federal assistance through grants, loans, and other programs to aid in the recovery from a disaster or emergency. Funding Agencies include Agencies such as FEMA, HUD, U.S. Department of Transportation (DOT), U.S. Economic Development Administration (EDA), U.S. Small Business Administration (SBA), U.S. Department of Health and Human Services (HHS), and the Natural Resources Conservation Service (NRCS).

Resource/Regulatory Agencies have the protection of the natural and/or cultural resources as part of their mission and regulatory authority to evaluate proposed projects through consultations or permit decisions. Resource/Regulatory Agencies work in cooperation with the Funding Agencies. Resource/Regulatory Agencies include, for example, U.S. Fish and Wildlife Service (FWS), U.S. Environmental Protection Agency (EPA), U.S. National Park Service (NPS), National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS), U.S. Army Corps of Engineers (USACE), State Historic Preservation Offices, and Tribal Historic Preservation Offices.

If you are applying for funding assistance for a project that may affect natural or cultural resources, you will likely need to coordinate with both the Funding Agency and the applicable Resource/Regulatory Agencies to complete the EHP review before funding can be provided.

The **Tables of Requirements** (located in Appendix E) provide an overview of the roles and responsibilities for Federal EHP requirements that are commonly triggered by disaster recovery projects. These tables identify your role and the roles of Funding Agencies and Resource/Regulatory Agencies for each EHP requirement. The tables also list the potential permits or approvals required from Resource/Regulatory Agencies depending on the kinds of proposed disaster recovery activities and the natural or cultural resources that may be affected. As projects are being developed, you should review the list of potentially applicable laws and regulations with the Funding Agency. Even if the primary responsibility for compliance with an EHP requirement lies with the Funding Agency, you can help expedite and support the process by providing the Funding Agency with information about your proposed project, natural and cultural resources present in the project area, and potential impacts on those resources. It should be noted that cultural resource information may be confidential and only qualified individuals can access this information.

Contact USACE

Before beginning any work in the waters of the U.S., including wetlands, please contact the U.S. Army Corps of Engineers (USACE) district regulatory office in your area for specific information about exemptions and requirements for obtaining a permit. Note: there may be additional state or Tribal permitting actions (e.g. 401 Clean Water Act) that need to be obtained prior to the Corps rendering a permit decision.

Projects Involving Multiple Agencies

When multiple Agencies are involved in a project, there may be opportunities to combine EHP reviews or otherwise share EHP information to reduce the burden on you and Agencies. The UFR Process is a coordinating mechanism that brings multiple Agency review processes together.

You can help expedite EHP reviews by notifying each Funding Agency you are working with of all sources of funding sought or obtained for a proposed project, and providing copies of any existing EHP-related documentation relevant to a proposed project; this may include EHP-related documentation prepared for past or related projects.

For additional information about the roles of Federal Agencies, see the EHP Agency Point of Contact List (Agency POC List) found at the [UFR Webpage](#). The Agency POC List contains Federal and state Agency contact information organized by each Agency's roles and responsibilities based on disaster type or EHP resource issue. You can use the Agency POC List to identify Agencies that you can contact for EHP information and guidance. You should first consult with the Funding Agency and the **Tables of Requirements** (found in Appendix E) to determine whether it is appropriate to contact other Agencies directly, such as Resource/Regulatory Agencies, or whether the Funding Agency should conduct any necessary outreach. The process for working with other Agencies varies by Funding Agency. If you are only seeking a permit, you are responsible for seeking out the required permission directly from the applicable Resource/Regulatory Agency.

What role does FEMA play in disaster recovery?

By authority of the Stafford Act³, FEMA coordinates the Federal government's role in preparing for, preventing, mitigating the effects of, responding to, and recovering from disasters, whether natural or man-made. FEMA staff coordinate disaster relief between Federal, Tribal, NHO, state, and local governments, as well as other groups to focus Federal resources on the most important recovery needs.

FEMA also hosts Funding Agency program meetings called Kickoff Meetings, which provide the first opportunity for EHP Practitioners to share information with you and other Applicants, setting the stage for a unified and expedited EHP review. Program staff from FEMA lead the Kickoff Meetings and can help explain the EHP reviews to you with guidance from EHP Practitioners.

Additional information about EHP reviews for FEMA grant programs is available by contacting your FEMA regional office for available Greenbooks or Greensheets that may be applicable to your proposed project. Greenbooks and Greensheets are FEMA's *disaster-specific* guidance for Applicants about key aspects of EHP reviews. Greenbooks and Greensheets provide you with information about the relevant environmental issues, requirements, and parties associated with the EHP review during the application process to help avoid environmental roadblocks and time delays. Additional guidance about FEMA grant programs is available at the FEMA website, such as the Public Assistance Program Compendium and the [Hazard Mitigation Assistance EHP at-a-Glance Guide - Project Planning with Considerations for EHP Compliance](#).

Hazard Mitigation

For FEMA, hazard mitigation means the effort to reduce loss of life and property by lessening the impact of disasters. Hazard mitigation is taking action *now*—before the next disaster—to reduce human and financial consequences later, for example, by elevating structures (i.e. homes and businesses) to reduce impacts from flooding. Additionally, FEMA has a Hazard Mitigation Assistance (HMA) Program. For more information please visit the [HMA Program website](#).

³ For additional information, see Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) in Appendix A.

Although FEMA has a large role in disaster recovery, FEMA does not work alone and is part of a team to support disaster recovery. That team includes: Federal partners, Tribes, NHOs, state and local officials, the private sector, non-profits, and the general public.

What roles do EHP Practitioners play?

An EHP Practitioner is usually an Agency staff member who participates in or conducts the EHP review. Depending on the Agency and the specific disaster, the EHP Practitioner may be a Federal, Tribal, NHO, or state Agency staff member or a contractor. EHP Practitioners can also be U.S. Department of Housing and Urban Development (HUD) responsible entities under HUD's **Community Development Block Grant** (CDBG) Program. Responsible entities must complete an EHP review of all proposed project activities prior to committing CDBG funds.

Federal Agencies may vary, but typical EHP Practitioners are individuals with backgrounds in science, historic preservation, archeology, or a thorough understanding of EHP requirements. During disaster recovery, EHP Practitioners work with you and the Agency they represent to coordinate and conduct EHP reviews. Depending on the disaster and the Agency they represent, this coordination may involve:

- Building relationships with stakeholders and other Federal Agencies;
- Attending Funding Agency program meetings to communicate relevant EHP information to you and other Applicants;
- Working with you to gather data for disaster recovery projects;
- Identifying the level of EHP review required for your project;
- Unifying EHP reviews where possible if your disaster recovery project is receiving funding from multiple Funding Agencies; and
- Assisting with consultations or permits, if necessary for your project.

What roles do Indian Tribes play?

Tribal governments, as sovereign nations, govern and manage the safety and security of their lands and community members. Often, Tribal government borders cross multiple counties and States. When you apply for Federal assistance or a permit from a Federal Agency, the Federal Agency is required to engage in meaningful consultation with Federally recognized Indian Tribes if the proposed project will affect Indian Tribal lands or Tribal trust resources. Federal Agencies must also consult with Tribal governments if the proposed project will affect **historic properties** that Indian Tribes attach religious and cultural significance to *regardless of the*

HUD Responsible Entity

HUD environmental regulations 24 CFR Part 58 require states and units of general local government to assume responsibility for environmental review of HUD assisted projects like CDBG-Disaster Recovery (DR) projects. These responsible entities act as the Federal Agency in carrying out environmental reviews.

location of the project.⁴

Federal Agencies should begin consultation early in the planning process in order to identify and discuss relevant EHP issues with Tribes. In some instances, you may be authorized by the Funding Agency and Tribe to consult directly with Tribes to carry out day-to-day, project-specific consultation. However, even when an Indian Tribe agrees to consult with you directly, the Federal Agency remains responsible for ensuring that the consultation process is carried out properly, and for resolving any issues or disputes. These arrangements can be outlined in agreements between the Federal Agency and the Indian Tribe.

Additionally, Federally recognized Indian Tribal governments have the option to request a Presidential emergency or major disaster declaration independent of a state.⁵ This process for Indian Tribes allows them to directly receive Federal assistance for disaster recovery projects. However, they may still choose to seek assistance as Applicants under a state declaration request.⁶

What roles do NHOs play in disaster recovery?

NHOs are organizations that have a demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians. When you apply for Federal assistance or a permit from a Federal Agency, and your proposed project is located in Hawaii, the Federal Agency is required to engage in meaningful consultation with NHOs that attach religious and cultural significance to historic properties that may be affected by the proposed project. This consultation requirement includes NHOs that live nearby, as well as those that no longer reside in or near the project area but that, for example, may still have ancestral ties to that area.

Federal Agencies should begin consultation early in the planning process in order to identify and discuss relevant EHP issues with NHOs. It is also important to understand that NHOs are not the “general public” for purposes of Section 106 and that Federal Agencies have a statutory, affirmative responsibility to consult with NHOs.

⁴ 36 CFR 800.2(c)(2)(ii).

⁵ SRIA (P.L. 113-2)

⁶ For additional information, please visit <http://www.fema.gov/media-library/assets/documents/93060>.

EHP Reviews

How do emergencies affect EHP requirements?

The UFR Process and this guide are focused on disaster recovery rather than disaster response, but there is not a distinct line between these phases, and often disaster response and disaster recovery occur concurrently. Projects that are emergency in nature generally involve: life and safety issues, search and rescue, and repairs necessary to protect critical infrastructure and prevent further loss or damage to property. Emergency provisions may allow certain activities to be carried out without EHP review or with a minimal EHP review. Most environmental laws contain emergency provisions to expedite response activities that must be taken to prevent imminent loss of human life or damage to improved property. For example, ESA regulations allow for expedited and informal consultation among FEMA, FWS, and NOAA's NMFS to address potential effects of emergency activities. Immediate rescue and salvage operations conducted to preserve life or property are exempt from Section 106 of the NHPA. The CEQ regulations and guidance also provide for alternative arrangements for environmental impact statements (EIS) for actions necessary to control the immediate impacts of an emergency and encourage preparation of concise, focused environmental assessments when an EIS is not required.

Even though the emergency action need not be delayed, EHP requirements may still apply to the project, and reporting and after-the-fact documentation may be required. Federal Funding Agencies and Resource/Regulatory Agencies define emergency or emergency actions differently, so you should contact each Agency to ensure you understand what that Agency considers to be an emergency prior to undertaking any work, if feasible. If action is taken prior to receiving appropriate approvals, you may be subjected to an enforcement action (for example, cease and desist orders, removal and prohibition orders, and orders assessing civil money penalties) if the Agency does not define the activity as an emergency, or the work performed does not otherwise qualify for an exemption or general permit. The final

Emergency Projects

Federal Funding Agencies and Resource/Regulatory Agencies sometimes define emergency or emergency actions differently. These Agencies make a determination of whether the action that requires their involvement qualifies as an emergency action. Ensure you understand the definition of emergency for each Agency you are working with before beginning work.

