



OREGON DISASTER 4562-DR-OR FEDERAL EMERGENCY MANAGEMENT AGENCY ENVIRONMENTAL CONSIDERATIONS GREENSHEET



Environmental Planning and Historic Preservation and Disaster Recovery

This “Greensheet” provides you with guidance on the Federal Emergency Management Agency’s (FEMA’s) environmental and historic preservation (EHP) review process. If you are seeking funding for disaster recovery from FEMA, **please read this carefully.**

As you repair and rebuild your community, EHP concerns may be overlooked. However, as with all federal funding, certain federal compliance requirements must be addressed. The information and assistance described here will help you avoid funding delays or risks.

The most important message is that the FEMA EHP staff are available to help you meet legal requirements. In this “Greensheet” you will find facts, procedures and contacts to help you through the process.

Please identify any potential EHP concerns or questions as early as practicable and discuss them with your assigned Public Assistance Project Development Manager (PDM). As projects are formulated, FEMA’s EHP staff can provide technical assistance and can help with resolution.

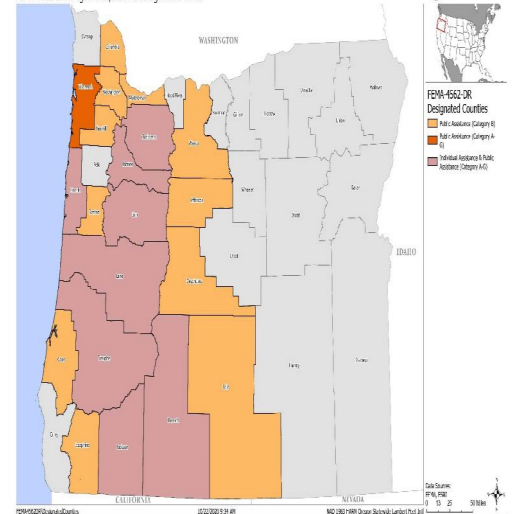
Our work is performed under the direction of FEMA Federal Coordinating Officer Dolph A. Diemont. We also coordinate closely with Oregon Office of Emergency Management (OEM) State Coordinating Officer Andrew Phelps and his staff. Key FEMA and State contacts for this recovery operation are on page 4.

As the Regional Environmental Officer, I pledge to assist you in understanding and complying with all environmental and historic preservation regulatory requirements.

Science Kilner
Regional Environmental Officer
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Designated Counties

FEMA-4562-DR Oregon Wildfires And Straight-Line Winds



Map of designated areas for assistance as of 10/27/2020

Environmental Laws and Project Requirements

The National Environmental Policy Act (NEPA) is a significant environmental law that directs federal agencies to consider the environmental effects of actions they are funding. There are additional environmental and historic preservation regulations that may come into play with disaster response and recovery activities — including those repairing or replacing damaged facilities.

Some activities may proceed with limited environmental or historic preservation review, while others require more detailed

review, which may include consultation/coordination with federal, State, and local resource/regulatory agencies, or affected tribes before work begins.

Any project that would affect tribal reservation lands must comply with tribal laws with an emphasis on environmental and cultural resource requirements.

Failure to comply with applicable federal, tribal, state, and local environmental and historic preservation laws could jeopardize or delay potential federal funding.

Federal Laws

- Endangered Species Act
- National Historic Preservation Act
- Magnuson-Stevens Fishery Conservation and Management Act
- Clean Water Act (especially Section 404)
- Coastal Zone Management Act
- Migratory Bird Treaty Act
- Executive Orders for Wetlands Protection, Floodplain Management, Invasive Species, and Environmental Justice

Projects that may proceed without detailed review:

- Most emergency protective measures
- Most debris removal and disposal
- Most temporary repairs and permanent repairs to pre-disaster condition

Projects that may require more detailed review:

- Debris removal in streams or debris disposal in areas not previously permitted/approved
- Permanent repairs that are not substantially to pre-disaster condition, including code and standards upgrades, and/or mitigation elements
- Improved or alternate projects
- Projects that may affect protected species, historic properties, archaeological sites, floodplains, wetlands, or that involve work in previously undisturbed ground

OREGON DISASTER 4562-DR-OR

Waterways, Including Culverts, Bridges and Bank Stabilization

The Clean Water Act (CWA) and the Rivers and Harbors Act (RHA) apply to in-water work or work within 200 ft. of waters of the United States. This includes any part of the surface area tributary system (natural waters, including small streams, lakes and wetlands) and some isolated man-made waters. All projects must comply with the Clean Water Act (CWA), including Section 404 which pertains to the U.S Army Corps of Engineers (USACE) permit requirements for the discharge of dredged or fill material into wetlands and waters of the U.S.

