Environmental Planning and Historic Preservation (EHP) Compliance
Why is EHP Review Required?

- The National Environmental Policy Act of 1969 (NEPA) requires all federal agencies to examine the proposed impacts of their actions prior to project implementation.
  - This applies to grant-funded actions.
  - NEPA does not mandate preservation, only informed decision-making.
- NEPA serves as an “umbrella regulation” and provides a process through which other EHP laws and regulations can be considered.
- NEPA compliance has always been included in the special conditions of FEMA’s grant awards and in the grant guidance kits.
- State, local, or tribal processes cannot replace NEPA compliance; however, materials prepared for other entities can be submitted to the Grant Programs Directorate (GPD) along with the EHP Review Packet.
EHP Laws and Executive Orders

- Endangered Species Act
- National Historic Preservation Act
- Clean Air Act
- Clean Water Act
- Resource Conservation & Recovery Act
- Coastal Barrier Resources Act
- Coastal Zone Management Act
- NEPA
- Executive Orders: Environmental Justice
- Floodplains
- Wetlands
Environmental and Historic Preservation Considerations

- Floodplains
- Wetlands
- Cultural Resources
  - Historic properties
  - Archaeological sites
- Endangered Species
- Air and Water Quality
- Noise
- Fish and Wildlife (including habitat)

- Environmental Justice
- Socioeconomic Resources
- Land Use
- Hazardous Materials
- Traffic
- Geology (Topography, Soils)
- Coastal Zones
- Agricultural Lands
EHP Compliance Reviews

- GPD is responsible for certifying that all projects funded with federal grant dollars comply with the applicable EHP laws, regulations, and Executive Orders.
- An analysis of pertinent project information is used to determine the appropriate amount of documentation required for EHP compliance.
- Complex projects will typically require more information to reach a determination.
- Grantees must receive EHP approval before initiating GPD-funded projects.
# Importance of EHP Compliance

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Non-Compliance</th>
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<tbody>
<tr>
<td>● Protection of natural and cultural resources</td>
<td>● Project delays</td>
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<td>● Improved project planning</td>
<td>● De-obligation of funding</td>
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<td>● Cost efficient</td>
<td>● Negative publicity</td>
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<td>● Programmatic and financial compliance</td>
<td>● Civil penalties</td>
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<td>● Efficient project implementation</td>
<td>● Lawsuits</td>
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<td>● Improved community relations</td>
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EHP Review Packet

- Grantees must submit a complete EHP Review Packet to GPD
  - Grant funds may be used for preparation of EHP documentation
- The review packet must include a completed EHP Screening Form and details on the following:
  - A detailed project description, including what work is being proposed, where it will be accomplished, and how the work will be done
  - Project location (physical project address or latitude-longitude)
  - Labeled, color, aerial, and ground-level site photographs that indicate where equipment will be installed and ground disturbance will occur
  - Design plans or construction drawings for new construction/renovation
  - Age of any buildings on/in/adjacent to which equipment will be installed.
  - Dimensions (length, width, and depth) of ground disturbance
  - Previously completed environmental studies or previously completed agency coordination or consultation documents
GPD EHP Review Process

- Once the grantee submits a complete EHP Review Packet, GPD conducts a preliminary screening of the project and its potential impacts.
- GPD categorizes projects as Type A, B, or C depending on the nature and location of the project.
- Projects qualifying as a Categorical Exclusion (CATEX) may be approved by GPD staff, however other more complicated projects involving Extraordinary Circumstances may require consultation with other federal, state, or tribal agencies.
A Categorical Exclusion (CATEX) is defined as a category of actions that do not individually or cumulatively have a significant effect on the human environment.

44 CFR §10.8 provides a comprehensive list of FEMA’s CATEXs:
- Classroom-based training
- Portable equipment
- Administrative actions
- Preparation and distribution of documents
- Certain kinds of activities at existing facilities

Even if an action is categorically excluded from further NEPA review, all other EHP laws, Executive Orders, and permitting requirements still apply.
Extraordinary Circumstances

- If the nature or location of a proposed action renders it substantially different from a typical action of its category, it cannot be approved as a Categorical Exclusion and requires further review/consultation.

- Some examples of Extraordinary Circumstances include:
  - Greater scope
  - Public controversy
  - Unproven technology
  - Presence of threatened or endangered species
  - Hazardous/toxic substances
  - Increasing the height of an existing communications tower
  - Installation of utility systems
  - Health and safety
  - Legal violation
  - Cumulative impact
  - Historic properties/landmarks
  - Degradation of environmental conditions
  - Existence of wetlands/floodplains
Type A Projects

- Projects with no potential for adverse EHP impact
- Type A Categorical Exclusions (CATEXs) under 44 CFR §10:
  - Management and Administration (CATEX i)
  - Planning (CATEX iii)
  - Classroom-based Training (CATEX v)
  - Tabletop Exercises and Functional Exercises (CATEX v)
  - Training and Operational Exercises in Existing Facilities (CATEX v)
  - Purchase of Mobile and Portable Equipment (CATEX vi)
  - Software Upgrades (CATEX vi)
  - Plug-in Equipment (CATEX vi)
  - Replacement Components within Existing Consoles, Sirens, or Radios (CATEX vi)
Type B Projects

- Projects that will not result in adverse impacts on resources and that do not require additional consultation
- Type B Categorical Exclusions (CATEXs) under 44 CFR §10:
  - Physical security enhancements, including cameras, lighting, TWIC, and access control (CATEX xv)
  - Communications equipment and systems, including antennas, base radios, repeaters, and sirens (CATEX ix)
  - Renovations/upgrades/modifications to structures include bollards, fencing, security doors (CATEX xvi, xvii)
Type C Projects

- Projects that could result in adverse impacts on resources and that require additional consultation

- Examples include:
  - Type B Projects being implemented under Extraordinary Circumstances (e.g., installation on a building on the National Register of Historic Places, extensive ground ground disturbance)
  - New Construction or renovation
  - Communications towers
  - Docks or other port structures

- May require:
  - Environmental Assessment
  - Public Notice
  - Archaeological Survey
  - Memoranda of Agreement
## Roles and Responsibilities

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<th>Primary Responsibilities</th>
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| Grantee                                   | - Comply with EHP laws and regulations  
- Submit EHP Review Packets to GPDEHPinfo@dhs.gov  
- Receive EHP approval before beginning project work |
| GPD Program Analyst (PA)                  | - Approve Type A projects  
- Facilitate communications among the grantee, the GPD-EHP Staff, and the FEMA Regional Environmental Officer (REO) |
| GPD EHP Staff                             | - Approve Type B projects  
- Work with grantees to collect sufficient data for a defensible EHP compliance determination  
- Coordinate with REOs on Type C projects |
| FEMA Regional Environmental Officer (REO)  | - Coordinate and consult with partner agencies and offices for Type C projects  
- Issue a Record of Environmental Consideration (REC) and Finding of No Significant Impact (FONSI) if no adverse effects are found  
- Work with the grantee to identify next steps if adverse effects exist |
EHP Review Process for Compliant Projects

Grantee
- Submit EHP Review packet to GPDEHPinfo@fema.dhs.gov
- Submit additional information to GPD EHP Review Team

GPD EHP Review Team
- No
- Review EHP Review Packet
- Is the packet complete?
- Yes
- Recommend project as Type A, B, or C
- Type A

GPD EHP Specialist
- Type B
- Review project and notify PA
- Is project Type B or C?
- Type C
- Send to FEMA REO for review
- Type C
- Send to FEMA REO for review

FEMA REO
- Review project and notify PA
- Notify Grantee that project is approved

Program Analyst
Questions?