Important Things to Remember

- Use the **Applicant Checklist** in Appendix D to walk you through the application process and how to incorporate EHP reviews into project planning.
- Assist EHP Practitioners by providing accurate and complete project information using the **Project Information Request Checklist** in Appendix C.
- See the **Tables of Requirements** in Appendix E for a table of roles within EHP requirements, which will guide you in determining whether you must apply for permits or other approvals. Your project may be approved conditionally on additional permit requirements.
- *Notify the staff of all Funding Agencies as soon as possible if you identify more than one Federal funding source for a project.*
- *Understand that beginning work prior to receiving approval from a Funding Agency can jeopardize your funding eligibility and may be in violation of Federal, state, and/or local regulatory requirements.*

determination on what is an emergency action rests with the Federal Agency. For completed or partially completed emergency work, you will be asked to provide documentation to the Funding Agency that could include:

1. Copies of permits acquired from the necessary Resource/Regulatory Agencies, i.e. Tribal and state departments of environmental quality;
2. Copies of notification to the Resource/Regulatory Agencies during your application for funding assistance; and
3. Copies of emails or telephone logs of contacts verifying contact, results of the contact, and required permits/conditions applicable to emergency work.

Please refer to the Agency POC List, found at the [UFR Webpage](#), for a list of applicable Agency contacts.

How do you integrate EHP requirements into disaster recovery planning?

Integrating EHP requirements early into disaster recovery planning and project development will expedite the project approval process. You can help expedite EHP reviews by avoiding adverse impacts on resources that would otherwise trigger lengthier and more complex EHP reviews. You should consider proposing projects that mitigate risk by relocating vulnerable infrastructure; using **green building** techniques; avoiding sensitive environmental, cultural, and historic areas; and using construction techniques that minimize potential impacts. For example, rather than proposing the construction of a new seawall for erosion-damaged infrastructure, you could examine the feasibility of relocating replacement infrastructure further inland or using bioengineering techniques to stabilize shorelines.⁷

Once you have identified the need for a disaster recovery project, you should consider EHP requirements and impacts to natural and cultural resources when developing your project plan. You can assist Federal Agencies in their review of your project by gathering EHP documentation to submit with your project application. Funding and Resource/Regulatory Agencies have dedicated and qualified staff available to help you throughout the lifecycle of a disaster recovery project. In most cases, Funding Agencies have qualified and knowledgeable EHP Practitioners available to review your projects for EHP compliance and to assist you throughout the EHP review.



Figure 4 - Disaster Recovery Planning Steps

⁷ Bioengineering incorporates vegetation into the structural design whereby root systems stabilize and protect eroding banks along streams, lakes, rivers, and oceans.

For many EHP requirements, such as those that require an environmental assessment⁸ or for projects that affect floodplains, Funding Agencies must consider reasonable alternatives to the proposed project. Reasonable alternatives are generally understood to mean those technically feasible project alternatives that would satisfy the primary project objectives. Reasonable alternatives are used to identify and evaluate alternate projects that could eliminate or minimize impacts to the natural and cultural resources. The consideration of reasonable alternatives does not require Funding Agencies to limit the impact of projects on the environment; nor does it require Funding Agencies to fund only the alternative that has the least environmental impact. However, it does require that the decision to fund a project be made in an informed manner. Working with Funding Agency EHP Practitioners and staff to consider reasonable alternatives early in the development of your project will allow you to consider options that may achieve the same results with minimal EHP review (as described on page 5).

Once you have developed your project plan, begin gathering the necessary EHP documentation to help expedite the EHP review process. This includes: 1) gathering pertinent documents completed by other Federal Agencies, such as related EHP reviews; 2) coordinating with Resource/Regulatory Agencies to identify the potential need for consultations or permits; 3) completing relevant technical studies or surveys such as site characterization or feasibility studies; and 4) identifying the time and cost implications for your proposed project. Failure to provide required information could result in delays in the issuance of Federal funding or permitting decisions. You should work with the Funding Agency to ensure that you provide all required documentation.

This guide offers two checklists to assist you in developing your project and gathering EHP documentation:

- 1) The **Applicant Checklist** located in Appendix D will guide you through the application process and EHP review, help you identify if natural and cultural resources could be impacted by your project, and suggest steps you should take to successfully and efficiently complete an EHP review.

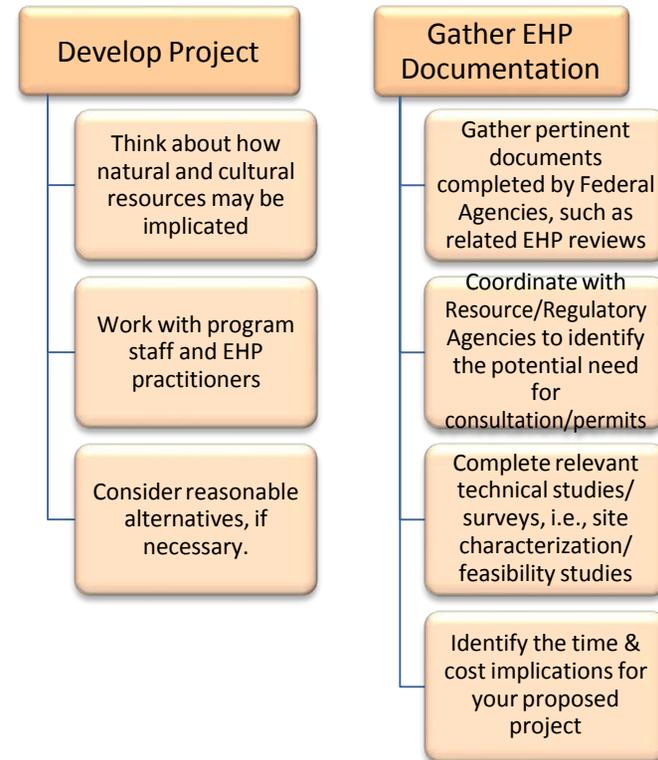


Figure 5 - Disaster Recovery Planning in Detail

⁸ See discussion of the NEPA in Appendix B for more information on an environmental assessment.

2) The **Project Information Request Checklist** located in Appendix C outlines some of the potential EHP information needed that you may be asked to provide to Funding Agencies in order to initiate and expeditiously complete a project EHP review.

What types of projects may require permits?

To comply with certain EHP requirements a permit, including licenses and approvals, may be necessary. Whether the official Agency permission is called a permit, license, or approval varies by Resource/Regulatory Agency and applicable EHP requirement. You, as an Applicant, have primary responsibility for determining if one or more of these permissions is necessary and obtaining the permit. Funding Agencies facilitate your compliance with permit requirements as well as look for these permissions as part of their EHP review. The Resource/Regulatory Agency that oversees the EHP requirement implicated by your disaster recovery project determines compliance and issues the permit decision. Some EHP requirements that commonly trigger permits include: the Clean Water Act, ESA, Migratory Bird Treaty Act, Marine Mammal Protection Act, and Section 4(f) of the Department of Transportation Act. More information on EHP requirements where a permit may be necessary is found in the **Overview of Applicable Federal EHP Requirements** (located in Appendix B) and the **Tables of Requirements** (located in Appendix E). Once you have determined that your project may require a permit, work with your Funding Agency to determine what documentation or necessary coordination is required and how you may assist.

What types of projects may require Agency consultation?

Consultations are the formal or informal collaboration process between Funding and Resource/Regulatory Agencies involved in a project to determine compliance with an EHP requirement, solicit information, and when required, request comments from the public. In most cases where a consultation is necessary, the Funding Agency will initiate consultation with the Resource/Regulatory Agency and other stakeholders as applicable. Depending on which EHP requirement warrants consultation, as an Applicant, your role is to participate in data collection and documentation to help the Funding Agency determine if your proposed action may adversely affect natural or cultural resources. Further, you may be designated by the Funding Agency as a non-Federal representative to conduct a consultation or prepare assessments with guidance from the Funding Agency. As an Applicant, you must participate in any consultation process as requested by the Funding Agency.

Consultation usually begins with a letter from the Funding Agency describing the project, identification of resources that may be impacted, and the project's potential impacts to the natural or cultural resources and includes the Funding Agency's determination on any potential impacts. While it is the responsibility of the Funding Agency to comply and lead the formal consultation process, the Funding Agency may authorize Applicants to reach out informally to Resource/Regulatory Agencies. Consultation can involve more consulting parties, which often include other Federal, Tribal, NHO, and state Agencies, local governments, non-governmental organizations, and the general public. The timeframes for consultations are often prescribed by law or by agreements between

Funding and Resource/Regulatory Agencies. Depending on the project and what consultation is required, consultation could be a straightforward process that takes only a couple of weeks, or it could be a lengthy process that involves many meetings, assessments, and potentially ends with a legal agreement.

Some EHP requirements that commonly trigger consultation are Section 106 of the NHPA, the ESA, and the Coastal Barrier Resources Act (CBRA). Please see the **Overview of Applicable Federal EHP Requirements** (located in Appendix B) and the **Tables of Requirements** (located in Appendix E) for more information on these laws and your responsibilities under each of these requirements. To answer questions regarding a specific project or funding program, you should contact the Agency administering that program or project.

What happens if I fail to meet the Federal assistance or approval conditions or make changes to my project?

When your project is approved, either by the Funding Agency or the Resource/Regulatory Agency that issued a permit, license or approval, further conditions or requirements may be applied to your project. If applicable, you must continue to carry out these post-approval requirements and your final project must meet these conditions as approved. If you fail to meet these conditions, a Funding Agency may revoke your funding or you may be subject to enforcement actions.

Further, if you make changes to the scope of your project, such as the location, size, approach, or design, either during the application process or following approval of assistance, contact the Funding and Resource/Regulatory Agencies involved. Changes in project scope may affect compliance with EHP requirements and may require additional review.

Additional Resources on the UFR Process and Federal Assistance Programs

Where can you find additional Federal resources on the UFR Process?

Information on the UFR Process including the laws and regulations applicable to disaster recovery projects is posted on the [UFR Webpage](#). For answers to questions or for technical assistance regarding environmental compliance, contact Federal, Tribal, NHO, state, or local Agencies using the Agency POC List that is posted on the [UFR Webpage](#). Additional information including the following Tools and Mechanisms is also available on the [UFR Webpage](#):

- Information Technology Resources List;
- Data Sharing Agreement Content;
- Template Environmental Checklist for FEMA and HUD;

- Disaster-Specific Memorandum of Understanding (Disaster-Specific MOU); and
- UFR Guidance for EHP Practitioners.

In addition, the [UFR Webpage](#) includes a UFR Library that contains Summary Information on Federal EHP requirements and Agency programs and examples of best practices.

What sources of Federal assistance are available to you?

There are over 90 programs administered across several Federal Agencies that provide funding for a variety of disaster recovery projects. Following a disaster declaration, the U.S. Congress approves funding for certain agencies to assist communities to not only rebuild, but also to improve their resilience against future disasters. The Funding Agencies involved in disaster recovery are dependent on funding or appropriations by Congress. Because of this, the Funding Agencies involved may be determined by factors such as the type of disaster, type of projects that need funding, and the Federal Agencies that are best equipped to manage the disaster recovery projects required. Examples of Funding Agencies that are often involved in disaster recovery are FEMA, HUD, DOT, SBA, and U.S. Department of Agriculture. Applicant briefings held by the state are opportunities to help you determine which Agencies are providing Federal assistance for disaster recovery projects. Additionally, when applying for Federal assistance, depending on the program or grant, those funds may be used for EHP reviews.