Obtaining permits is the responsibility of the applicant or person performing the work and must be done **prior** to initiating any site activity. For emergency actions that address immediate threats to life or property, the regulatory agency should have been notified and documentation of the correspondence should be provided by the applicant (see notification procedures bullets below).

To apply for all permits in **one** application, file a Joint Permit Application the USACE and the Oregon Department of State Lands (DSL). If your project does not require a permit from the DSL you may complete the USACE permit application.

- The Joint Permit Application website, along with USACE regulatory information, can be found at: <https://www.nwp.usace.army.mil/Missions/Regulatory/Apply/>
- USACE Emergency Notification Procedures can be found at: <http://www.nwp.usace.army.mil/Missions/Regulatory/Apply.aspx>
- Information on, and how to address Oregon Department of Fish and Wildlife (ODFW) fish passage requirements can be found at: <http://www.dfw.state.or.us/fish/passagel/>

Floodplains & Wetlands

FEMA reviews all projects that have potential to affect or be affected by a floodplain, as required by Executive Order 11988 Floodplain Management. For some projects, this could require completing the "8-step" process, which looks at and evaluates project alternatives and may include public review. Some projects are exempt from floodplain review, such as debris removal, emergency protective measures, and repairs or replacements for sites costing less than \$5,000. **For information about floodplain development permitting requirements per the local floodplain ordinance and National Flood Insurance Program, contact your local floodplain administrator (see page 4).**

The "8-step" review process may also be required when a project adversely affects a wetland, per Executive Order 11990. A project permit might also be required from USACE or the local jurisdiction. Debris cannot be stored in a wetland, even temporarily. Debris removal from a wetland must be coordinated with the Oregon Department of State Lands, USACE, and the U.S. Fish and Wildlife Service (USFWS).

Stormwater Permits

Stormwater management programs pursuant to State and Federal law require permits to discharge stormwater from construction of more than one acre. For information about Clean Water Act compliance requirements for construction disturbing more than an acre, refer to the stormwater general permits issued by the Department of Environmental Quality: <https://www.oregon.gov/deq/wq/wqpermits/Pages/Stormwater.aspx>

Protected Species

All FEMA funded activities must comply with both the Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Under ESA, projects must avoid impacts that may effect threatened or endangered species or designated critical habitat. The National Marine Fisheries Service (NMFS) and the USFWS are the two federal agencies with jurisdiction. Listed species and critical habitat are within the designated disaster area. For completed projects, the applicant must show compliance with ESA (e.g., by having contacted NMFS and/or USFWS).



Bull Trout

FEMA must consult with NMFS and/or USFWS for any activities that have the potential to affect federally listed species' critical habitat or essential fish habitat. ESA and MSA frequently require conservation measures (e.g., project or timing restrictions) to minimize impacts. The NMFS issued a programmatic Biological Opinion (BiOp) pursuant to Section 7 of the ESA/MSA on the effects of implementing/funding actions under the Stafford Act to repair, rehabilitate or replace infrastructure. The BiOp contains Project Design Criteria that must be implemented to comply with ESA/MSA. The BiOp and associated Project Design Criteria can be found at the following link:

<https://www.fema.gov/media-library-data/1589822071389-c5d16bc68c79791396b1605112123188/FESP508update.pdf>

The Bald & Golden Eagle Protection Act and Migratory Bird Treaty Act also may require minimizing impacts to their respective protected bird species.

Historic Preservation and Cultural Considerations

Some historic resources are very obvious and others are less so. Any structure (e.g., buildings, walls, bridges, etc.) that is at least **50 years old** (with some exceptions) may be eligible for listing in the National Register of Historic Places. Please provide the age of any structure being repaired, so FEMA EHP can review for compliance with Section 106 of the National Historic Preservation Act (NHPA). Some projects will require FEMA consult with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO).

Adverse effects to the character-defining features of historic properties, archaeological resources, and cultural properties must be avoided or minimized, if possible; and if not, resolved through consultation.

