Environmental Planning & Historic Preservation Compliance for HMA Projects

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September 10, 2014
Workshop Topics

1. Overview: Environmental and Historic Preservation Laws & E.O.s
2. HMA Unified Guidance: Frontloading EHP
3. HMA Unified Guidance: EHP Checklist
4. Focus Topic: Historic Preservation
22 June 1969
Cuyahoga River Fire
Cleveland, Ohio
Construction of the Interstate Highway System 1938-present

Downtown Connector I-75/I-85 Atlanta, GA
The National Environmental Policy Act of 1969
42 U.S.C. §§ 4321-4347

Signed into law January 1, 1970
Basic national charter for protection of environment

The National Environmental Policy Act (NEPA) requires that federal agencies must consider the effects of their actions on the quality of the human environment before project implementation.
The National Environmental Policy Act of 1969

Established Council on Environmental Quality (CEQ)

Each agency develops implementing procedures

Triggered when federal agencies license, permit or fund a project ≥$1

Interdisciplinary approach to Federal project planning and informed decision-making
The National Environmental Policy Act of 1969

NEPA does not mandate environmental preservation at all costs:
Consider reasonable alternatives

Requires federal officials to consider environmental values alongside technical and economic considerations

Solicit public input

Document decision making process
The National Environmental Policy Act of 1969

NEPA serves as an “umbrella regulation” and provides a process which other EHP laws and regulations can be considered.

State processes cannot replace Federal requirements. However, materials prepared for state compliance may be submitted with the application.
The National Environmental Policy Act of 1969

**Biological Laws:**
Endangered Species Act (ESA), 1973
Fish and Wildlife Coordination Act (FWCA), 1934
Migratory Bird Treaty Act (MBTA), 1918,
Bald and Golden Eagle Protection Act (BGEPA), 1940
Magnuson-Stevens Fishery Conservation Act (FCA), 2006
Executive Order (EO) 13112 Invasive Species (1999)

**Socioeconomic Laws:**
Farmland Protection Policy Act (FPPA), 2007
EO 12898 Environmental Justice (1994)

**Historic Properties:**
National Historic Preservation Act (NHPA), 1966

**New Construction:**
EO 12699 Seismic Safety
The National Environmental Policy Act of 1969

**Water Resources Laws:**
EO 11988 Floodplain Management (1977)
EO 11990 Protection of Wetlands (1977)
Clean Water Act (CWA) (1972)
Wild and Scenic Rivers Act (WSRA), 1968

**Coastal Laws:**
Coastal Barrier Resources Act (CBRA), 1982
Coastal Zone Management Act (CZMA), 1972

**Pollution Control and Debris Management:**
Clean Air Act (CAA), 1970
Resource Conservation and Recovery Act (RCRA), 1976
Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 1990
The National Environmental Policy Act of 1969

**Compliance**
- Protection of natural and cultural resources
- Improved project planning
- Cost efficient
- Programmatic and financial compliance
- Efficient project implementation
- Improved community relations

**Non-Compliance**
- Project delays
- De-obligation of funding
- Negative publicity
- Civil penalties
- Lawsuits
Hazard Mitigation Assistance Unified Guidance

Frontloading EHP Compliance
Hazard Mitigation Assistance Unified Guidance

Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program

FEMA

Federal Emergency Management Agency
Department of Homeland Security
500 C Street, S.W.
Washington, DC 20572
D. Environmental Planning and Historic Preservation Review and Compliance

HMA programs and grants must comply with all environmental and historic preservation (EHP) laws and with 44 CFR Part 10, which may include identifying alternate locations and, as necessary, modifying the project.

See the EHP Checklist in Part X, Appendix I. Completion of this list is not a substitute for environmental compliance.
The front-loading of EHP into the decision-making process allows for development of mitigation measures that reduce or eliminate the proposed project’s impact to the human environment.