Each Funding Agency has its own statutory authorities, missions, appropriations, and focus areas, but the activities funded are all subject to EHP requirements. Some of the focus areas covered by the different Funding Agency programs are:

- Historic Preservation;
- Environmental Conservation;
- Housing Redevelopment;
- Farming Financial Assistance;
- Assistance with Local Economies/Government;
- Flood Risk Management;
- Natural Disasters Prevention and Response; and
- Transportation and Infrastructure.

A more inclusive list of Agency programs can be found online at [FEMA's National Disaster Recovery Program Database](#). This web-based tool is a central location for Tribal, state, and local governments, NHOs, emergency managers, and city planners to view programs from Federal, state, for-profit, non-profit, and charitable entities. Funding Agencies' program websites, staff, and EHP Practitioners are able to assist you in determining if these different programs are an option for your disaster recovery project. For additional information on HUD programs and the HUD EHP Reviews please visit [HUD's website](#).

APPENDICES

Appendix A: Glossary

The list of terms included below is a compilation of terms used in the UFR Process. Understanding that Federal Agencies, laws, and regulations may have different definitions, these definitions were created to align with the National Disaster Recovery Framework (NDRF) and assist in interagency disaster recovery efforts. These definitions are not intended to supersede those defined by Federal laws or regulations.

Alternative: An alternative to the proposed project that is practical and feasible from a technical and economic standpoint and that would satisfy the primary project objectives.

Applicant: An individual, organization, or government who applies for direct Federal funding or assistance. This term includes any of the following: state government Agencies, individual home and business owners, local governments and special districts, private non-profit organizations, Federally recognized Indian Tribes, Alaskan Native Tribal Governments, or authorized Tribal organizations and Alaskan Native Village Organizations. This term also includes Sub-Applicants.

Community Development Block Grant (CDBG) Program: HUD provides CDBG as flexible grants to help cities, counties, and States recover from Presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations. In response to Presidentially declared disasters, Congress may appropriate additional funding for the Community Development Block Grant (CDBG) program as Disaster Recovery grants to rebuild the affected areas and provide crucial seed money to start the recovery process. Since CDBG Disaster Recovery (CDBG-DR) assistance may fund a broad range of recovery activities, HUD can help communities and neighborhoods that otherwise might not recover due to limited resources. Grantees (or sub grantees) who receive CDBG funds are known as responsible entities (see definition on page A-5) and must complete EHP reviews of all project-related activities prior to obligating CDBG funds.

Consultation: The process of either formally or informally conferring with a Resource/Regulatory Agency for the purposes of determining compliance with a specific EHP requirement.

Cultural resource: This term encompasses aspects of a cultural system that are valued by or significantly representative of a culture or that contain significant information about a culture. Cultural resources may be tangible entities or cultural practices. Tangible cultural resources are categorized as districts, sites, buildings, structures, and objects for the National Register of Historic Places and as archeological resources, cultural landscapes, structures, museum objects and archives, and ethnographic resources for Federal management purposes. Also includes cultural items under the Native American Graves Protection and Repatriation Act [25 U.S.C. 3011 et seq]; archeological resources, under the Archeological Resources Protection Act of 1979 [16 U.S.C. 470aa et seq].

Disaster: For the purposes of this guide, please see the definition of Presidentially-declared disaster on page A-5.

Disaster recovery: The phase during a Presidentially-declared disaster following disaster response (though the phases may overlap) that begins after the immediate threats to life and property are resolved and ends when the community has recovered from the disaster’s impacts. This period includes the processes necessary to assist communities affected by an incident to recover effectively, including, but not limited to, rebuilding infrastructure systems; providing adequate interim and long-term housing for survivors; restoring health, social, and community services; promoting economic development; and restoring natural and cultural resources.

Disaster recovery project: An action taken after the immediate threat to life and property in a Presidentially-declared disaster has been addressed and which action (1) is subject to Federal involvement by reason of Federal funding (in whole or in part), Federal permitting, or other Federal approval; and, (2) is to (a) restore a community’s facilities to pre-disaster condition or to pre-disaster capacity with such changes as may, for example, aid efficiency, resilience, or sustainability in those capabilities, or (b) provide hazard mitigation activities. Note: An action may be a disaster recovery project even while other “disaster response” actions continue to neutralize ongoing threats to the preservation of life and other property. There is no calendar deadline after which projects to restore a semblance of normal life in a disaster area are no longer considered disaster recovery projects. An action may be preliminary to actual restoration, such as providing debris removal or temporary housing. Furthermore, a community’s facilities may include those that are man-made or part of the natural environment, whether in public or private ownership.

Disaster response: Actions taken immediately after a Presidentially-declared disaster occurs to save lives, protect property and the environment, meet basic human needs, stabilize the incident, restore basic services and community functionality, and establish a safe and secure environment moving toward the transition to recovery.

EHP Practitioner: Agency staff responsible for conducting or contributing to EHP reviews. When the responsibility for conducting the EHP review is delegated or assigned to someone other than the Federal Agency staff, such as contractors, these individuals also meet the definition of EHP Practitioner for the purposes of this guide. This definition includes HUD responsible entities under HUD’s CDBG Program, who are grantees that must complete an EHP review of all proposed project activities prior to committing CDBG.

EHP requirements: The Federal laws, acts, regulations, and Executive Orders that support the protection and stewardship of natural and cultural resources within the United States and its territories and possessions.

EHP mitigation: Measures to avoid, minimize, reduce, resolve, or otherwise account for any possible adverse effects of federal actions on the quality of natural and cultural resources.

EHP review: Federal Agencies engage in a review process to ensure that Federally funded activities comply with EHP requirements. By accepting Federal funds, grantees accept the responsibility of complying with EHP requirements, as required by the Federal Agencies providing assistance. As part of this responsibility, grantees must participate in EHP reviews by providing information necessary to complete an EHP review. Failure to comply with these requirements could result in project delays and denial of funding.

Eligibility requirements: Program requirements and approvals that must be met by the Applicant before Agency funds can be obligated.

Federal actions: Projects and programs entirely or partly financed, assisted, conducted, regulated, permitted, licensed, or approved by Federal Agencies; new or revised Agency rules, regulations, plans, policies, or procedures; and legislative proposals.

Federal assistance: Grants, loans and other programs that provide financial and other types of assistance to Tribes, states, and local governments, and certain types of private non-profit organizations, so that communities can quickly recover from Presidentially-declared disasters.

Funding Agency: Agencies that provide Federal assistance to states, Tribes, local communities, businesses, and individuals through grants, loans, and other programs to aid in the recovery from a disaster. Funding Agencies may include, but are not limited to, FEMA, HUD, and NRCS.

Green building: The practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life-cycle from siting to design, construction, operation, maintenance, renovation, and deconstruction.

Ground disturbance: Any activity that compacts or disturbs the ground within a project area.

Hazard mitigation: Hazard mitigation is sustained action taken to reduce or eliminate long-term risk to people and their property from hazards and their effects.

Historic properties: Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register of Historic Places (NRHP), including artifacts, records, and material remains which are related to such district, site, building, structure, or object (54 U.S.C. 300308). This term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the NRHP criteria. The National Park Service is responsible for the NRHP.

Indian Tribe: Any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Kickoff Meeting: Kickoff Meetings, hosted by FEMA, provide the first opportunity for EHP Practitioners to share information with Applicants and help to set the stage for a unified and expedited EHP review.

Mechanisms: Processes for implementing a unified and expedited EHP review for disaster recovery projects, which include: *UFR Guidance for EHP Practitioners (Practitioner Guidance)*; *FEMA Prototype Programmatic Agreement for Section 106 of the National Historic Preservation Act (PPA)*; *Disaster-Specific Memorandum of Understanding (Disaster-Specific MOU)*; *Data Sharing Agreement Content*; and *MOU Establishing the Unified Federal Environmental and Historic Preservation Review Process (UFR MOU)*.

National Disaster Recovery Framework (NDRF): The NDRF lays out pre- and post-disaster planning activities to support disaster recovery, provides an interagency coordination structure, and defines roles and responsibilities for all who contribute to the disaster recovery effort. The NDRF has a focus on pre-disaster preparedness and an emphasis on sustainability as a way to reduce community vulnerability and improve resiliency.

Native Hawaiian organization (NHO): Any organization that serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians (54 U.S.C. 300314).

Natural resource: Land, air, fish, wildlife, biota, and water. Water means salt and fresh water, surface, and ground water used for drinking, irrigation, aquaculture, and recreational purposes, as well as in its capacity as fish and wildlife habitat.

Presidentially-declared disaster: Any disaster for which the President issues a major disaster declaration and thereby authorizes the provision of individual, public assistance, and/or hazard mitigation grant program assistance from the Federal government.

Resource/Regulatory Agency: Agencies that have the protection of the environment and/or cultural resources as part of their mission and regulatory authority, and review or evaluate applications for projects through consultations, issuance of permits, or other determinations. Examples of Resource/Regulatory Agencies include the U.S. Fish and Wildlife Service (FWS), U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (USACE), and the National Oceanic and Atmospheric Administration's National Marine Fisheries Services (NOAA's NMFS).

Responsible entity: Under 24 CFR Part 58, a unit of general local government, a county, or a state that is the recipient of HUD assistance, the "responsible entity" or "RE", is responsible for the Federal environmental review under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and related applicable Federal laws and authorities in accordance with 24 CFR 58.5 and 58.6. This role may also be transferred to grant recipients or sub grantees.

Robert T. Stafford Disaster Relief and Emergency Assistance Act: Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), PL 100-707, was signed into law November 23, 1988. The Stafford Act constitutes the statutory authority for most Federal disaster response activities especially as they pertain to FEMA and FEMA programs.

Sandy Recovery Improvement Act: On January 29, 2013, President Obama signed into law the Sandy Recovery Improvement Act of 2013 (SRIA), which amended the Stafford Act by adding Section 429, which directs the President to "establish an expedited and unified interagency review process to ensure compliance with environmental and historic requirements under Federal law relating to disaster recovery projects, in order to expedite the recovery process, consistent with applicable law." This directive has resulted in the UFR Process. For more information on SRIA, please see [FEMA's SRIA Fact Sheet](#).

Stakeholder: Potentially impacted entities, including members of the public, who participate in some or part of the EHP review to engage them in soliciting feedback and comments on project development.

State Historic Preservation Officer (SHPO): The state official who advises and assists, as appropriate, Federal Agencies in carrying out their historic preservation responsibilities as defined under the NHPA (54 U.S.C. 302303).

Tools: Products that support the UFR Process and include: *UFR Webpage; EHP Agency Point of Contact List (Agency POC List); EHP Guide for Federal Disaster Recovery Assistance Applicants (Applicant Guide); Template Environmental Checklist for FEMA and HUD; Data Standards List; IT Resources List; EHP Disaster Recovery Skills Checklist (EHP Skills Checklist); UFR Advisor Training and Training for Recovery Leadership.*

Tribal Historic Preservation Officer (THPO): The Tribal official appointed by the Tribe's chief governing authority or designated by Tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of Section 106 compliance on Tribal lands in accordance to 54 U.S.C 302702. The THPO may assume some or all of the duties for historic preservation on Tribal lands.

