

- J. Occasionally, other environmental and historic preservation laws may apply to FEMA-funded activities. These include Federal, State and local laws.

Environmental

The Clean Air Act (CAA) – The CAA is the comprehensive Federal law that regulates air emissions from area, stationary, and mobile sources. This law authorizes the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) to protect public health and the environment. The goal of the Act was to set and achieve NAAQS in every state by 1975. The setting of maximum pollutant standards was coupled with directing the states to develop state implementation plans (SIP's) applicable to appropriate industrial sources in the state. The 1990 amendments to the Clean Air Act in large part were intended to meet unaddressed or insufficiently addressed problems such as acid rain, ground-level ozone, stratospheric ozone depletion, and air toxics.

Occupational Health and Safety Act (OSHA) - Congress passed the Occupational and Safety Health Act to ensure worker and workplace safety. Their Goal was to make sure employers provide their workers a place of employment free from recognized hazards to safety and health, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, or unsanitary conditions. OSHA is regulated by the U.S. Department of Labor that oversees the administration of the Act and enforces standards in all 50 states.

The Safe Water Drinking Act - The Safe Drinking Water Act was established to protect the quality of drinking water in the U.S. This law focuses on all waters actually or potentially designed for drinking use, whether from above ground or underground sources. The Act authorized EPA to establish safe standards of purity and required all owners or operators of public water systems to comply with primary (health-related) standards. State governments, which assume this power from EPA, also encourage attainment of secondary standards (nuisance-related).

The Wilderness Act Congress enacted the Wilderness Act (P.L. 88-577) in 1964 to establish a National Wilderness Preservation System of federal lands "where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain." The Wilderness Act generally prohibits commercial activities, motorized access, and infrastructure developments in congressionally designated areas.

Executive Order 12699: Seismic Safety of Federal and Federally Assisted or Regulated New Construction EO 12699 requires that all new federally owned, leased, assisted, and other regulated buildings be designed and constructed in accordance with the appropriate seismic standards. The Interagency Committee on Seismic Safety in Construction (ICSSC) has recommended the use of building codes which are substantially equivalent to the 1997 *National Earthquake hazards Reduction Program Provisions for the Development of Seismic Regulations for New Buildings* (NEHRP Provisions).

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks Environmental health and safety risks disproportionately affect children. From pesticides in schools and playgrounds to nitrates in the water, children are at increased risk for a variety of adverse health effects such as developmental delays and asthma. The 1997 Presidential Executive Order on the Protection of Children to Environmental Health Risks and Safety Risks states that each Federal agency shall make it a high priority to identify and assess these risks.

Historic Preservation

American Indian Religious Freedom Act of 1978 - **express and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.** If a place of religious importance to American Indians may be affected by an undertaking, AIRFA promotes consultation with Indian religious practitioners, which may be coordinated with Section 106 consultation. Amendments to Section 101 of NHPA in 1992 strengthened the interface between AIRFA and NHPA by clarifying that

Archeological Resources Protection Act of 1979 – regulates

Executive Order 13007: Indian Sacred Sites

Executive Order 13061: American Heritage Rivers

Native American Graves Protection and Repatriation Act of 1990

PDM projects must also apply to state and local laws as well. These are laws, regulations, and ordinances that you would need to comply with if you were initiating the project yourself. To assist with identifying and complying with state laws and regulations, many states have environmental review clearinghouses which coordinate environmental reviews with the various state agencies. About half of the states have clearinghouses. To see if there is one in your state, go to <http://www.whitehouse.gov/omb/grants/spoc.html>.

J.-1 Determining if there are other Environmental or Historic Preservation requirements associated with your project

- There are several other federal environmental/historic preservation (EHP) laws that may apply to your project, in addition to state and local laws and regulations. [Link to list on Title Page]

Other federal laws and regulations that FEMA-funded projects are required to comply with, if applicable, can be found at <http://www.fema.gov/ehp/compliance.shtm>. If your project is near resources that could trigger any of these laws, documentation of the proper

agency coordination should be included in the comment area or attached to Section J of the PDM Environmental and Historic Preservation Questions. For example,

- if your project is located in a non-attainment area for air quality, contact the state air quality agency to see if a Clean Air Act conformity plan is required for emissions generated on site.
- if your project involves altering a waterway or installing a culvert, ensure you have designed proper fish passage
- If your project is near a large coastal body of water such as a bay, harbor, sound, or tidal river, contact NOAA-NMFS
- If your project is on Tribal lands, many other laws may apply
- if the project may impact archeological sites or properties of religious or cultural significance, other laws and executive orders may apply

In addition to federal laws and regulations, FEMA funded projects must comply with all state and local laws and ordinances. These are statutory and regulatory requirements that your project would have to comply with, regardless of the funding source. You may have addressed some state and local environmental and historic preservation requirements in previous sections, but if there are other laws and regulations that you are aware of, document them in this section. If you are unsure if there are other state and local requirements, work closely with the organization(s) that typically implements the types of project you are proposing in your community to identify and address any other environmental or historic preservation requirements. Another good way to determine if there are any state and local environmental and historic preservation conditions or permits required for your proposed project is to involve municipal and state agencies during project planning and development. Typically these agencies can be found on the web by searching for terms such as: [state] Department of Environmental Protection, [state] Department of Environmental Quality, [state] Department of Natural Resources, or [state] Planning agency.

