

ALABAMA Greenbook



Environmental & Historic Preservation Issues & Contacts for FEMA-1605-DR-AL

**SUMMARY OF ENVIRONMENTAL CONSIDERATIONS
GENERAL GUIDANCE TO APPLICANTS
RECEIVING PUBLIC ASSISTANCE**

Numerous Federal environmental and historic preservation laws require compliance in order for applicants to receive ANY Federal funding for projects. The following are the laws and Presidential Executive Orders (EO) that most often apply to Federal Emergency Management Agency (FEMA) funded projects:

- National Environmental Policy Act (NEPA)
- Endangered Species Act
- National Historic Preservation Act (NHPA)
- Clean Water Act (Sections 401 & 404)
- Clean Air Act
- EO 11988 Floodplain Management
- EO 11990 Wetlands Protection
- EO 12898 Environmental Justice

Applicants, in most cases, are allowed to complete the following work in accordance with published FEMA policy guidance without getting authorization ahead of time:

- Emergency Actions (e.g., search and rescue, emergency care, issues of life safety)
- Debris removal to the side of the road or a permitted landfill
- Repairs/restoration to pre-disaster condition (with no significant change in footprint), unless the structure is older than 49 years
- Temporary repairs, unless the structure is older than 49 years

Before the following actions can be taken, NEPA and other environmental and historic preservation considerations must be addressed:

- Debris removal other than stated above
- Dragging or dozing debris from streams
- Replacing or rebuilding a facility to something other than pre-disaster condition
- Work on historic, or potentially historic, sites or structures (e.g., older than 49 years old or listed on the National Register)
- Work that might affect an endangered or otherwise protected species
- Work that might affect a wetland
- Work that would change the flow of water or effect a floodplain
- Any project that might be controversial
- Burning, chipping or other processing of debris

The following construction projects, regardless of their nature, must go through environmental review by FEMA prior to the start of construction:

- Public Assistance (PA) Improved projects
- Public Assistance Alternate projects
- Public Assistance projects where the original, approved scope of work has been altered
- Flood Mitigation Assistance (FMA), Hazard Mitigation Grant Program (HMGP), Unmet Needs and other FEMA funded projects

REMINDER

Any applicant for FEMA PA must comply with all local, tribal, state and federal environmental and historic preservation laws and requirements, and obtain any applicable permits. Please be aware that failure to comply may jeopardize receipt of Federal funding. If you need assistance please contact a FEMA Environmental Specialist at (334) 260-3569.

ENVIRONMENTAL CONSIDERATIONS AND CONTACTS

FEMA-1605-DR-AL

FEMA and the Alabama Emergency Management Agency (AEMA) are working together to assist communities in responding to and recovering from this disaster. A part of FEMA's responsibility is to ensure that numerous environmental and historic preservation laws and Executive Orders are met. It is necessary that any applicant receiving FEMA funding through the presidential PA program comply with all applicable local, tribal, state and federal laws, regulations and permit conditions. Failure to comply may jeopardize federal funding.

If you have any questions or need technical assistance, please contact Ruth Horton, FEMA Environmental Liaison Officer, at (334) 260-3569.

DEBRIS MANAGEMENT

Debris removal includes a broad variety of activities eligible under the PA program. Debris can include -

- downed trees and tree limbs (known as vegetative debris);
- building wreckage;
- accumulations of sand, mud, silt, and gravel;
- ruined vehicles; and
- other similar disaster-related materials.

Debris removal may include -

- clearing debris from roadways
- collecting debris from public property
- staging debris temporarily at an approved location
- segregating types of debris
- processing debris - usually by chipping, burning, cutting or grinding - to reduce its volume or turn it into something of value
- hauling it to an approved disposal site, usually, a licensed landfill

Debris types. Most debris from this disaster is vegetative. Vegetative debris includes tree stumps, logs, limbs, brush, and leaves, and is not regulated as solid waste in Alabama. Vegetative debris may be disposed of in a variety of ways as discussed on the following page.

Structural debris, also known as Construction/Demolition (C&D), includes materials such as masonry, sheet rock, lumber products, metal, roofing, etc. Structural debris does not include asbestos. C&D debris must be disposed of in landfills specifically permitted to receive such debris.

Household and commercial trash may be disposed of in general municipal landfills. Other types of debris, such as damaged appliances (white goods), scrap tires, batteries, animal carcasses, and ruined vehicles must be handled separately and/or sent to special facilities. Different rules apply to different types of waste. If you have disaster debris that is not vegetative, C&D, or general trash contact your local county solid waste office or **Larry Bryant** at Alabama Department of Environmental Management (ADEM), Tel: (334) 271-7771, for disposal directions.

