

STANDARD OPERATING PROCEDURES (SOP) FOR  
U.S. ARMY CORPS OF ENGINEERS (USACE) UNDER MISSION ASSIGNMENT TO  
FEMA FOR  
PREPARING ENVIRONMENTAL ASSESSMENTS

**REFERENCES:**

- Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, *as amended*
- 42 USC § 404, *Hazard Mitigation Grant Program*.
- 42 USC § 5159, *Protection of Environment*.
- 44 CFR § 9, *Floodplain Management and Protection of Wetlands*.
- 44 CFR § 10, *Environmental Considerations*.
- 44 CFR § 206, *Federal Disaster Assistance for Disasters Declared on or After November 23, 1988*.
- National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190), *as amended*.
- National Historic Preservation Act (NHPA) of 1966, *as amended*.

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**A.) Introduction**

Under the Federal Response Plan (FRP) dated April 1992, FEMA can activate emergency support teams, comprised of Federal program and support personnel to assist and support FEMA's disaster response and recovery mission. Personnel from other Federal agencies are assigned to Emergency Support Functions (ESF) Numbers 1 through 12, which is described in the FRP. Any Federal agency can be directed to detail personnel within the agency's administrative jurisdiction to temporary duty with the Federal Coordinating Officer (FCO) as

stated in 44 CFR Part 206.43, “*These emergency support teams assist the FCO in carrying out his/her responsibilities under the Stafford Act and these regulations.*” It should be noted that this does not include actions taken by another agency under their own authority.

Under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288 (Stafford Act) and 44 CFR 206.7, FEMA may direct or “mission assign” any Federal agency to use its authorities and the resources granted to it under Federal law to support emergency efforts by State and local governments. A mission assignment is basically a job order from FEMA to another Federal agency to perform work or an action authorized by the Stafford Act, on behalf of FEMA. Examples of mission assignments include debris removal or design and construction of temporary emergency housing.

Even though the mission assigned agency is tasked to prepare and complete the necessary environmental reviews and to secure any required environmental and/or related permits, the other agency is acting as an agent for FEMA, in compliance with 44 CFR Part 206.43. Therefore, they are assisting “the FCO in carrying out his/her responsibilities under the Stafford Act and these regulations.” When another agency acts on FEMA’s behalf, FEMA’s regulations govern the action for the mission assignment. 44 CFR Part 10, Environmental Considerations, provides the policies and procedures for performing environmental reviews prior to implementing any action authorized by the Stafford Act.

FEMA’s Regional Environmental Officer/Environmental Liaison Officer (REO/ELO) ensures and oversees environmental and historic preservation compliance of FEMA’s actions accomplished under the Stafford Act. The REO initiates and coordinates numerous activities to provide program support, gathers information and analyzes data to respond to environmental issues, and is the primary point of contact for mission assigned agencies when they are engaged in environmental compliance. FEMA has an obligation to proceed quickly to assist in disaster response and recovery while ensuring that the environmental and other associated laws are met.

For mission assignments involving actions that require emergency Environmental Assessments (EA), such as emergency temporary housing, there is an urgent need to expedite the environmental review process. A qualified, fully staffed, well-trained team is required to perform this activity. The EA must be thorough and well documented and must provide the public an opportunity to participate and comment in accordance with the law. The mission assigned agency must recognize that the creation of temporary facilities such as mobile home parks or other group sites are intended to be temporary. Consequently, consideration must be given to minimizing permanent or long-term impacts to these sites, as they are meant to be returned to their pre-existing use once the need for the emergency action has passed. Design and construction of these facilities must minimize permanent effects, including minimizing grading or filling, and the removal of natural vegetation or other natural features.

The decision document resulting from an EA is a Finding of No Significant Impact (FONSI). NEPA requires that the FONSI must be made prior to initiating any construction activity. If a FONSI cannot be reached based on the alternatives analysis in the EA, other alternatives must be considered. Under NEPA if a FONSI cannot be reached, then the process moves into the next level, which is an Environmental Impact Statement (EIS). However, in an emergency situation an EIS is not practical due to time constraints and the urgent need for the facility under consideration.

## **B) Authority**

FEMA is required to comply with all the environmental laws, regulations, and Executive Orders in accordance with the Stafford Act and 44 CFR for all FEMA programs. Most FEMA Regional Environmental Officers have been delegated the Headquarters Environmental Officers authority to sign FONSI's for FEMA's EO and OGC. The FEMA Environmental Liaison Officer in a DFO is in nearly all cases also an REO from one of the FEMA regions. You should coordinate directly with this person to seek approval for environmental review.