UFR Process: An expedited interagency review process designed to ensure compliance with environmental and historic requirements under Federal law relating to disaster recovery projects, to expedite the recovery process, consistent with applicable law.

Appendix B: Overview of Applicable Federal EHP Requirements

Summary Information

This appendix lists and summarizes the typical Federal EHP requirements that may be applicable to disaster recovery projects.⁹ These Federal EHP requirements are also discussed in Appendix E, which identifies generally your role and the roles of Federal Agencies for each applicable EHP requirement. Refer to Appendix E for citations for each applicable EHP requirement.

Bald and Golden Eagle Protection Act

On August 9, 2007, bald eagles were removed from the Federal list of threatened and endangered species and, therefore, they are not protected under the Endangered Species Act. However, bald eagles remain protected under the [Bald and Golden Eagle Protection Act](#) (Eagle Act) and the Migratory Bird Treaty Act (MBTA). These laws primarily address nest tree protection and protection from harassment. The Eagle Act prohibits anyone from "taking" bald eagles. Among other actions, "take" includes disturbance of bald eagles. Further information on activities regulated by MBTA may be accessed at [FWS' website](#). For the National Bald Eagle Management Guidelines, please visit [FWS' website](#).

Additional state protections may be afforded to Bald and Golden Eagles, so consultation with state and local regulatory Agencies is advised.

Clean Air Act (CAA)

The [CAA](#) was passed to maintain and protect the quality of air resources. To achieve the Environmental Protection Agency's (EPA) mission to protect human health and the environment, it implements a variety of programs under the CAA that focus on reducing outdoor, or ambient, concentrations of air pollutants that cause smog, haze, acid rain, and other problems and phasing out

⁹ For the purposes of this section, mitigation refers to the required mitigation activities that are specific to the environmental and historic preservation requirement listed.

production and use of chemicals that destroy stratospheric ozone. These pollutants come from stationary sources (like chemical plants, gas stations, and power plants) and mobile sources (like cars, trucks, and planes). The CAA also sets requirements that apply to debris burning, demolition of properties, and construction dust. State and local governments often [partner](#) with the EPA for implementation of the CAA so it is recommended that the Applicant coordinate with state and local regulatory Agencies to ensure compliance.

Clean Water Act (CWA)

The CWA was enacted to control water pollution. It established a system requiring permits for specific regulated activities, regardless of the existence of Federal funding. Section 401 allows for States to set and monitor their own water quality standards. Section 402 establishes the National Pollution Discharge Elimination System (NPDES) Permit Program and specifies that a permit is required for discharges to waters of the U.S. In most cases, the NPDES permit program is administered by states authorized by EPA. EPA is the permitting authority in a few states, territories, and on most Tribal lands.

Section 404 of the Act mandates that discharge of dredged and fill material into waters of the U.S., including wetlands, receive appropriate permits, which are usually issued by the U.S. Army Corps of Engineers (USACE), except in Michigan and New Jersey which manages their own Section 404 program. Applicants are responsible for obtaining and complying with all required permits from the appropriate Resource/Regulatory Agencies.

Coastal Barrier Resources Act (CBRA)

The CBRA protects coastal areas that serve as barriers against wind and tidal forces caused by coastal storms, and serve as habitat for aquatic species. The CBRA protects coastal areas from development by limiting Federal financial assistance for development-related activities in designated areas. The goal of the CBRA is to manage development, limit property damage, and preserve wildlife and natural resources. It does this by restricting Federal financial assistance, including disaster relief assistance provided by FEMA under the Stafford Act and the National Flood Insurance Program. Coastal Barrier Resources System boundaries and Otherwise Protected Areas (OPAs) are established and [mapped by FWS](#). FEMA's website contains a [CBRA Fact Sheet](#) that outlines the responsibilities and restrictions that various programs have under CBRA.

Coastal Zone Management Act (CZMA)

The [CZMA](#), administered by the NOAA Office of Coastal Management, provides for management of the nation's coastal resources, including the Great Lakes, and balances economic development with environmental conservation. Any public Federal

project licensed or permitted by a Federal Agency, or private project licensed or permitted by a Federal Agency, or carried out with a Federal grant, must be determined to be consistent with the CZMA. The determination process, known as Federal consistency, allows the public, Tribes, NHOs, state Agencies, and local governments to review Federal actions likely to affect coastal resources or uses.

There are three categories of activities that trigger a Federal consistency review:

- Activities undertaken by a Federal Agency;
- Activities that require Federal approval; and
- Activities that use Federal funding.

Each of these activities has different Federal consistency requirements, but any project that will require Federal approval and/or Federal funding requires a CZMA certificate that must be completed and filed. It is the responsibility of the Applicant or the person performing the work to obtain the consistency determination or certification for the project, which can be administered by state/local regulatory Agencies. Federal assistance cannot be used unless the Applicant has obtained consistency.

Department of Transportation Act - Section 4(f)

Section 4(f) of the Department of Transportation Act mandates that, with limited exceptions, the U.S. Department of Transportation (DOT) cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historic sites for transportation projects unless the following conditions apply: 1) there is no feasible and prudent alternative to the use of property and the action includes all possible planning to minimize harm to the property resulting from use; or 2) the use of the property, including any measure(s) to minimize harm, will have a *de minimis* impact.

If a proposed project uses Section 4(f) property and there is more than a *de minimis* impact, the DOT must undertake a Section 4(f) Evaluation in order to assess whether there is a feasible and prudent alternative to the use. If the Section 4(f) Evaluation identifies a feasible and prudent alternative that completely avoids Section 4(f) properties, it must be selected. If there is no feasible and prudent alternative that avoids all Section 4(f) properties, the DOT may approve only the alternative that causes least overall harm in light of the statute's preservation purpose and includes all possible planning to minimize harm to Section 4(f) property.

Endangered Species Act (ESA)

The [ESA](#) protects Federally listed species. They include fish, birds, mammals, insects, and plants. Agencies are required to consult with the FWS and NOAA's NMFS when a Federally funded or authorized project affects a Federally listed species or designated

critical habitat. A list of Federally protected species can be obtained by contacting the FWS or from [FWS' website](#). Additionally, the Applicant may need to contact NOAA's [NMFS](#) if any planned work will take place in or near water resources.

Several entities have prepared and use a multi-species Habitat Conservation Plan (HCP) for compliance with the ESA. The HCP allows management activities specific to the entity, such as water supply, hydroelectric operations, watershed management, and timber harvestings, to continue while providing for species conservation. Funding Agencies review the disaster-related repair work subject to provisions contained in the applicable HCP to fulfill its Section 7 responsibilities and its responsibilities under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act. If the work is completed, partially completed or will be completed in accordance with the HCP, the Applicant should provide a statement that the repairs were/will be consistent with the HCP.

Executive Order 11988: Floodplain Management and Executive Order 13690: Establishing a Federal Flood Risk Management Standard

The Floodplain Management Executive Order of 1977 (Executive Order 11988) was issued to avoid or minimize long and short-term adverse impacts associated with the occupancy and modification of floodplains. For most projects, the 100-year flood line delineates the floodplain, but for critical actions, such as construction of fire stations and hospitals, the 500-year flood line demarcates the floodplain. This Executive Order also requires Federal Agencies to avoid direct or indirect support of floodplain development if practicable alternatives exist. The Federal Funding Agency is tasked with review of projects to ensure compliance with this Executive Order. For additional guidance, please visit [FEMA's website](#).

The Federal Flood Risk Management Standard Executive Order (Executive Order 13690) was issued to improve the resilience of communities and Federal assets against the impacts of flooding. The Federal Flood Risk Management Standard builds upon and amends Executive Order 11988. Under the Federal Flood Risk Management Standard, a higher vertical elevation, rather than the 100-year flood line delineates the floodplain. Federal Agencies can establish the higher elevation used to delineate the floodplain by selecting between the three approaches provided in the Standard. Federal Agencies will incorporate the Federal Flood Risk Management Standard into existing Federal Agency processes to implement Executive Order 11988.

Executive Order 11990: Protection of Wetlands

The Wetland Protection Executive Order was issued to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of jurisdictional and non-jurisdictional wetlands and to avoid direct or indirect

support of new construction in wetlands wherever there is a practicable alternative. The process is similar to EO 11988 and review is again tasked to the Federal Funding Agency. For additional guidance, please visit [FEMA's website](#).

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This Order directs Agencies to achieve environmental justice by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Agencies must evaluate all Federally funded projects to determine whether the action would result in disproportionately high and adverse impact on low-income or minority populations. The EPA hosts environmental justice compliance documents and tools on its [website](#), including the [Environmental Justice View](#), which is an environmental justice geographic assessment tool.

Executive Order 13112: Invasive Species

Executive Order 13112 requires Federal Agencies to prevent and control invasive species and not to promote their spread through their actions. Disaster recovery activities such as debris removal and construction can introduce and spread invasive species and steps to avoid the spread of invasive species should be considered in disaster recovery projects. The U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service's Plant Protection and Quarantine Program responds to new introductions of plant pests to eradicate, suppress, or contain them through various programs in cooperation with state departments of agriculture and other government Agencies. These may be emergency or longer term domestic programs that target a specific regulated pest.

Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

The Consultation and Coordination with Indian Tribal Governments Executive Order was issued to establish regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications. The Order mandated that each Agency should have an accountable process to ensure meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications. On issues relating to Tribal self-government, Tribal trust resources,

or Indian Tribal treaty and other rights, each Agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking. This includes Federal actions (including those with Federal funding) on Tribal ancestral lands that require consultation with the Tribal Historic Preservation Office.

Farmland Protection Policy Act (FPPA)

The FPPA is intended to minimize the impact Federal programs have on the unnecessary and irreversible conversion of farmland to nonagricultural uses. It assures that, to the extent possible, Federal programs are administered to be compatible with state and local Agencies, and private programs and policies to protect farmland. Federal Agencies are required to develop and review their policies and procedures to implement the FPPA every two years.

For the purpose of FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance. Farmland subject to FPPA requirements does not have to be currently used for cropland. It can be forestland, pastureland, cropland, or other land, but not water or urban built-up land. For additional guidance, please visit [NRCS' website](#).

Fish and Wildlife Coordination Act (FWCA)

The FWCA establishes a review process to protect fish and wildlife and their habitat from the impact of Federally constructed, permitted, or licensed water resources development projects. A review is not always required for Federal financial assistance projects unless triggered by another Federal permit or other Federal authorization. The act requires consideration of the effect that water-related projects will have on fish and wildlife resources. Exempt from the provisions of this act are impoundments less than 10 acres and land management programs by Federal Agencies on Federal land. This act requires mitigation for project-related losses. Information can be found through FWS and NOAA's NMFS. A more complete discussion of the FWCA and its role in conservation partnerships is found in the [Water Resource Development under the FWCA](#).