See Figure 3 for an overview of frontloading the EHP and National Environmental Policy Act (NEPA) process.
Figure 3: An overview of frontloading the EHP and National Environmental Policy Act (NEPA) process
The community identifies a need for action and develops a project

Are environmental effects likely to be significant?²

NO

NOT SURE

YES

² Are other environmental and historical preservation laws/EOs triggered by this action? (e.g., ESA, MTBA, EO 11988, EO 1990, CAA, RCRA, CBRA, etc.) If so, coordinate with appropriate agencies as necessary.
Are environmental effects likely to be significant?²

- **Proposed action is described in FEMA Categorical Exclusion (CATEX)**
- **Significant environmental effects uncertain or no FEMA CATEX**
- **Significant environmental effects may or will occur**
44 CFR § 10.8 CATEX

i. Administrative Actions
ii. Prep, revision, adoption of regulations etc.
iii. Studies: man power & funding
iv. Inspection/monitoring
v. Training/exercises
vi. Procurement/Storage (no ground disturbance)

vii. Acquisition/Demolition
viii. Acquisition/Lease

ix. Utility/Communication Systems

x. Maintenance, repair, grounds-keeping at FEMA

xi. Planting of indigenous vegetation

xii. Demolition/disposal of uncontaminated structures to permitted off-site location

xiii. Relocation of structures; No FEMA interest in relocation site selection

xiv. Community-wide exceptions: NFIP

xv. Repair, reconstruction, restoration, elevation, retrofitting, upgrading, replacement

xvi. Improvements to existing facilities; Small scale hazard mitigation

xvii. Actions within enclosed facilities

xviii. Planning and administrative activities
Proposed action is described in FEMA Categorical Exclusion (CATEX)

- NO
  - Significant environmental effects uncertain or no FEMA CATEX
    - YES
      - Develop Environmental Assessment (EA) with public involvement to the extent practicable
        - YES
          - Significant environmental effects?
            - NO
              - Finding of No Significant Impact (FONSI)
            - YES
              - Develop Environmental Impact Statement (EIS)

- YES
  - Does the project have extraordinary circumstances?
    - YES
      - Significant environmental effects?
        - NO
          - Finding of No Significant Impact (FONSI)
        - YES
          - Develop Environmental Impact Statement (EIS)
    - NO
      - Significant environmental effects?
        - NO
          - Finding of No Significant Impact (FONSI)
        - YES
          - Develop Environmental Impact Statement (EIS)
44 CFR § 10.8  Extraordinary Circumstances

i. Greater in scope or size than normal
ii. High level of public controversy
iii. Potential degradation of existing poor environmental conditions
iv. Use of unproven technology with potential/unknown risks
v. Presence of endangered/threatened species/critical habitat; archaeological, cultural, historical or other protected resources
vi. Presence of hazardous or toxic substances
vii. Potential to affect: wetlands, coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, drinking water
viii. Potential to affect health or safety
ix. Potential to violate existing laws
x. Potential for significant cumulative impacts
Finding of No Significant Impact (FONSI)

Decision (Inclusion of mitigation measures)

Implementation with monitoring as provided in the decision

15. Record of Decision
Moreover, compliance with all environmental laws and regulations is a condition of the grant.

Two key considerations are:

1. whether the proposed project is located in an area that has endangered or threatened species or critical habitat, and
2. whether the proposed project might impact historic or cultural resources.
If the project could result in adverse impacts to those resources, it might be necessary to change the scope of the project to **avoid** those impacts or incorporate mitigation measures to **minimize** the impacts to those resources.
To determine whether any EHP issues may be associated with the proposed project, Applicants should review FEMA’s HMA EHP Resources At-a-Glance Guide.

Provides key contacts, Web sites, and search engines to assist in early identification of EHP issues and to facilitate coordination with the appropriate State and Federal agencies.

RESOURCE:
HMA EHP Resources At-a-Glance:
http://www.fema.gov/library/viewRecord.do?id=6976
For more information on EHP:

Part IV, D.6 (general program requirements):

- The project, when completed, must comply with all applicable environmental laws and regulations as a condition of grant eligibility.

- Lack of the required information by the application deadline may prohibit FEMA from awarding a grant or subgrant.