Based on this authority, all environmental documents must be coordinated with and approved by the Regional Environmental Officer, prior to any construction activity. Any and all conditions identified in the FONSI are legal requirements, and as such must be complied with by FEMA, any agency mission assigned to carry out actions for FEMA, the State and any subapplicants.

## **C) EA Team**

An interdisciplinary team should be assembled as soon as it is known that temporary or permanent housing is needed to start the environmental review and prepare the EA. It is recommended that the following disciplines, at a minimum, be represented on the environmental team:

- Environmental Compliance Manager (NEPA experience required)
- NEPA specialist
- Hazardous Materials specialist
- Biologist (Endangered Species)
- Biologist (water quality/air quality)
- Archeologist/ Wetlands/floodplain specialist
- Historic Preservation/ Cultural Resource specialist
- Socio/economics specialist
- Environmental Justice/Equal Rights
- Coastal specialist (if applicable)

It is recommended that the team be co-located with the USACE designers and any USACE mission assigned staff during the preparation of the EA for continuous coordination through out the process. This is particularly important when EA's are expedited for emergency actions.

## **D) EA/FONSI Preparation**

### **Environmental Assessment (EA):**

- **Purpose and Need**

Carefully and succinctly describe the purpose and the need for the proposed action. This is the problem statement and not merely a statement of support for a predetermined solution.

- **Alternatives**

Provide a minimum of three feasible alternatives (in addition to the no-action alternative), that resolves the problem and addresses the purpose and need for the action. The alternatives must be technically, economically and legally feasible. Be sure to include all potentially viable alternatives in the EA document. Oftentimes in an emergency situation there is a tendency to fully evaluate only one proposed site because of time constraints. However, if later that proposed site cannot be used for some reason, the EA would have to be started over to evaluate a host of new alternative sites. To expedite the process and to ensure an adequate number of sites are available if needed later (particularly important in temporary housing sites), include any and all viable alternatives in the EA document.

Additionally, include any alternatives that on the surface appear to be viable, but cannot be considered due to circumstances. An example would be a site with a buried high-pressure gas line running through it. The public might perceive this as the perfect site, but the site would not be immediately suitable for temporary emergency housing. This type of alternative should be briefly discussed, then dismissed. State the reasons why this alternative will not be considered further. Including alternatives in this way often alleviates the public's concern that not all "obvious" alternatives are being considered and expedites the public comment process.

- **Detailed Description of Actions**

Describe in detail, to the extent possible, every component of the proposed action and the alternatives. The reviewer/public must have a clear picture of all components of the actions and how they relate. Describe sizes, amounts of materials/excavation, locations, areas of disturbance, and methods to be used. Include site drawings that depict the functional and spatial relationships of the action and the immediate environment. An unclear or incomplete description of the project may raise concerns for reviewers and the public about whether the effects of the project have been thoroughly assessed. An unclear description may also make it impossible for the reviewer, who cannot visit the project site, to readily draw the same conclusions about the impacts.

The reader should *never* have to assume anything. The reader may have never been to the area. With the advent of posting EA's on the internet for public review, this is particularly important.

- **Thorough Description of the Effected Environment**

Describe the existing environmental conditions as they relate to the impacts of the actions and explain the status of other resources commonly evaluated in environmental assessments. Be specific in characterizing the existing environment including the presence of human and natural resources in the immediate project area (i.e. in the footprint of the distributing activity, within proximity and the general area). Information on a countywide summary basis is not helpful unless site-specific conditions are also discussed. Remember, the study area should not be determined by the resource being discussed.

- **Complete an Objective Assessment of Adverse and Beneficial Impacts**

For each component of all actions ("no action", proposed action and alternatives), provide an analysis of the potential impacts, even for those components that seem relatively benign. Address all relevant impacts. Be thorough, clear and non-judgmental in the assessment.

Reference in the text all site visits, studies, agency contact or consultations that the assertions made. Strive for consistent documentation.

- **Location Maps**

A minimum of three location maps should be included in the EA. If color maps are used, they should be drawn so that black and white copies are easily read. These maps include:

- 1) Location of the project within the state.
- 2) Location of the project within the region.
- 3) Specific project location showing the possible location alternatives.