General Bridge Act of 1946

The United States Coast Guard, under 33 U.S.C. Subchapter III, has authority to issue permits for bridges over navigable waters of the United States. Most infrastructure repairs do not require a bridge permit from the Coast Guard unless the repair affects the approved navigation clearances or approved configuration of the bridge. Temporary repairs or replacement of severely deteriorated or damaged bridges or construction of new temporary bridges to meet emergency land transportation requirements may be authorized without a Coast Guard bridge permit. This authorization is limited to the minimum period of time required for the bridge

to return to normal operation. Permanent retention of any temporary bridge, or construction of a new permanent bridge, will be subject to a Coast Guard bridge permit.

Magnuson-Stevens Fishery Conservation and Management Act (MSA)

The [MSA](#) is the primary law governing marine fisheries management in U.S. Federal waters. It establishes a national program for the conservation and management of the fishery resources of the United States to prevent overfishing, rebuild overfished stocks, ensure conservation, facilitate long-term protection of essential fish habitats (EFH), and realize the full potential of the Nation's fisheries. In accordance with Section 305(b) of the MSA, Funding Agencies must consult with NOAA's NMFS regarding any of their actions authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken that may adversely affect EFH. For additional guidance, please view the [EFH Regulatory Guidelines](#).

Marine Mammal Protection Act (MMPA)

The MMPA authorizes the Secretaries of Commerce and Interior to conserve and protect marine mammals and generally prohibits the take (e.g., harassing, hunting, or killing) of marine mammals. *See* 16 U.S.C. 1372. Several exceptions to the general moratorium on take exist, however, and the Services may issue authorizations to take marine mammals if certain statutory and regulatory requirements have been satisfied.

One of the most frequently invoked exceptions relates to the take of marine mammals incidental to a specified activity. *See* 16 U.S.C. 1371(a)(5)(A) and (D); 50 CFR Part 216, Subpart I; 50 CFR 18.27. The Service(s) may authorize the take of small numbers of marine mammals incidental to otherwise lawful activities (except commercial fishing), provided that the takings would have no more than a negligible impact on those marine mammal species and would not have an unmitigable adverse impact on the availability of those species for subsistence uses. An activity has a negligible impact on a species or stock when it is determined that the total taking is not reasonably expected to reduce annual rates of survival or annual recruitment (i.e., offspring survival, birth rates).

For more information about the Services' MMPA programs, please visit [FWS' website](#) and NOAA's [NMFS' website](#).

Migratory Bird Treaty Act (MBTA)

The MBTA decreed that all migratory birds and their parts (including eggs, nests, and feathers) were fully protected and affirms or implements, the United States' commitment to four international conventions (with Canada, Japan, Mexico, and Russia) for the

protection of a shared migratory bird resource. Each of the conventions protects selected species of birds that are common to both countries (i.e., they occur in both countries at some point during their annual life cycle). A list of species protected by the Migratory Bird Treaty Act is available at [FWS' website](#).

National Environmental Policy Act (NEPA)

NEPA requires that Federal Agencies incorporate environmental considerations into their decision-making processes. NEPA stipulates that prior to funding, authorizing, or implementing an action, Federal Agencies must consider the effects the proposed action may have on the environment. Agencies are required to address each project on a larger scale, taking into account all consequences as well as cumulative impacts on the environment. NEPA and the Council on Environmental Quality's implementing regulations direct Federal Agencies to encourage and facilitate public involvement to the fullest extent possible in decisions that affect the quality of the human environment. NEPA also requires Agencies to evaluate a range of reasonable alternatives when deciding whether to take an action. Agencies comply with NEPA by first determining if there is a categorical exclusion (CATEX) that applies to the action. A CATEX is a category of actions that Agencies have determined do not normally have a significant impact on the environment. If a CATEX does not apply, Agencies prepare one of the following:

- Environmental Assessment (EA)/Finding of No Significant Impact (FONSI)

An EA is a brief and concise review to determine if a disaster recovery project will have a significant effect on the environment. For some Federal Agencies, the project Applicant prepares the EA, which is then submitted to the Agency for evaluation. For other Agencies, the EA is prepared by the Agency based on information provided by the Applicant. Under both scenarios, Agencies can either issue a FONSI, thus concluding EHP review, or a Notice of Intent to prepare an environmental impact statement (EIS).

- EIS/Record of Decision (ROD)

An EIS is a much more extensive review of potential impacts analyzing and documenting the impact the action will have on the environment. A ROD is prepared which communicates the Agency's decision on the action and outlines the necessary mitigation that must be implemented.

In addition, the Stafford Act provides Statutory Exclusions (STATEXs) from NEPA requirements for certain FEMA actions.

National Historic Preservation Act (NHPA)

Section 106 of the [NHPA](#) of 1966 requires Federal Agencies to take into account the effects of their undertakings on historic properties, prior to the expenditure of funds or issuance or approvals for permits or licenses, and afford the [Advisory Council on Historic Preservation](#) a reasonable opportunity to comment. The Section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the Federal Agency official and consulting parties in the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess potential effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. Consulting parties should be involved in the earliest stages and must include SHPO/THPO, Indian Tribes, NHOs, local governments, and Applicants, as appropriate. Additional consulting parties could also include individuals and organizations with a demonstrated interest in the undertaking. Further, the Agency is required to involve the public at certain points.

Noise Abatement and Control

Specific noise standards have been established by HUD, which can affect where a disaster recovery project may be located or how it is constructed. For proposed new construction in high noise areas, the project must incorporate noise attenuation features.

Typically, new construction projects that would expose occupants to a noise level in decibels (dB) of 75 Day-Night Average Sound Level (DNL) or greater cannot be provided Federal assistance by HUD. If the noise level is between 65 and 75 dB DNL then the project can only be constructed if the interior noise levels are reduced between 5 and 10 decibels. Projects in areas where the noise level is below 65 dB DNL are acceptable. In urban areas, projects located near busy roads or highways or large airports often exceed the 65 dB DNL standard. In rural areas, the major noise sources are commonly airfields. More information on Noise Abatement and Control is found on HUD's website including: [Noise Abatement and Control Guidance](#) and a two pager on [Noise Abatement and Control](#).

Noise Control Act of 1972

The Noise Control Act of 1972 establishes a national policy to promote an environment for all Americans free from noise that jeopardizes their health and welfare. While primary responsibility for control of noise rests with state and local governments, Federal action is essential to deal with major noise sources. Most Federal noise standards focus on preventing hearing loss by limiting the public's exposure to noise levels that approach 90 dbA and higher. EPA is directed by Congress to coordinate the

programs of all Federal Agencies relating to noise research and noise control. The Noise Control Act also requires Federal Agencies and Federal actions to comply with all Federal, state, and local noise control laws and regulations.

Resource Conservation and Recovery Act (RCRA)

The RCRA gives EPA the authority to regulate hazardous waste from the "cradle-to-grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of non-hazardous solid wastes. The Office of Resource Conservation and Recovery implements RCRA and compliance assistance is available on the [EPA website](#).

Rivers and Harbors Act of 1899 (RHA)

The RHA was enacted to protect the navigable capacity of our Nation's navigable waters. Section 10 of the RHA mandates that work in, over, or under or affecting the course, location, or condition of navigable waters receive appropriate permits from the USACE. Section 14 of the RHA also regulates modification or alteration of federal projects (e.g., levees, navigation channels) and approval from the USACE may be required.

Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)

[The Stafford Act](#) was established in 1988 and amended the Disaster Relief Act of 1974. This Act constitutes the statutory authority for most Federal disaster response and recovery activities especially as they pertain to FEMA and FEMA programs. Section 429 of the Stafford Act was added in 2013 by the Sandy Recovery Improvement Act and directed the President to establish an expedited and unified EHP process for disaster recovery actions.

Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

HUD regulations restrict how close HUD-assisted projects can be located to facilities that handle petroleum products or chemicals of an explosive or flammable nature. There are specific guidelines that have been established to determine an acceptable separation distance beyond which HUD-assisted projects may be located. More restrictive standards have been established for projects that involve open areas where people will be gathering outdoors, such as parks. This regulation is applicable to projects that increase population density such as properties proposed for new construction, conversion of a nonresidential land use to a

residential land use including making an uninhabitable building habitable, or rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units.

For more information on explosive and flammable operations, refer to [HUD Guidance on Explosive and Flammable Facilities](#) and a two pager on [Explosive and Flammable Operations](#).

Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields

This requirement applies to HUD funded projects located within 3,000 feet of a civil airport or 15,000 feet of a military airport. Typically, projects funded by HUD are incompatible for locations in the immediate vicinity of airports and airfields, and Federal assistance may be denied. Potential aircraft accident problems pose a hazard to end users of these development projects. If the proposed project is located near an airport or in the immediate area of the landing and approach zones, additional information is necessary to determine whether this issue is a concern and if so, how to mitigate it. HUD applies standards to prevent incompatible development around civil airports and military airfields. See [24 CFR Part 51, Subpart D](#). For more information on the Clear Zones and Accident Potential Zones visit HUD's website including: [HUD Guidance on Airport Hazards](#) and the [project checklist for clear zones and accidental potential zones](#).

Safe Drinking Water Act (SDWA) – Water Quality and Aquifers

The requirements of the SDWA prohibit Federal Agencies from funding actions that would contaminate a sole source aquifer or its recharge area. EPA defines a sole or principal source aquifer as an aquifer that supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer. Proposed Federal financially assisted projects that have the potential to contaminate a designated sole source aquifer are subject to EPA review. Examples of Federally funded projects that EPA has reviewed under the sole source aquifer protection program are:

- Highway improvements and new road construction;
- Public water supply wells and transmission lines;
- Wastewater treatment facilities;
- Construction projects that involve management of storm water;
- Agricultural projects that involve management of animal waste; and

- Projects funded by a CDBG.

When an action may affect a sole source aquifer, contact the state and Tribal Agencies responsible for developing and managing a Comprehensive State Groundwater Protection Program and the EPA regional office responsible for reviewing that program. To help you determine if your project may affect a sole source aquifer, please visit: [EPA's Sole Source Aquifer website](#).

Wild and Scenic Rivers Act (WSRA)

The WSRA protects free-flowing rivers through designation into a National System. The Act is notable for safeguarding the special character of these rivers, while also recognizing the potential for their appropriate use and development. For Federally administered rivers, the designated boundaries generally average one-quarter mile on either bank in the lower 48 states and one-half mile on rivers outside national parks in Alaska in order to protect river-related values. Rivers are classified as wild, scenic, or recreational. Regardless of classification, each river in the National System is administered with the goal of protecting and enhancing the values that caused it to be designated. Reviewing Agencies for the WSRA include the NPS, U.S. Forest Service (USFS), U.S. Bureau of Land Management (BLM), and FWS. For more information, please visit the [National Wild and Scenic Rivers System website](#).

Appendix C: Project Information Request Checklist

Funding Agencies typically request the kinds of information listed below. Understanding what information is required will help improve the timeliness of EHP reviews and implementation of disaster recovery projects. Please note that additional information may be needed depending on the scope of work of your proposed project.