- Links to EHP resources (Part X, C.5)

Part VI, A.4 (application review)

Part V, K (documentation)
For more information on EHP:

Part IV, D.6 (general program requirements)

Part VI, A.4 (application review):

• Funds will not be awarded until FEMA has completed this review

• It is demonstrated that the project, when completed, will comply with all environmental laws and regulations.

• What can be completed prior to review: Planning or preparatory work not involving construction or alteration of the land

Part V, K (documentation)
For more information on EHP:

Part IV, D.6 (general program requirements)

Part VI, A.4 (application review)

Part V, K (documentation):

- When completing the subapplication, the Applicant/subapplicant must answer a series of EHP review questions and provide information about potential impacts on environmental resources and cultural resources (if applicable) in the project area.

- EHP Checklist (Part X, Appendix I)
Hazard Mitigation Assistance Unified Guidance

EHP Checklist: Part X, Appendix I
The EHP Checklist:

Completion of this list is not a substitute for environmental compliance.

Guides the subapplicant through the laws and executive orders that all applications will be reviewed under for compliance.

The checklist identifies where additional information will be needed in order to complete the EHP review: **Frontloading**.
Front Loading EHP  
National Historic Preservation Act

<table>
<thead>
<tr>
<th>Environmental Regulation or Statute</th>
<th>Yes</th>
<th>No</th>
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<td>National Historic Preservation Act</td>
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<td>1.A Would the proposed project affect, or is the proposed project in close proximity to, any buildings or structures 50 years or more in age?</td>
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<td>1.B Will the proposed project involve disturbance of ground?</td>
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</table>

Covered in Part 3 of the Presentation

RESOURCE:  
HMA Unified Guidance,  
EHP Checklist: Part X, Appendix I
### Environmental Regulation or Statute

<table>
<thead>
<tr>
<th>Endangered Species Act and Wildlife Coordination Act</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.A Are federally listed or endangered species, or their critical habitat, present in or near the project area and, if so, which species are present?</td>
<td></td>
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</tr>
<tr>
<td>2.B Will the proposed project remove or affect vegetation?</td>
<td></td>
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<tr>
<td>2.C Is the proposed project in or near (within 200 feet), or likely to affect, any type of waterbody or body of water?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RESOURCE:**
HMA Unified Guidance,
EHP Checklist: Part X, Appendix I
Front Loading EHP
Endangered Species Act & Wildlife Coordination Act

RESOURCES:
http://ecos.fws.gov/ecos/home.action
http://www.fws.gov/endangered/
http://www.fws.gov/southeast/es/consultation.htm
Front Loading EHP
Endangered Species Act & Wildlife Coordination Act

Trigg County, Kentucky

<table>
<thead>
<tr>
<th>Group</th>
<th>Name</th>
<th>Population</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birds</td>
<td>Bald eagle (Haliaeetus)</td>
<td>lower 48 States</td>
<td>Recovery</td>
</tr>
<tr>
<td>Birds</td>
<td>Bald eagle (Haliaeetus)</td>
<td>lower 48 States</td>
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</tr>
<tr>
<td>Birds</td>
<td>Bald eagle (Haliaeetus)</td>
<td>lower 48 States</td>
<td>Recovery</td>
</tr>
<tr>
<td>Flowering Plants</td>
<td>Price's potato-bean (Apios)</td>
<td>lower 48 States</td>
<td>Threatened</td>
</tr>
<tr>
<td>Mammals</td>
<td>Indiana bat (Myotis sodalis)</td>
<td>Entire</td>
<td>Endangered</td>
</tr>
<tr>
<td>Mammals</td>
<td>Gray bat (Myotis grisescens)</td>
<td>Entire</td>
<td>Endangered</td>
</tr>
</tbody>
</table>

RESOURCES:
http://www.fws.gov/endangered/
Front Loading EHP
Endangered Species Act & Wildlife Coordination Act

**Remember:**

- Provide USFWS listing for the County

- Indicate on a map where construction activities will occur (including staging, ingress and egress)

- Include any information on vegetation removal or disturbance
# Front Loading EHP
Clean Water Act & E.O. 11990 (Protection of Wetlands)