### Key Environmental Assessment “Do’s”

- Focus on the process – not the document
- Focus on important issues
- Perform complete project scoping—including scoping with Federal, State and local agencies, as well as the public
- Be concise
- Address “no action”, alternatives and the proposed actions with the same level of detail
- Use graphics
- Use clear, legible maps showing state, immediate vicinity and exact project location
- Use appendices for technical data/information (e.g. Biological Assessments)
- Use Times New Roman 12 point Font
- **Document** all coordination with resource agencies either by letter or telephone—include name, agency, title, date, phone number and conversation summary
- FEMA REO and the FEMA and State temporary housing leads must approve draft EA before it is published for public comment

### Key Environmental Assessment “Don’ts”

- Assume that proposed action is the only feasible alternative
- Make assumptions that a FONSI will be the outcome
- Give lengthy descriptions of irrelevant issues
- Use the document to justify decisions that had already been made
- Degrade other alternatives to “sell” the proposed action
- Bind the document by stapling only. (We have to make lots of copies, and binders get in the way.)

## **E) Compliance with Federal Laws and Executive Orders (EO)**

Listed below are Federal Laws and Executive Orders that must be taken into account when preparing a Federal Emergency Management Agency (FEMA) EA. These laws must be addressed in the EA document:

- **National Environmental Policy Act (NEPA):**

Process law requiring Federal agencies to use a systematic, interdisciplinary approach to evaluate a project's effects on the environment. One dollar of Federal funds in any project requires environmental consideration and compliance with NEPA. FEMA has a statutory exclusion from NEPA for certain actions that are identified in the Stafford Act, however, the exclusion is only from compliance with NEPA, and not any of the other environmental or historic preservation laws or regulation. The exclusion does not include establishing new sites for new permanent or temporary housing.

Once the EA is complete and, presuming that no environmental impacts have been found, then a Finding of No Significant Impact (FONSI) can be prepared and executed. In an emergency situation, if significant environmental impacts are identified for a particular site and they cannot be mitigated through specified activities, the site in question should be dropped from further consideration. There isn't sufficient time in an emergency situation to proceed with an Environmental Impact Statement (EIS). This is why it is particularly important to identify as many potential sites up front as possible.

- **Section 106 of the National Historical Preservation Act (NHPA):**

All Federal undertakings require compliance with the National Historic Preservation Act. The Federal agency is responsible for following a prescribed review process and is required to consult with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) for all actions. NHPA compliance is done concurrently with the EA, and must be incorporated into the final EA document. Fax all historical/ archeological findings to the SHPO for concurrence. Note that 36 CFR Part 800.12 provides for emergency situations and cites a 7 day comment period from the SHPO/THPO and the Advisory Council on Historic Preservation (ACHP), if available. These agencies must be notified of an emergency action, and must be advised if we cannot give them 7 days to comment. All telephone consultations and faxed correspondence must be followed in writing as soon as time permits.

A separate Memorandum of Agreement (MOA) may be required if the action affects a historic property. FEMA, the State Emergency Management Office, the SHPO, and the applicant are signatories to the MOA. The public must be given an opportunity to participate. Coordination can be done by phone and fax when necessary, followed by written documentation.

- **Endangered Species Act (ESA):**

Protects endangered and threatened species and their habitats without regard for economic factors. Consultation with U.S. Fish and Wildlife Service and/or National Marine Fisheries Service under Section 7 of the Act is required for all construction projects. Coordination with the state Fish and Wildlife Agency is also required.

- **Protection of Floodplains (EO 11988):**

Federal agencies/applicants must go through a planning process that evaluates alternatives and impacts to floodplains. The EA must address whether or not the alternative is in a floodplain and reference the Flood Insurance Rate Maps (FIRM) panel number. Except in very rare circumstances, temporary emergency housing should not be located in a floodplain.

- **Protection of Wetlands (EO 11990):**

Federal agencies/applicants must go through a planning process that evaluates alternatives and minimizes impacts to wetlands. They must consult with the U.S. Army Corps of Engineers (USACE) Regulatory Branch and U.S. Fish and Wildlife Service and report the results of these consultations. Projects should not be located in wetlands, from both a legal, as well as constructability, standpoint.

- **Environmental Justice (EO 12898):**

Federal agencies must evaluate actions for disproportionately harmful effects on minorities or low-income populations, and if possible avoid such effects. The EA must contain a brief discussion about the demographics and any possible impacts. Consideration must be given to unique cultural traditions and customs of the affected disaster victims. Although temporary emergency housing is intended to be temporary, circumstances may dictate that the housing remain in place for a lengthy time. For example, if the affected disaster victims have a community or ethnic custom of gathering, then this should be accommodated in the design of the temporary housing facility.

- **Clean Water Act:**

- **Section 404:** Requires compliance for any Waters of the U.S., and must meet provisions of a Nationwide Permit or an individual permit must be obtained. Permits must be obtained from USACE Regulatory Branch prior to completion of the EA and any conditions must be incorporated into the FONSI.
- **National Pollution Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Construction Activities:** Requires the preparation of a Storm Water Pollution Prevention Plan (SWPPP) for construction sites. Permits must be obtained prior to initiating construction for all sites 5 acres and larger. [Note: beginning 2002, sites larger than 1 acre will require a permit.]