Type of Information	Description of Information Requirements	<input checked="" type="checkbox"/>
Purpose and Need	Describe the past actions and events that have contributed to the need for the proposed project, and outline the objectives the project aims to achieve.	<input type="checkbox"/>
Location	State the project location such as township, range, or section, including both the site address and an accurate latitude/longitude in decimal degrees (e.g., 38.5342°N, -77.0212°W). Identify the project site and define its boundaries on topographic maps and aerial imagery. Provide any available maps and any site plans showing the relationship of the project to its surroundings and any possible construction staging sites. Be sure to include/identify all areas affected by the project, even if only temporarily, such as construction lay-down areas, temporary roads, borrow pits, etc.	<input type="checkbox"/>
Property Considerations	Provide information about property considerations for the proposed project. Does the proposed project include all or a portion of land owned or managed by any of the following: <input type="checkbox"/> Federal Government <input type="checkbox"/> Tribal Government <input type="checkbox"/> State Government <input type="checkbox"/> Local Government	<input type="checkbox"/>
Description of Project Scope of Work	Provide a detailed description of the project scope of work and any alternatives considered for the project, including: <ul style="list-style-type: none"> • Description of the property and the damaged portions of the property. • Whether the proposed work involves demolition, modification or mitigation, new construction, or excavation. • If ground disturbance is proposed, details on the extent (depth, length, and width). • Description of project implementation and any related activities to be carried out in conjunction with the project. • Descriptions of the size of the project area, terrain, and present land uses of the project and adjacent land. • Descriptions of alternatives considered for the project and reasons those alternatives have been dismissed from further consideration. 	<input type="checkbox"/>

Type of Information	Description of Information Requirements	<input checked="" type="checkbox"/>
General Documentation	<ul style="list-style-type: none"> • Include an actual or estimated date of construction for buildings or structures, if applicable. Historic properties can be buildings, bridges, improved landscapes, dams, historic districts, battlegrounds, fences, walls, etc. • Include any copies of architectural or engineering documents that may be available. • Include any consultations with the State Historic Preservation Office, US Fish and Wildlife Service, US Army Corps of Engineers, etc. that have been initiated or completed and related correspondence, including letters to and from Resource/Regulatory Agencies, if applicable. • Provide any archeological or historical surveys or environmental assessments that have been completed. • Describe whether the project will take place in the original pre-disaster footprint or require a new or expanded footprint. • Provide any known history of the historic property, architectural details, and past alterations. Include copies of existing inventory forms and copies of historic district maps if applicable. • Describe any public involvement that has been conducted to date such as public notices, public meetings or other outreach to the public. 	<input type="checkbox"/>
Photographs	Submit color photographs of the project site and include clear views of any buildings or structures. Include photographs of all sides of structures that are part of the project. Where applicable, include photographs of the surrounding area from the project site along with streetscape images and any resources such as wetlands. Clearly label photos with the location and orientation of the camera relative to the project site. Crop and label graphics using arrows and text labels to indicate project features. To overlay graphics in photographs to show more information or to point to specific project areas Applicants can do the following: 1. Open PowerPoint, or other graphics-oriented software, and paste the photograph on the canvas. Crop the image so the photo has the content necessary. 2. Use drawing tools, such as line drawing and shapes, to indicate the location of project features. 3. Insert text to label the features and to label the photograph. 4. Use drawing tools to identify ground-disturbing activities (if applicable). 6. Save the file in a readable format (such as a PDF file) and submit.	<input type="checkbox"/>
Funding Sources	Identify the Agencies and programs pursued for project funding. Include all correspondence with Funding Agencies.	<input type="checkbox"/>
Permits	Identify the permits required and whether permits were obtained. Include all correspondence with Resource/Regulatory Agencies.	<input type="checkbox"/>

Appendix D: Applicant Checklist

By completing the Applicant Checklist, you will help Federal Agencies satisfy EHP requirements and increase the likelihood of your project’s eligibility for Federal assistance.

Step in Application Process	Actions for Adequately Completing Step	<input checked="" type="checkbox"/>
Consider the proposed project’s design	Identify natural and cultural resources that could be affected by the project. Consult with appropriate Federal, Tribal, NHO, and state Agencies to determine potential impacts to natural and cultural resources during project design. If possible, design the project in a way that avoids or minimizes the risk and potential impacts to EHP resources. Minimal impacts commonly require a minimal EHP review.	<input type="checkbox"/>
Gather EHP information relevant to the EHP requirements that may be triggered by your proposed project	Refer to Overview of Applicable EHP Requirements (Appendix B) for a list of typical EHP requirements triggered by disaster recovery projects. You will need to provide EHP information in the Federal assistance application so the Funding Agency can address the relevant EHP requirements. Visit the UFR Webpage for additional information.	<input type="checkbox"/>
Submit the application(s) for Federal assistance	Include relevant EHP information about your proposed project. Submit the same EHP information to each Funding Agency to which you apply; if you are using another Funding Agency’s form, note to the other Funding Agency(ies) that you are submitting this EHP information to multiple Agencies and using one form. If supplemental information is requested by a Funding Agency, work with the Funding Agency to gather the additional EHP information. <i>Note: depending on the Funding Agency, you may be able to take on a larger role during the EHP review. If you are capable of further supporting EHP reviews, indicate in the application how you would like to contribute: informal consultation, draft EHP analyses, etc.</i>	<input type="checkbox"/>
Notify each Federal Agency about other applications for Federal assistance for the same proposed project	Each Federal Agency should be aware of your other applications so they can coordinate Agency resources. Federal Agencies may be able to combine EHP reviews to expedite the application process if they are aware of your other applications.	<input type="checkbox"/>
Determine whether any EHP requirements are the responsibility of the Applicant	Refer to the Tables of Requirements (Appendix E). For those EHP requirements that are applicable to the proposed project, review your role. Depending on the EHP requirement and Funding Agency involved, you may have additional responsibilities apart from supporting the Funding Agency with the EHP review.	<input type="checkbox"/>

Remember: If the proposed project may be an emergency action, you should notify Federal, Tribal, NHO, state, and local Agencies prior to taking action; you should ask Federal Agencies whether the proposed project is considered an emergency action and, if so, whether after-the-fact documentation and reporting will be necessary.

Appendix E: Tables of Requirements

Table 1: Requirements Applicable to Funding Agencies

This table lists Federal EHP requirements that are commonly triggered by disaster recovery projects and the primary responsibility for compliance lies with the Funding Agency. It identifies generally the roles of Applicants, Funding Agencies, and Resource/Regulatory Agencies organized by the applicable EHP requirement. The table also lists the potential permits or approvals required from Resource/Regulatory Agencies depending on the kinds of proposed disaster recovery activities and the natural or cultural resources that may be affected.¹⁰

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
Coastal Barrier Resources Act (CBRA) 16 U.S.C. 3501 et seq.	The Funding Agency reviews action for compliance with CBRA. The Funding Agency must consult with FWS before funding projects or actions within or affecting the Coastal Barrier Resources System. If a project qualifies for an exception within CBRA, the Funding Agency must provide evidence to the FWS Field Office of that exception.	Consultation may be required by law between FWS Field Offices and the Funding Agency. In such cases, FWS will issue an opinion to the Funding Agency. *Some Tribal, NHO, state, and local, Agencies have additional requirements.	The Applicant participates in data collection and documentation to help the Funding Agency determine if project areas are within CBRA jurisdiction and if an exception within CBRA applies.

¹⁰ For the purposes of this section, mitigation refers to the required mitigation activities that are specific to the environmental and historic preservation requirement listed.