<table>
<thead>
<tr>
<th>Environmental Regulation or Statute</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clean Water Act, Rivers and Harbors Act</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.A Will the proposed project involve dredging or disposal of dredged material, excavation, the addition of fill material, or result in any modification to water bodies or wetlands designated as “waters of the United States” as identified by the U.S. Army Corps of Engineers or on the National Wetland Inventory?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Executive Order 11988 (Protection of Floodplains) and Executive Order 11990 (Protection of Wetlands)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.A Does a Flood Insurance Rate Map, Flood Hazard Boundary Map, hydrological study, or some other source indicate that the project is located in, or will affect, a 100-year floodplain, a 500-year floodplain (if a critical facility), an identified regulatory floodway, or an area prone to flooding?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.B Is the proposed project located in, or will it affect, a wetland as listed in the National Wetland Inventory?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RESOURCE:**
HMA Unified Guidance,
EHP Checklist: Part X, Appendix I
Front Loading EHP
Clean Water Act & E.O. 11990 (Protection of Wetlands)

RESOURCES:
http://www.fws.gov/wetlands/Data/Mapper.html
http://mapper.acme.com
The Army Corps of Engineers will assert jurisdiction over the following waters:

- Traditional navigable waters
- Wetlands adjacent to traditional navigable waters
- Non-navigable tributaries of traditional navigable waters that are relatively permanent where the tributaries typically flow year-round or have continuous flow at least seasonally (e.g., typically three months)
- Wetlands that directly abut such tributaries

Front Loading EHP
Clean Water Act & E.O. 11990 (Protection of Wetlands)
Example of a tributary

Front Loading EHP
Clean Water Act & E.O. 11990 (Protection of Wetlands)
Examples of wetlands
Front Loading EHP
Clean Water Act & E.O. 11990 (Protection of Wetlands)

Example of a wetland
The Army Corps of Engineers will decide jurisdiction over the following waters based on a fact-specific analysis to determine whether they have a significant nexus with a traditional navigable water:

- Non-navigable tributaries that are not relatively permanent

- Wetlands adjacent to non-navigable tributaries that are not relatively permanent

- Wetlands adjacent to but that do not directly abut a relatively permanent non-navigable tributary
The Army Corps of Engineers generally will not assert jurisdiction over the following features:

- Swales or erosional features (e.g., gullies, small washes characterized by low volume, infrequent, or short duration flow)

- Ditches (including roadside ditches) excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water
Front Loading EHP
Clean Water Act & E.O. 11990 (Protection of Wetlands)

Examples of swales

**Constructed**

**Natural**
Front Loading EHP
Clean Water Act & E.O. 11990 (Protection of Wetlands)

USACE Engineering Branch Vs. Regulatory Branch

The Federal Emergency Management Agency (FEMA) has requested that the North Carolina Division of Emergency Management (NCDEM) coordinate with the U.S. Army Corps of Engineers. After review of the proposed sites, the U.S. Army Corps of Engineers has found neither current nor proposed construction, nor a study for a flood damage reduction project. If you have any questions concerning this matter, please contact Mr. Wes Brown at (910) 251-4554.

Pursuant to Section 404 of the Clean Water Act, any discharge of excavated or fill material into waters of the United States, including streams and wetlands in conjunction with this project, as well as disposal of construction debris, the construction of temporary access roads, and removal of underground utilities, requires Department of the Army (DA) permit authorization. Please be aware that based on the information provided with this request, the Regulatory Division cannot ascertain if your project needs DA authorization. For a project-specific jurisdictional determination, please provide the exact location of the project, the project limits, property owner information, a description of proposed activities, and plans depicting the limits of all ground-disturbing activities. Emily Greer, the regulatory Project Manager responsible for Craven County, is available to answer any questions you may have and assist you with all DA permit-related requirements. Ms. Greer can be reached at (910) 251-4567, or by email at Emily.C.Greer@usace.army.mil.
Hydraulics + Hydrology Studies (H+H Studies)

- What is it?
  Study that determines the movement + flow of water

- Why needed?
  Addresses up and down stream impacts
Front Loading EHP
E.O. 11998 (Protection of Floodplains) + 8-Step