NOTE: *FEMA can only reimburse for disaster-generated debris.*

Staging debris. Emergency rules have been issued by ADEM for handling disaster debris. Counties are allowed to select staging sites without applying for a permit. As long as all waste is eventually removed from the staging area, and the site is restored to near original condition, it will not be subject to regulation. If debris is not transferred to a permitted facility, the emergency rules describe how the site will be regulated. [See attached rules.](#) Staging sites may be used for a variety of segregation and processing activities, including chipping or burning of vegetative debris. If you need technical assistance on the staging and/or disposal of disaster related debris contact Ruth Horton, FEMA Environmental Liaison Officer at (334) 260-3569.

NOTE: *For FEMA reimbursement, staging sites cannot be located in wetlands, floodplains (unless authorization is granted from the floodplain administrator), historical sites or other environmentally sensitive areas.*

Disposal of Disaster-Related Vegetative Debris by Burning. ADEM has issued emergency rules that allow vegetative debris to be burned if certain conditions are met. [See attached burning rule.](#) These rules and local burning regulations must be followed. For additional information about burning vegetative debris, contact **Lud Hoffmann** of ADEM's Air Division at (334) 271-7879.

Special Considerations

Asbestos: Demolition and renovation of residential homes, commercial and/or public structures, regardless of asbestos content, must be coordinated with ADEM. The applicant is responsible for obtaining and complying with all required permits before engaging in regulated activities. ADEM must be notified before beginning any work involving asbestos-containing materials. Contact **Lud Hoffmann** at (334) 271-7879 for additional information.

Hazardous Waste Disposal: If you deal with hazardous waste generated by the storm, contact the Alabama Department of Environmental Management for special instructions on what to do. Contact: **Steve Cobb** at (334) 271-7739.

HISTORIC PRESERVATION

Above Ground work

Additional considerations are necessary when the disaster area includes historic structures listed in or eligible for listing in the National Register of Historic Places. These structures are subject to Section 106 of the NHPA. Projects involving any structure that is 49 years or older, or that otherwise has specific historic cultural significance, must be reviewed under Section 106 before any demolition, construction or permanent repair activity starts. The **Alabama Historical Commission (AHC)** of the **Alabama Department of Archives and History** is involved in reviewing projects under Section 106.

In kind repair of structures older than 49 years old is eligible for expedited review provided that the repair work meets the following criteria for "in-kind" repair:

- End result will match all physical and visual aspects of existing historic materials, including form, color and workmanship
- Mortar repair will also match strength, content, color, rake, joint width and tooling of existing historic mortar.

If an "in-kind" repair, as defined above, is not feasible, then the AHC must participate in review of any such proposed project. To expedite review by the AHC, please note the following in the project worksheet scope of work:

- For architectural review of historic and potentially historic structures submit:
 1. A detailed project description describing the property/structure(s).
 2. The age of the structure if known. If not known, get a copy of the tax card for the structure.

3. Exact location/address – road route numbers.
4. Current and past use of the structure.
5. Clear photographs showing the entire structure, hard copy or digital format (no photo copies please).

Previously Disturbed Areas

Activities occurring in previously disturbed areas as long as they are confined to the limits of the disturbance are allowed. (e.g., repair of water main, same size culvert replacement, utility repair)

Below ground work

The AHC must also review any proposed project that will impact any previously undisturbed areas (e.g., relocating a utility, road realignment, or a borrow material for construction) for archaeological concerns before initiating construction. Please note that plowing or other agricultural impacts are not considered a disturbance.

- For work that involves surface-level or subsurface ground disturbances beyond previously disturbed areas, submit:
 1. A brief description of all proposed work (include depth for subsurface impacts).
 2. An accurate map of the area, with the project location clearly marked (AHC prefers a USGS 7.5 minute topographic quad map whenever available).
 3. NOTE – Once approved, if any buried cultural materials are encountered after the work begins, (e.g., wells, cisterns, foundations, basements, prehistoric Indian artifacts, or human burials) cease work and immediately notify FEMA and the AHC.

Contacts:

- **Stacye Hathorn** – Section Head, Review and Compliance
(334) 242-3184
Thomas O. Maher - State Archaeologist
(334) 242-3184 Fax: (334) 240-3477

SECTION 10, 401 and 404 PERMITS

Sections 401 and 404 of the Clean Water Act (CWA), and Section 10 of the Rivers and Harbors Act, apply to actions affecting waters of the United States. This includes any part of the surface water tributary system (natural waters including small streams, lakes, ponds, and wetlands) as well as isolated man-made waters such as stock tanks and construction or mining pits. The Alabama Department of Environmental Management administers Section 401 of the CWA. The U. S. Army Corps of Engineers (USACE) administers Sections 404 with the U.S. Coast Guard (USCG) administering Section 10. Examples of actions requiring permits include construction, demolition, and any dredging or filling in any part of surface water tributaries or systems including cutting roads, and repair of damaged facilities.