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Department of Transportation Act - Section 4(f)</p> <p>23 U.S.C. 138 49 U.S.C. 303</p>	<p>The DOT determines if the proposed transportation project will use publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites. If the project uses Section 4(f) property (and there is more than <i>de minimis</i> impact), there must be no feasible and prudent alternative to the use of Section 4(f) property, and the action must include all possible planning to minimize harm to the Section 4(f) property resulting from use.</p>	<p>The authority to administer Section 4(f) and make Section 4(f) approvals resides with the Secretary of the DOT in consultation with the states, DOI, HUD, and the USDA. The DOT is also required to consult with the officials with jurisdiction over the property in question.</p>	<p>When Section 4(f) is given consideration early in project planning, the risk of a project becoming unnecessarily delayed due to Section 4(f) processing is minimized.</p> <p>The Applicant assists in data collection and documentation to help the DOT to determine the potential impacts to land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites for Federal transportation projects.</p>
<p>Endangered Species Act (ESA) - Section 7</p> <p>16 U.S.C. 1536</p>	<p>The Funding Agency informally consults with FWS and/or NOAA's NMFS (the Services) when a proposed action may affect listed species or their critical habitat. If informal consultation determines the action may affect listed species or critical habitat, the Funding Agency typically prepares a Biological Assessment to determine effects. If the Funding Agency determines the action is likely to affect listed species or critical habitat, the Funding Agency enters formal consultation with the Services.</p>	<p>Before providing Federal assistance, (including funding, authorization or participation) consultation may be required between the Services and the Funding Agency. If the Funding Agency enters into formal consultation with the Services, the Services will issue a Biological Opinion on whether the action will jeopardize the continued existence of a listed species.</p> <p>*Some states' Agencies have additional requirements.</p>	<p>The Applicant participates in data collection and documentation to help the Funding Agency determine whether the action may affect listed species or critical habitat. The Applicant will support the Services to identify reasonable and prudent alternatives if the proposed action is likely to jeopardize or adversely modify critical habitat. The Applicant may review draft Biological Opinions and provide comments through the Funding Agency. If designated by the Funding Agency, the Applicant may serve as non-Federal representative to Funding Agency to support informal consultation.</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Executive Order 11988 (Floodplain Management); Executive Order 11990 (Protection of Wetlands); and Executive Order 13690 (Establishing a Federal Flood Risk Management Standard)</p> <p>3 CFR page 117 (1977); 3 CFR page 121 (1977); 80 FR 6425</p>	<p>The Funding Agency must, to the extent possible, avoid and minimize adverse impacts to floodplains and wetlands. The Funding Agency usually follows an 8-step decision-making process for compliance with both Executive Orders when it determines a proposed action will be in or potentially affect a floodplain or wetland. The 8-step process includes consideration of alternatives, public notice, and mitigation measures. The Funding Agency should integrate this review into the NEPA process.</p>	<p>FEMA maintains floodplain maps, designates flood zones, and manages the National Flood Insurance Program. FWS maintains the National Wetlands Inventory to identify location of wetlands.</p>	<p>Applicants assist in data collection and documentation to help the Funding Agency identify and evaluate potential impacts to floodplains and wetlands, alternatives to the proposed action, and potential mitigation measures.</p> <p>Further, Applicants have the responsibility to obtain and follow all conditions of the local floodplain permit, if necessary.</p>
<p>Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations)</p> <p>3 CFR page 859 (1994)</p>	<p>The Funding Agency must identify and address disproportionately high and adverse human health or environmental effects on minority or low-income populations. This includes conducting a public notice and involvement with affected populations that may be impacted by a proposed action. Compliance is often coordinated with the NEPA process.</p>	<p>N/A</p>	<p>The Applicant participates in data collection to help the Funding Agency determine whether minority or low-income populations may be disproportionately impacted by the proposed action.</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Executive Order 13112 (Invasive Species)</p> <p>3 CFR page 159 (1999)</p>	<p>The Funding Agency must determine the likelihood of introducing or spreading invasive species and describe the measures being taken to minimize their potential harm. Compliance is often coordinated with the NEPA process.</p>	<p>N/A</p>	<p>Applicant should use non-invasive plants for landscaping project areas and preferably use native plant material.</p> <p>Applicant has primary responsibility for determining if there are quarantine zone requirements in their project area.</p> <p>The Applicant participates in data collection to help the Funding Agency determine the likelihood of introducing or spreading invasive species and incorporate measures, if necessary, to minimize their potential harm.</p>
<p>Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)</p> <p>3 CFR page 304 (2000).</p>	<p>The Funding Agency must follow certain principles and must consult early with Tribal officials in the process of developing regulations and policies that have Tribal implications. The Funding Agency reviews processes by which Tribes may apply for waivers from statutory or regulatory requirements.</p>	<p>Typically, through a Tribal Consultation Official, the Funding Agency consults with Federally recognized Tribes.</p>	<p>N/A</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Farmland Protection Policy Act (FPPA)</p> <p>7 U.S.C. 4201 et seq.</p>	<p>The Funding Agency determines whether the action may convert prime and unique farmland to nonagricultural use. If so, the Funding Agency must contact the USDA Service Center or NRCS to initiate consultation and fill out form AD-1006, Farmland Conversion Impact Rating, which includes completion of a site assessment.</p>	<p>NRCS within the USDA may be consulted by the Funding Agency. In such cases, NRCS completes the land evaluation component of the Farmland Conversion Impact Rating form.</p> <p>*Some states' Agencies have additional requirements.</p>	<p>The Applicant participates in data collection and documentation to help the Funding Agency determine the potential for prime and unique farmland conversion and complete the Farmland Conversion Impact Rating Form.</p>
<p>Fish and Wildlife Coordination Act (FWCA)</p> <p>16 U.S.C. 661 et seq.</p>	<p>Funding Agencies that construct or authorize water resource development projects must first consult with the FWS and NOAA's NMFS in some instances, and the state fish and wildlife Agency regarding potential impacts to fish and wildlife resources and measures to mitigate those impacts.</p>	<p>The Resource/Regulatory Agencies provide recommendations to the Funding Agency or authorize the actions. The Funding Agency may be required to consult with FWS, NOAA's NMFS, and the appropriate fish and wildlife Agencies of the state for actions in, near, or potentially affecting wetlands, waterways, or water bodies.</p>	<p>The Applicant participates in data collection and documentation to support the Funding Agency during the consultation process to determine potential impacts on fish and wildlife resources and measures to mitigate these impacts.</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Magnuson-Stevens Fishery Conservation and Management Act (MSA)</p> <p>6 U.S.C. 1801 et seq.</p>	<p>The Funding Agency must consult with NOAA's NMFS when it authorizes, funds, or undertakes an action that may adversely affect essential fish habitat (EFH). The Funding Agency must prepare an EFH Assessment as part of consultation. Consultations may be incorporated into an ESA Section 7 Biological Assessment, NEPA document, or public notices pursuant to 40 CFR part 1500. If necessary, NOAA's NMFS provides the Federal Agency with EFH Conservation Recommendations to avoid, minimize, mitigate, or otherwise offset those adverse effects. The Funding Agency must provide a detailed response in writing to NOAA's NMFS' EFH Conservation Recommendations, including a description of measures proposed to avoid, mitigate, or offset the impact of the activity on EFH, and an explanation for any decisions that are inconsistent with NOAA's NMFS recommendations.</p>	<p>Consultation is required when a Funding Agency authorizes, funds, or undertakes an action that may adversely affect EFH. NOAA's NMFS will issue EFH Conservation Recommendations to the Funding Agency.</p> <p>* Private landowners and state Agencies are not required to consult under the MSA.</p>	<p>The Applicant participates in data collection and documentation to help the Funding Agency determine if the proposed action may adversely affect EFH and to support preparation of the EFH Assessment.</p> <p>* The Funding Agency may designate the Applicant as a non-Federal representative and will give written notice of such designation to NOAA's NMFS. If a non-Federal representative is used, the Federal action Agency remains ultimately responsible for compliance with sections 305(b)(2) and 305(b)(4)(B) of the MSA.</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>National Environmental Policy Act (NEPA)</p> <p>42 U.S.C. 4321 et seq.</p>	<p>NEPA requires Federal Agencies to consider the potential environmental impacts of proposed actions as a part of their decision-making process. Federal Agencies that provide funding for disaster recovery projects fulfill their NEPA compliance through the use of one of three types of NEPA documentation: a Categorical Exclusion (CATEX), an environmental assessment (EA), or an environmental impact statement (EIS). The appropriate level of NEPA review depends on the type of activity and the potential impacts associated with it. In addition, the Stafford Act provides Statutory Exclusions (STATEXs) from NEPA requirements for certain FEMA actions.</p>	<p>There are no Resource or Regulatory Agencies for NEPA. Rather, NEPA is the responsibility of the Agency funding, undertaking, or authorizing the action. This includes both Funding and Resource/Regulatory Agencies. CEQ oversees the implementation of NEPA and approves Agency NEPA procedures. EISs must be filed with the Environmental Protection Agency.</p> <p>*Many states have their own process similar to NEPA. There may be opportunities to unify state and Federal NEPA reviews. However, completion of the one does not satisfy the other.</p>	<p>The Applicant supports the Federal Agency during the NEPA process by providing information about the proposed action, project area, and natural and cultural resources that may be impacted by the proposed project; and may support public engagement by publishing public notices or arranging stakeholder engagement meetings. The Applicant may also help prepare the draft NEPA analysis, depending on the procedures and policies of the Federal Agency and the qualifications of the Applicant.</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>National Historic Preservation Act (NHPA)¹¹ - Section 106</p> <p>54 U.S.C 306108</p>	<p>Complying with Section 106 is the responsibility of the Federal Agency and it remains responsible for all findings and determinations. During the 106 consultation process, Agencies will identify and evaluate historic properties eligible for listing on the National Register of Historic Places in consultation with the SHPO/THPO and any Indian Tribe or NHO that attaches religious and cultural significance to historic properties that may be affected by the undertaking. Agencies will also determine if the project will have adverse effects to historic properties, if they are present. If the Agency determines that there are adverse effects to historic properties, the Agency will enter into consultation with consulting parties to strive to reach agreements on measures to avoid, minimize, and mitigate adverse effects and to find a balance between project goals and preservation objectives. The consultation process may conclude with a no adverse effect finding, a Memorandum of Agreement (MOA) or a Programmatic Agreement (PA).</p> <p>Many Federal Agencies have developed program alternatives under 36 CFR 800.14 to tailor the Section 106 process to their program or project requirements.</p>	<p>There are no Resource/Regulatory Agencies for Section 106 of the NHPA. Rather, Section 106 is the responsibility of the Agency funding, undertaking, or authorizing the action. This includes both Funding and Resource/Regulatory Agencies. The Advisory Council on Historic Preservation (ACHP) oversees the Section 106 process, issues the binding regulations implementing Section 106, participates in some consultations, and provides advice on findings and determinations. The ACHP also approves an Agency's Alternative Procedures for Section 106 pursuant to 36 CFR 800.14(a).</p> <p>The SHPO and/or THPO advises and assists Federal Agencies in carrying out their Section 106 responsibilities and cooperates with such Agencies, local governments, organizations, and individuals to help ensure that historic properties are taken into consideration at all levels of planning and development.</p> <p>*Many states and Indian Tribes have their own process similar to Section 106.</p>	<p>An Applicant seeking Federal funding, permits, licenses, or approvals is encouraged to actively participate in the Section 106 process. The Applicant should contact the Federal Agency early in project planning to determine which procedures it must follow to obtain Federal approvals and which actions it might be required to carry out on behalf of the Agency. In some instances, the Agency may follow the procedures in the Section 106 regulations that allow it to delegate the initial steps of the Section 106 process to an Applicant. Although the Federal Agency is ultimately responsible for Section 106 compliance, an Applicant may play a vital role in the Section 106 review by assisting in the identification of historic properties, completing archeological studies, or other research activities, for example, or by initiating consultation when authorized to do so by the Federal Agency.¹² The Federal Agency must notify the SHPO/THPO when an Applicant is authorized to initiate consultation with appropriate parties. In the event that there are adverse effects to historic properties, the Applicant may have a responsibility to carry out certain mitigation measures that may be discussed as part of consultation and memorialized in an MOA. Federal Agencies that provide authorizations to Applicants remain responsible for their government-to-government relationships with Indian Tribes.</p>

¹¹ The CEQ Regulations for Implementing the Procedural Provisions of NEPA encourage integration of the NEPA process with other planning and environmental reviews, such as Section 106 of NHPA. For more information on integrating the NEPA process with Section 106 reviews, please visit [ACHP's website](#). Additionally, the regulations implementing Section 106, at 800.8(a), encourage coordination between 106 and NEPA.

¹² All actions taken by employees or contractors of Federal Agencies shall meet professional standards under the Secretary of Interior Professional Qualification Standards (62 FR 33708).

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Noise Abatement and Control</p> <p>24 CFR Part 51, Subpart B</p>	<p>HUD provides technical assistance to REs throughout the process. HUD will review documentation if HUD receives an objection during the Request for Release of Funds comment period that the RE is in noncompliance with this requirement. HUD also conducts in-depth monitoring of RE's environmental compliance.</p>	<p>N/A</p>	<p>A RE applying for Federal assistance from HUD has responsibility for compliance with 24 CFR Part 51 Subpart B. The RE may document that this requirement does not apply because the project is funded under disaster assistance provisions or appropriations that are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster. (See 24 CFR 51.101(a)(3)).</p> <p>If Subpart B applies, then the application must document whether the proposed project occurs in an area with an acceptable noise level (measured in decibels) and if not, may need to mitigate the noise levels or reject the project.</p>
<p>Noise Control Act of 1972</p> <p>42 U.S.C. 4901 et seq.</p>	<p>The Funding Agency must determine compliance with all Federal, state, and local noise control laws and regulations.</p>	<p>N/A</p>	<p>The Applicant participates in data collection and documentation to help the Funding Agency determine if the project complies with Federal, state, and local noise control laws and regulations.</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Safe Drinking Water Act – Water Quality and Aquifers</p> <p>42 U.S.C. 300f-300j-26; 40 CFR Part 149</p>	<p>EPA has developed Memoranda of Understanding (MOUs) with Federal Funding Agencies to establish review responsibilities under the Sole Source Aquifer protection program and to list categories of projects that should or should not be referred to EPA for review. MOUs help to ensure that projects that pose serious threats to ground water quality are referred to EPA.</p>	<p>Proposed Federal financially assisted projects that have the potential to contaminate a designated sole source aquifer are subject to EPA review.</p>	<p>If review is required, Applicants assist in data collection and documentation to help the Funding Agency identify and evaluate potential impacts to sole source aquifers, alternatives to the proposed action, and potential mitigation measures.</p> <p>Further, Applicants have the responsibility to obtain and follow all conditions of required permits, if necessary.</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields</p> <p>(24 CFR, Part 51, Subpart D)</p>	<p>HUD provides technical assistance to REs throughout the process. HUD will review documentation if HUD receives an objection during the Request for Release of Funds comment period that the RE is in noncompliance with this requirement. HUD also conducts in-depth monitoring of RE's environmental compliance.</p>	<p>N/A</p>	<p>A RE has responsibility for compliance and makes initial determination whether the proposed project occurs within 15,000 feet of a military airport or 3000 feet of a civilian airport. And if so, whether the proposed project is located within an Accident Potential Zone (APZ) or Runway Protection Zone/Clear Zone (RPZ/CZ) (as defined in HUD regulations). If the proposed disaster recovery project occurs in an APZ or RPZ/CZ additional requirements or documentation typically are required.</p>
<p>Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature</p> <p>(24 CFR Part 51, Subpart C)</p>	<p>HUD provides technical assistance to REs throughout the process. HUD will review documentation if HUD receives an objection during the Request for Release of Funds comment period that the RE is in noncompliance with this requirement. HUD also conducts in-depth monitoring of RE's environmental compliance.</p>	<p>N/A</p>	<p>A RE applying for Federal assistance from HUD has responsibility to document compliance with 24 CFR Part 51 Subpart C. An RE may document that this requirement does not apply if the project is to reconstruct (demolish and rebuild on same parcel) or rehabilitate projects where the density is not increased. (See 24 CFR 51.201 definition of "HUD-assisted project")</p> <p>If the project requires compliance with this requirement, then the Applicant must document its initial screening and compliance.</p>