<table>
<thead>
<tr>
<th>Environmental Regulation or Statute</th>
<th>Yes</th>
<th>No</th>
</tr>
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<tbody>
<tr>
<td>Executive Order 11998 (Protection of Floodplains) and Executive Order 11990 (Protection of Wetlands)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>4.A</strong> Does a Flood Insurance Rate Map, Flood Hazard Boundary Map, hydrological study, or some other source indicate that the project is located in, or will affect, a 100-year floodplain, a 500-year floodplain (if a critical facility), an identified regulatory floodway, or an area prone to flooding?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>4.B</strong> Is the proposed project located in, or will it affect, a wetland as listed in the National Wetland Inventory?</td>
<td></td>
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</tr>
<tr>
<td><strong>4.C</strong> Will the proposed project alter a watercourse, water flow patterns, or a drainage way, regardless of its floodplain designation?</td>
<td></td>
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<tr>
<td><strong>4.D</strong> Is the proposed project located in, or will it affect, a floodplain or wetland? If yes, the 8-step process summarized in Appendix J must be completed.</td>
<td></td>
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</tr>
</tbody>
</table>

**RESOURCE:**
HMA Unified Guidance,
EHP Checklist: Part X, Appendix I
Front Loading EHP
E.O. 11998 (Protection of Floodplains)

RESOURCE:
https://msc.fema.gov/portal
J. 8-Step Decision Making Process for Floodplain Management Considerations

Step 1. Determine whether the proposed action is located in a wetland and/or the 100-year floodplain (500-year floodplain for critical actions) and whether it has the potential to affect or be affected by a floodplain or wetland (see 44 CFR Section 9.7).

Step 2. Notify the public at the earliest possible time of the intent to carry out an action in a floodplain or wetland, and involve the affected and interested public in the decision-making process (see 44 CFR Section 9.8).

Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a floodplain or wetland (including alternative sites, actions, and the “no action” option) (see 44 CFR Section 9.9). If a practicable alternative exists outside the floodplain or wetland, FEMA must locate the action at the alternative site.

Step 4. Identify the potential direct and indirect impacts associated with the occupancy or modification of floodplains and wetlands and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action (see 44 CFR Section 9.10).

Step 5. Minimize the potential adverse impacts and support to or within floodplains and wetlands to be identified under Step 4, restore and preserve the natural and beneficial values served by floodplains, and preserve and enhance the natural and beneficial values served by wetlands (see 44 CFR Section 9.11).

RESOURCE:
HMA Unified Guidance,
8-Step Process: Part X, Appendix J
Remember:

- Provide FEMA FIRM panel
- Use the 8-step process to scope/ID impacts
- Open space: Future Use

(UHMA Addendum pages. 24-27; 44CFR, Part 10)
# Front Loading EHP

## Coastal Zone Management Act

<table>
<thead>
<tr>
<th>Environmental Regulation or Statute</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coastal Zone Management Act</td>
<td></td>
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</tr>
<tr>
<td>5.A</td>
<td>Is the proposed project located in the State’s designated coastal zone?</td>
<td></td>
</tr>
</tbody>
</table>

**RESOURCE:**
HMA Unified Guidance,
EHP Checklist: Part X, Appendix I
**Front Loading EHP**  
**Farmland Protection Policy Act**

<table>
<thead>
<tr>
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<th>Yes</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Farmland Protection Policy Act</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.A Will the proposed project convert more than 5 acres of &quot;prime or unique&quot; farmland outside city limits to a non-agricultural use?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RESOURCE:**  
HMA Unified Guidance,  
EHP Checklist: Part X, Appendix I
Front Loading EHP
Farmland Protection Policy Act

Activities that may be subject to FPPA include:

State highway construction projects
Airport expansions
Electric cooperative construction projects
Railroad construction projects
Telephone company construction projects
Reservoir and hydroelectric projects
Federal agency projects that convert farmland
Other projects completed with Federal assistance.