- **Hazardous Materials—Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act:**

A Phase I Environmental Site Assessment must be performed for the sites being considered for temporary or permanent housing, in accordance with ASTM Practice E 1527, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. A Phase II Site Assessment may also be required depending on the results from the Phase I. Sufficient information must be obtained so that public health and safety are not jeopardized. Soil testing for the selected site must be performed to assure that all heavy metals and other potentially toxic materials are within EPA or State standards.

- **Other Applicable Laws and Executive Orders:**

There are numerous other environmental and historic laws that may pertain to the particular project that must be addressed. Attachment C of this document identifies some other laws that might apply. All applicable laws must be addressed in the EA.

## **F) Public Notice**

- (a) The Draft EA and FONSI must be available for public comment in accordance with CEQ regulations, 10 CFR § 1501.4 (b). During disaster situations FEMA's Office of General Counsel (OGC) allows an expedited 72-hour minimum public comment period. There are also public notice requirements for compliance with the NHPA and actions occurring in wetlands or floodplains. To expedite the public notice process, incorporate references/requirements for all laws that have a public notice requirement into a single notice.
- (b) Language considerations: depending on the ethnic makeup of the community, non-English notices may also be required. Verbal notices may also be needed (i.e. Public Service Announcements or door-to-door) if illiteracy is high in the area.
- (c) The documents must be placed in a location that the affected public can readily access. In addition to hard copy document, the document can be posted to a web site as a second method of making the documents available. Please note that during disasters, victims requiring emergency temporary housing do not usually have internet access readily available to them, so this can not be the only mechanism for the public to read the documents.
- (d) Public notice for comments can be made by newspaper ads, flyers distributed in the community, door-to-door notification, and/or by Public Service Announcements. FEMA's Community Relations, National Guard or volunteer organizations (i.e. Americorps) can help distribute flyers and notices.
- (e) Considerations for newspaper public notices: Publishing the public notice for document review in the local paper is recommended. However, since many small communities have newspapers that may print only once or twice a week, this may become a driving factor in the timing for expediting the review. The team needs to find out immediately what the constraints are for distributing notices in the local paper.
- (f) In emergency situations, public comments can be taken verbal or written. The agency receiving the comments should fully document all verbal comments for inclusion in the EA and FONSI.
- (g) Before any notices or other releases are given to the public, the public notice/release (by any method of distribution) must be approved by the Regional Environmental Officer (REO) or Environmental Liaison Officer (ELO) for that disaster, the FEMA and State Individual Assistance Officers, the State Coordinating Officer (SCO) and the Federal Coordinating Officer (FCO). These approvals must be documented. The use of a clearance sheet is recommended.
- (h) A final public notice once the FONSI is signed is also required.

## **G) Preparing the FONSI**

A FONSI is a finding that a proposed action will not have a significant impact on the environment.

- **Selection of Proposed Action** - Must indicate the selection, reasoning for selection, and description of the proposed action.
- **Finding** – Must reference the preparation of the EA in accordance with NEPA, NHPA, and other relevant laws and E.O.s.
- **Conditions** - Must indicate any environmental mitigation measures required as a condition of funding. The conditions should be stated clearly and succinctly. Number all conditions sequentially.

The FONSI should include all conditions and requirements that must be met as a part of the project development, construction, and closeout/removal of the temporary housing. Include all permits that must be obtained in the FONSI conditions. This provides the construction staff, State and subapplicant a consolidated reference to help ensure that funds are not later jeopardized

- **Compliance with Other Federal Laws** - Must indicate that compliance has been made with environmental and historic preservation laws, as well as indicate permits required.
- **Compliance with Executive Orders** - If no disproportionate adverse effects are discovered, then the FONSI must state that E.O. 12898 was complied with and that no disproportionate adverse impacts to low income or minority populations were discovered. The FONSI must also indicate compliance with E.O.s 11988 Floodplain and 11990 Wetlands.

#### H) **Notes to the Preparer**

- Coordinate all technical details through FEMA's REO or delegate. The Region VI REO is the approving official for the documents. The FONSI must be signed before construction can begin.
- E-mail an electronic version of the draft EA & FONSI to the REO (or delegate) and to the tasked agency if possible. Fax if e-mail is not available. Please use a digital camera if possible, so pictures can be e-mailed as well. All photos should be clearly labeled with the facing direction, site name, and any other information to describe the photo.
- Please refer to the FEMA Environmental Web page for any additional information.  
<http://www.fema.gov/mt/ep>