Bridges and Culverts: Obtaining permits is the responsibility of the applicant. Unless it is an emergency action (i.e., immediate threat to life or property), obtaining permits must be done prior to executing any construction. Emergency work still requires follow-up documentation with the USACE/USCG after the action is completed. A permit to work in rivers and/or streams is required for any construction or reconstruction of culverts or bridges.

To obtain information, including securing permits, contact:

- **United States Army Corps of Engineers (USACE)**
Alabama: Mobile District Office 334-690-2658,
<http://www.sam.usace.army.mil/op/reg/permmob2.htm>
- **Alabama Department of Environmental Management**
 - **Scott Brown**, Chief, Coastal Unit, at (251) 432-6533 or email: jsb@adem.state.al.us
(For Mobile, Baldwin and Washington Counties)

- **Steven Jenkins**, Chief, Field Operations Division, at (334) 271-7823 or email: soj@adem.state.al.us (all other Counties)

COASTAL MANAGEMENT

Responsibility for the [Alabama Coastal Area Management Program \(ACAMP\)](#)¹ is divided between two state agencies. The ADEM handles all regulatory aspects of the program including wetland and coastal construction permitting, and consistency determinations under the Coastal Zone Management Act. The Alabama Department of Conservation & Natural Resources (ADCNR), State Lands Division, Coastal Section is responsible for overall program management including fiscal and grant management, planning and public information.

The ACAMP has contracted with four local units of government to gather and coordinate permit applications, satisfy public notice requirements, provide permit information centers, and forwarding materials to the ACAMP for consideration regarding permit issuance. These contracts are with Baldwin County, the City of Orange Beach, the City of Gulf Shores, and the Town of Dauphin Island for services relating to construction and other activities that occur in or around this state's Gulf-fronting beaches and dunes. For permitting information contact the town or county building official with jurisdiction over your site or ADEM as listed below. For program information, contact ADCNR as listed below:

- **Scott Brown**, ADEM, Coastal Section, Field Operations Division at (251) 432-6533
- **Phillip Hinesley**, Section Chief, Alabama Department of Conservation and Natural Resources (ADCNR), State Lands Division, Coastal Section, Stonebrook Executive Complex, Suite B-1, 23210 Hwy. 98, Fairhope, Alabama 36532
251-929-0900 Fax: 251-990-9293

THREATENED AND ENDANGERED SPECIES

The **U.S. Department of the Interior, Fish and Wildlife Service (USFWS)** and the **ADCNR** are charged with protection of fish and wildlife resources, particularly wetland and upland habitats, as well as threatened and endangered species. In this role, the USFWS and ADCNR provide comments to FEMA regarding the impacts of specific FEMA-funded projects. It is recognized that certain categories of projects typically have no adverse environmental impacts and that a detailed project review by the USFWS and ADCNR is not warranted for such projects. Please contact the Environmental Office at the Joint Field Office (334) 260-3569 if you have questions about these categories.

There are numerous Federal and Threatened and Endangered Species within the declared counties. If you believe any state or federal listed or proposed species may be affected (positively or negatively) by your actions, additional information may be obtained from the USFWS and/or ADEM. Formal consultation may be required.

Contacts:

- USFWS
Larry Goldman at (251) 441-5870
- ADCNR, Division of Wildlife and Freshwater Fisheries
Mark Sasser, Coordinator, Nongame Wildlife Program at (334) 242-3469 (For project review)

¹ <http://www.adem.state.al.us/fieldops/coastal/coastal.htm>

EXECUTIVE ORDER (EO) 11988, FLOODPLAIN MANAGEMENT

Any new construction in a floodplain must comply with EO 11988 and must follow the eight-step process, including public notification, as identified in 44 CFR Part 9. For specific information contact:

- Your county or city floodplain administrator for specific information, or
- **Chuck Sanders**, Alabama National Floodplain Insurance Program (NFIP) Coordinator
(334) 353-1966 Fax: (334) 242-0776

Actions exempt from this EO are debris removal and repairs or replacements under Sec. 402, Stafford Act, which are under \$5,000 or actions within existing right-of-way that do not raise existing elevations.

EXECUTIVE ORDER 11990, PROTECTION OF WETLANDS

Any modification to a wetland must comply with EO 11990 and must also follow the eight-step process, including public notification, as identified in 44 CFR Part 9. Debris cannot be stored in a wetland, even temporarily. Debris removal from a wetland and/or any other demolition, repair, or coordination within a wetland must be coordinated with the USACE, USFWS, and ADEM, Water Management branch at the numbers given above.