RESOURCE:
http://www.nrcs.usda.gov/wps/portal/nrcs/detail//?cid=nrcs143_008275
### Front Loading EHP
**RCRA & CERCLA**

<table>
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<th>Environmental Regulation or Statute</th>
<th>Yes</th>
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<tbody>
<tr>
<td>Resource Conservation Recovery Act and Comprehensive Environmental Response, Compensation, and Liability Act</td>
<td></td>
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</tr>
<tr>
<td>7.A Is there reason to suspect there are contaminants from a current or past use on the property associated with the proposed project?</td>
<td></td>
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<tr>
<td>7.B Are there any studies, investigations, or enforcement actions related to the property associated with the proposed project?</td>
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<td></td>
</tr>
<tr>
<td>7.C Will any project construction or operation activities involve the use of hazardous or toxic materials?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.D Are any of the current or past land uses of the property associated with the proposed project or are any of the adjacent properties associated with hazardous or toxic materials?</td>
<td></td>
<td></td>
</tr>
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**RESOURCE:**
HMA Unified Guidance,
EHP Checklist: Part X, Appendix I
Front Loading EHP
E.O. 12898 (Environmental Justice)

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<tr>
<td>Executive Order 12898 (Environmental Justice for Low Income and Minority Populations)</td>
<td></td>
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<tr>
<td>8.A Are there any low-income or minority populations in the project's area of effect or adjacent to the project area?</td>
<td></td>
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</tbody>
</table>

RESOURCE:
HMA Unified Guidance,
EHP Checklist: Part X, Appendix I
### Front Loading EHP Additional EHP Considerations

<table>
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<tr>
<th>Environmental Regulation or Statute</th>
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</tr>
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<tbody>
<tr>
<td><strong>Other Environmental/Historic Preservation Laws (including applicable State laws) or Issues</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.A Are other environmental/historic preservation requirements associated with this project?</td>
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<tr>
<td>9.B Are any controversial issues associated with this project?</td>
<td></td>
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<tr>
<td>9.C Have any public meetings been conducted, or public comment solicited, on the proposed project?</td>
<td></td>
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</tr>
</tbody>
</table>

**RESOURCE:**
HMA Unified Guidance,
EHP Checklist: Part X, Appendix I
Focus Topic: Historic Preservation

Section 106 of the National Historic Preservation Act
**Front Loading EHP**

National Historic Preservation Act

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**RESOURCE:**
HMA Unified Guidance,
EHP Checklist: Part X, Appendix I
Section 106 Process under the National Historic Preservation Act

**Initiate Section 106 Process**

- Establish Undertaking

  **FEMA HP Specialist** evaluates project and makes a determination

  - Project involves only previously disturbed area/meets Programmatic Allowances
    - **No Potential to Affect archaeological/cultural resources**; Document to file.
    - End of Section 106 Process

  - Project involves a Standing Structure
    - Structure is less than 50 years old and not of exceptional merit; Document to file.
    - End of Section 106 Process

    - Project does not meet Programmatic Allowance; Takes place in previously undisturbed area; **Potential to affect archaeological/cultural resource**
      - Structure is more than 50 years old but HP specialist determines it is not NR eligible; Document to file.
      - End of Section 106 Process

    - Continue with Initiating Section 106 Process
      - Identify SHPO/THPO
      - Plan to involve the public
      - Identify other consulting parties

  - Identify Historic Properties
    - Determine APE and Scope of Effort
    - Identify historic properties
    - Evaluate historic significance (NR eligibility)
      - No Historic Properties Affected
      - Notify Consulting Parties; If no objections
      - End of Section 106 Process
Section 106 Process under the National Historic Preservation Act

1. **Historic Properties Affected**
   - **Assess Adverse Effects**
     - Apply criteria of adverse effect

2. **Historic Properties Adversely Affected**
   - **Resolve Adverse Effects**
     - Continue consultation

3. **Failure to Agree**
   - **Council Comment**
     - FEMA makes final determination as to whether to fund the project

4. **No Historic Properties Adversely Affected**
   - Notify Consulting Parties; if no objection within 30 days

5. **Memorandum of Agreement or Secondary Agreement**
   - If Consulting parties agree, submit to Council to determine whether Council also wishes to be a signatory party

6. **End of Section 106 Consultation**

**RESOURCE:**
HMA Unified Guidance, Part X, Appendix K
Before the project is funded, FEMA must consult with the SHPO and other historic preservation stakeholders, including Indian Tribal governments to identify historic properties and determine how a proposed project will affect them.