Local laws and ordinances generally focus on zoning and issues affecting the local community, such as noise, visual impacts, and landscaping, but will vary from area to area. Contact local authorities such as the mayor or town council to determine if there are any local laws that will apply to your project. Include their response letters or comments in your PDM application.

In many states there are environmental review clearinghouses which coordinate environmental reviews with state agencies. About half of the states have clearinghouses. To see if there is one in your state, go to <http://www.whitehouse.gov/omb/grants/spoc.html>. Call the clearinghouse before writing them a letter to find out to the point of contact.

Once you have identified the state or local agency that may have jurisdiction over resources associated with your project or a state clearing house, write a letter to the agency indicating that you are applying for federal funding through the PDM program and you are requesting a project review. In the letter, you should:

- Indicate that you are applying for federal aid, and you are requesting information about the presence of protected species and habitat near your project area [link to template].
- Include in your request the name of the nearest city and the names of the county and state where the project will occur.
- include a detailed description of the proposed project
- include a 1:24,000 scale USGS map showing the project boundaries, and photos of the project, if available [link to how to obtain map][link to example]

These agencies typically take at least 30 days to respond (Clearinghouses can take 45 to 60 days), so it is important to initiate contact early. If you have not received an agency response as you are finalizing your application, it is a good idea to follow up with them to find out when you can expect it.

Once you receive a response from the regulatory agency, read it carefully to determine if any additional coordination will be required, or if the agency needs additional information. Responses from regulatory agencies can contain valuable information pertinent to your project, such as: conditions for permitting, required environmental mitigation measures, or even suggestions for changes to the scope of work. Incorporate comments from the agency directly in the PDM application. If any mitigation or treatment measures are required, include them in your scope of work and as a line item in your cost estimate.

If local, municipal, or state permitting will be required, state this clearly in the comments area of Section J in the PDM Environmental and Historic Preservation Questions and indicate what measures will be necessary to obtain these permits. Remember, at this point in application development, the objective is not to obtain permits, but to understand what permits might be necessary and what, if any, effect their requirements might have on the design and cost of the proposed project.

J.-2 Determining if there are any controversial issues associated with your project

Your project could be controversial if anyone disagrees with the intention, appearance, effectiveness, timing, or location of the project. Projects that impact valued resources such as the quality of the environment, valued community areas, views of scenic areas or historic districts, may draw increased controversy. Projects that will financially burden or inconvenience nearby residents may also lead to controversy. The higher the anticipated public controversy, the more important it is to involve the public in the decision making process and document these efforts in your PDM application.

In general, controversy is greatest among the people who see or interact with the project site on a regular basis, such as the people who live or work nearby. Controversy can also be high with people who are directly affected by noise, travel delays, or reduced air quality. To find out if there may be controversy associated with your project, consult with local interest groups, housing associations, and local businesses early in your project

design. If there are no organized associations in the project area, engage the public directly through notices or mailings or other media. Use existing forums or hold public meetings to get input and record the comment and general sentiment of the meeting.

There is a difference between sounding out the public to determine if there is public controversy and public notice and involvement requirements for Federal actions. Public notice and involvement is usually required by law or regulation, if your project is in, near, or affects a floodplain (Section E), wetland (Section D), or historic property (Section A and B).

J.-3 How to provide relevant and helpful support documentation

If you have identified other Federal, state, or local laws and regulations that have compliance requirements for your project, you should check the box in Section J-1 “yes” and in the comments area, document each requirement, the compliance action that will need to be taken and the cost associated with the action. Also be sure to include the actions in the scope of work section and a line item for the associated costs in the cost estimate.

If you have identified that there are controversial issues associated with your project, check the box in Section J-2 “yes: and carefully document the nature of the issue in the comments section. Also document the actions you have taken to assess the level of controversy and any action that will be required to mitigate the controversy.

If you have had public involvement in association with your proposed project, whether it was a requirement for another environmental or historic preservation compliance activity, a means to assess public controversy, or as part of the planning process for your community, check the box for Section J-3 “yes.” In the comments section, document the details of your public involvements efforts. Indicate when public meetings occurred, who was present, and what the general consensus of the meeting was. If available, include the agenda, attendees, and official meeting minutes in your application as an attachment. Include any official correspondence that municipal, county, or state representatives provided. Indicate if you initiated public involvement or notice to determine if there were controversial issues associated or in response to a regulatory requirement as discussed in Section J-2. Provide copies of the responses or, at a minimum, a synopsis of how many people responded and the general attitude of the responses.