Public Law/ Executive Order	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements	Applicant's Role
<p>Wild and Scenic Rivers Act (WSRA) - Section 7</p> <p>16 U.S.C. 1271 et seq.</p>	<p>Any proposed Federally assisted construction project within the bed or banks, or upstream, downstream, or on a tributary, of a Wild and Scenic River or a Congressionally-authorized study river, requires the Funding Agency to enter into formal consultation with the Federal Wild and Scenic River managing Agency. Federally assisted projects include those requiring a Federal permit or those receiving Federal funds or technical assistance. The consultation enables the Managing Agency to determine if the proposed project meets WSRA standards. For example, if the project may have an adverse effect on a Wild and Scenic River or a study river, then the consultation could identify possible avoidance measures.</p>	<p>The WSRA Managing Agencies must determine that no adverse impacts will occur to the values for which the river was designated before Federal assistance may be granted for a construction project in the bed and banks of a Wild and Scenic River. Other standards apply to projects located upstream, downstream, or on tributaries of designated rivers and to projects on Congressionally-authorized study rivers. Managing Agencies for the WSRA include the NPS, USFS, BLM, and FWS.</p> <p>*Some states have Wild and Scenic Rivers or protected river programs with different requirements, including permits.</p>	<p>Applicants assist in data collection and documentation during the consultation process to help the Funding Agency identify and avoid potential adverse effects and to enable the WSRA Managing Agency to make its determination about meeting Wild and Scenic River standards.</p>

Table 2: Requirements Applicable to Applicants

This table lists Federal EHP requirements that are commonly triggered by disaster recovery projects and the primary responsibility for compliance lies with the Applicant. It identifies generally the roles of Applicants, Funding Agencies, and Resource/Regulatory Agencies organized by the applicable EHP requirement. The table also lists the potential permits or approvals required from Resource/Regulatory Agencies depending on the kinds of proposed disaster recovery activities and the natural or cultural resources that may be affected.¹³

Public Law/ Executive Order	Applicant's Role	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements
Bald and Golden Eagle Protection Act 16 U.S.C. 668 et seq.	The Applicant has primary responsibility for determining whether the action will disturb bald or golden eagles. The Applicant should avoid activities that disturb bald and golden eagles. If the Applicant cannot avoid disturbance, the Applicant should contact the FWS Field Office to apply for a take permit. The Applicant should follow the FWS Bald Eagle Management Guidelines and Conservation Measures.	The Funding Agency facilitates Applicant's compliance with requirements for avoiding disturbance to bald and golden eagles and applying for permits. The Funding Agency reviews complete permits as part of its EHP compliance requirements, such as the NEPA process.	Project compliance is determined by FWS and state Agencies (if state regulations apply) in coordination with the Funding Agency. The FWS Field Office issues permits to the Applicant. *FWS may issue a take permit if the acting entity cannot minimize or prevent disturbance of bald or golden eagles and certain factors are met. *Most states have additional requirements.
Clean Air Act (CAA) 42 U.S.C. 7401 et seq.	The Applicant has primary responsibility for compliance with review and permitting requirements. For projects involving the release of air pollutants, Applicants should determine if the project is located in an attainment or non-attainment area and apply for necessary permits in compliance with state plans, regulations, and Agencies.	The Funding Agency facilitates Applicant compliance requirements. The Funding Agency reviews complete permits as part of its EHP compliance requirements, such as the NEPA process.	The Tribe, NHO, state, or local air pollution control Agency generally administers CAA permits.

¹³ For the purposes of this section, mitigation refers to the required mitigation activities that are specific to the environmental and historic preservation requirement listed.

Public Law/ Executive Order	Applicant's Role	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements
Clean Water Act (CWA) - Sections 313, 401 and 402 (Water Quality) 33 U.S.C. 1251-1387	The Applicant has primary responsibility for obtaining certifications and permits for actions that may impact the quality of the waters of the U.S. This includes National Pollutant Discharge Elimination System (NPDES) permits for discharges into surface waters, water quality certification for discharge into wetlands, and storm water management requirements.	The Funding Agency helps the Applicant in obtaining necessary permits and certifications. The Funding Agency reviews complete permits as part of its EHP compliance requirements, such as the NEPA process.	State Agencies and Tribes issue NPDES permits for point sources and water quality certifications. The Section 401 water quality certification is required when obtaining a CWA 404 Permit.
CWA - Section 404 (Waters of the U.S., including wetlands) 33 U.S.C. 1344 Rivers and Harbors Act - Section 10 (navigable waters of the U.S.) 33 U.S.C. 403	The Applicant has responsibility for obtaining a Section 10/404 permit. The Applicant must demonstrate efforts to avoid, minimize, and compensate for impacts where appropriate.	The Funding Agency helps Applicants by working with them to apply for the necessary permits and certifications. The Funding Agency receives copies of issued permits from Applicant and reviews them as part of its EHP compliance requirements.	USACE evaluates applications for the discharges of dredged or fill material into waters of the U.S., under Section 404 of the CWA for work or structures in navigable waters of the U.S. and under Section 10 of the RHA ¹⁴ . In addition, USACE must comply with NEPA, NHPA, ESA, CZMA, and Section 401 of CWA, among other laws.
Coastal Zone Management Act (CZMA) - Section 307 16 U.S.C. 1456.	Applicant Agencies (any unit of State or local government or any related public entity) submits the application for Federal assistance to the State Agency for consistency review, through the intergovernmental review process (described in Executive Order 12372) or by direct submission to the State Agency. The Applicant Agency also provides the State Agency with an Applicant Agency evaluation.	If the State Agency does not object to the proposed financial assistance activity, the Federal Agency may grant the Federal assistance to the Applicant Agency. Without the State Agency consistency determination for the proposed project, the Federal Agency must deny assistance to the Applicant Agency.	OCM interprets the CZMA and oversees the application of Federal consistency; provides assistance to Federal Agencies, Tribes, NHOs, coastal states, and others; and mediates CZMA related disputes. Resource/Regulatory Agencies may require CZMA determination prior to rendering a final permit decision.

¹⁴ USACE is also responsible for implementation of Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972. This Act established a program to regulate the transportation of dredged material into the ocean for open water disposal. Because most activities under the EHP review for disaster recovery projects will not trigger this authority, it is not discussed further.

Public Law/ Executive Order	Applicant's Role	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements
General Bridge Act of 1946	The Applicant has responsibility for obtaining a Coast Guard bridge permit. The Applicant must provide to the Coast Guard all applicable items identified in the Coast Guard Bridge Permit Application Guide in order for the Coast Guard to evaluate the bridge proposal and its impact on navigation and the environment.	The Funding Agency reviews action for compliance with the Bridge Act of 1946. The Funding Agency must consult with the Coast Guard before developing bridge design alternatives to ensure the alternatives meet the reasonable needs of navigation.	The Coast Guard evaluates bridge permit applications in accordance with the General Bridge Act of 1946. In addition, the Coast Guard must comply with NEPA and other environmental control laws.
Marine Mammal Protection Act (MMPA) 16 U.S.C. 1361-1423h.	The Applicant has primary responsibility for compliance under the MMPA and makes initial determination whether proposed action is likely to result in incidental take of marine mammals. If yes, the Applicant prepares a request for incidental take authorization, including specific required pieces of information, and begins the authorization process with the Service(s).	The Funding Agency may, following consultation with NOAA's NMFS, assist the Applicant in determining whether the action may result in incidental take of marine mammals and in preparation of a request for incidental take authorization, if required. The Funding Agency may support the Applicant and Services to identify required mitigation measures and monitoring requirements.	If the incidental take of marine mammals is a potential outcome of the activity, the Service(s) will, based on an adequate and complete application and after notice and comment, issue an incidental take authorization provided that the appropriate findings are made, and the permissible methods of taking and appropriate mitigation, monitoring, and reporting requirements are set forth.

Public Law/ Executive Order	Applicant's Role	Federal Funding Agency's Role	Federal Resource/Regulatory Agency's Role Consultation, Permit, and Approval Requirements
Migratory Bird Treaty Act (MBTA) 16 U.S.C. 703 et seq.	The Applicant has primary responsibility for determining whether the action will affect migratory birds. The Applicant should avoid activities affecting migratory birds. If avoidance is not possible, the Applicant should apply for a permit.	The Funding Agency facilitates Applicant compliance requirements for avoiding migratory birds and seeking permits. The Funding Agency reviews complete permits as part of its EHP compliance requirements, such as the NEPA process. * The Funding Agency must comply with Executive Order 13186 Responsibilities of Federal Agencies to Protect Migratory Birds by avoiding or minimizing the adverse impact of its actions on migratory birds and addressing impacts in the NEPA process.	FWS issues permits through Regional Bird Permit Offices. *Most states have additional requirements.
Resource Conservation and Recovery Act (RCRA) 42 U.S.C. 6901 et seq.	The Applicant has primary responsibility for compliance with permitting and specific regulatory requirements for the management of waste. Requirements vary depending on whether waste will be generated, transported, or treated, stored, or disposed. Requirements also vary by type of waste, solid or hazardous. Requirements also exist for storage tanks.	The Funding Agency facilitates Applicant's compliance requirements and cooperation among multiple Agencies involved in regulating debris operations including recycled waste materials. The Funding Agency reviews complete permits as part of its EHP compliance requirements, such as the NEPA process.	State Agencies are often delegated authority to issue permits or approvals for management of waste. Municipalities may have additional requirements. Otherwise, EPA Office of Solid Waste has authority.