If there are adverse effects, FEMA may work with the subapplicant to avoid these adverse effects through simple project modifications or specifications.
If this cannot be done, FEMA consults with historic preservation stakeholders on ways to avoid, minimize, or mitigate adverse effects to historic properties. This may result in a Memorandum of Agreement with the SHPO that outlines the agreed-upon treatment measures. This process can take time, which should be considered in developing the project scope of work.
National Historic Preservation Act
Historic Properties: Above Ground
National Historic Preservation Act
Historic Properties: Above Ground

Eligible

Not Eligible
National Historic Preservation Act
Historic Properties: Above Ground
National Historic Preservation Act
Historic Properties: Above Ground
National Historic Preservation Act
Historic Properties: Above Ground
In order to make a determination if properties eligible for listing in the National Register of Historic Places will be affected by this project, a cultural historic survey must be completed by an architectural historian or historian who meets the Secretary of the Interior’s professional standards. The survey must be conducted in accordance with the Kentucky Heritage Council’s Specifications, available online at http://heritage.ky.gov/en/revew. It should include any homes over 50 years of age that will be directly affected by this undertaking and should address the eligibility of homes both individually and as part of a district. After reviewing the survey report, the State Historic Preservation Officer will advise the applicant if further consultation is required. If no houses are over 50 years of age, documentation to this effect can be submitted to our office for consideration.

In addition, we request information on how demolitions will be carried out and proposed land treatments following demolitions. Upon review of this information, the applicant will be notified if any archaeology is necessary.

The State Historic Preservation Office has received for review and comment additional information we requested as part of three reviews conducted through the State e-Clearinghouse. All three projects consist of construction of safe rooms and associated parking.

KY20100512-0882 (Anderson-Duncan Park Safe Room): Based on the information and photograph provided, no archaeological survey is required. It appears there will be no historic properties affected by the proposed safe room and parking lot. Please note, work must stop and our office must be contacted in the event that any artifacts are inadvertently uncovered during work.
National Historic Preservation Act
Tribal Resources

Tribal resources are cultural resources that are, or have been in the past, associated with Native American groups.

The NHPA requires Federal agencies to consult with Tribal groups with a designated interest in their actions whether or not the undertakings are to occur on or off Tribal lands.

Federally recognized Indian Tribal governments are independent, sovereign nations; as such, FEMA must consult with these groups directly, on a government-to-government basis.

Subgrantees/Grantees are asked not to reach out to Indian Tribal governments directly.
National Historic Preservation Act
Tribal Resources

Federally Recognized Indian Tribes with an Interest in Kentucky

- Absentee Shawnee Tribe of Oklahoma
- Cherokee Nation of Oklahoma
- Chickasaw Nation
- Choctaw Nation of Oklahoma
- Delaware Nation of Oklahoma
- Eastern Band of Cherokee Indians
- Eastern Shawnee Tribe of Oklahoma
- Miami Tribe of Oklahoma
- Peoria Indian Tribe of Oklahoma
- Shawnee Tribe
- United Keetoowah Band of Cherokee Indians
National Historic Preservation Act
Tribal Resources

Project Site Activities

Complete and accurate project Scope-of-Work

- Location Information
- Accurate latitude and longitude coordinates
- Accurate address for the proposed project
  - Maps: topographic, aerial photograph, FIRM
- Past land uses
- Site plans: area and depth of ground disturbing activities, staging locations for heavy equipment
- Project designs/specifications
3062 Peavy Road, Hickory, Newton County, MS
(34.72274, -89.12996)
The Final Word: Project Close Out

- Be aware of the EHP conditions at award
- Project will go through EHP review at Close out
- Carry out the project as conditioned
- FEMA Program will make the final determination as to whether to fund the project
QUESTIONS