The extent of ground disturbance must be clearly delineated to facilitate review. Debris removal that has the potential for ground disturbance and proposed work which affects a previously undisturbed area (e.g. relocating a utility, realigning a road, constructing access roads, or excavating a material

borrow area) must be evaluated for archaeological concerns **before** work proceeds.

If work must begin **immediately** (before a FEMA approved project/grant), contact the SHPO by phone (or email) (see page 4), and identify the project as a potential FEMA funded project. Please keep records of correspondence and make sure it is included with any subsequent project documentation.

FEMA will consult with the THPO on projects within reservation boundaries, as well as when a project may affect historic properties that may have religious and/or cultural significance.

Under Oregon state law ORS 358.905-995 it is a class B misdemeanor to impact an archaeological site on public or private land, and under state law ORS 97.740-760 impacts to Native American graves and cultural items are a Class C felony.

Debris Disposal and Hazardous Materials

The Oregon Department of Environmental Quality (DEQ) oversees and regulates debris and hazardous waste management in conjunction with the U.S. Environmental Protection Agency.

Debris from disasters (wood, rocks, soil, silt, and building and structure wreckage, etc) must be disposed of at a DEQ-approved/permitted/authorized solid waste facility. Other options for disposing of large quantities of disaster debris (such as stockpiling, on-site burial, or burning) require special consideration and approval from the DEQ.

Proper care must also be taken in the handling of suspected hazardous or toxic waste. The responsible party must handle, manage, transport, and dispose of these materials at appropriately DEQ-permitted facilities.

The use of authorized and/or permitted facilities for debris and waste disposal is required for FEMA-funded projects. Documentation of the disposal facility/method should be kept in project files and may be required for the grant application and/or at close out. Failure to do so could jeopardize federal funding.

Ash and Asbestos Debris Removal

Many homes and buildings have materials with asbestos. Asbestos use has decreased significantly over the years, but asbestos still exists in some building materials produced today. If it contains asbestos, hire a licensed asbestos abatement contractor.

<https://www.oregon.gov/deq/FilterDocs/AfterTheFire-ManagingAshFireDebris.pdf>

<https://www.oregon.gov/deq/wildfires/Pages/After-the-Fire.aspx>



Other Considerations

Environmental Justice

Executive Order 12898 strives to minimize disproportionately high and adverse impacts on low-income and minority populations. FEMA EHP aims to avoid these impacts by analyzing demographics for the impacted area and projects.

Hazard Mitigation includes elements in a proposed project that help avoid or reduce the threat of future damage to a facility. Examples of flooding and wind storm hazard mitigation may include slope stabilization measures, building retrofits, or overhead power line burial or realignment. All hazard mitigation proposals for Public Assistance projects must undergo EHP review before work proceeds.

OREGON DISASTER 4562-DR-OR

CONTACTS

You may contact the following regulatory and resource agencies for more detailed information and guidance on their respective approval, authorization, or permitting requirements and available technical assistance. FEMA staff can also assist in answering questions, guiding you to the appropriate agencies, and providing additional detail on FEMA's review for projects it proposes to fund.

FEMA Region 10

Holly Winton
Environmental and Historic Preservation Advisor
(202) 813-2609
holly.winton@fema.dhs.gov

Jessica M Stewart
Environmental and Historic Preservation
Manager
(425) 420-8040
jessica.stewart2@fema.dhs.gov

Oregon Military Dept. Office of Emergency Management

[http://www.oregon.gov/OMD/OEM/Pages/fin_rec/
Public-Assistance-Program.aspx](http://www.oregon.gov/OMD/OEM/Pages/fin_rec/Public-Assistance-Program.aspx)

Julie Slevin - Public Assistance
(503) 378-2235
Julie.slevin@state.or.us

Oregon Department of Environmental Quality

<http://www.oregon.gov/DEQ/pages/index.aspx>
Phone: 503-229-5696
Fax: 503-229-6124
Toll free in Oregon: 800-452-4011

DEQ Wildfire Debris Removal

[https://www.oregon.gov/deq/wildfires/Pages/
Wildfire-Debris-Removal.aspx](https://www.oregon.gov/deq/wildfires/Pages/Wildfire-Debris-Removal.aspx)

DEQ Water Quality

[http://www.oregon.gov/DEQ/WQ/pages/
index.aspx](http://www.oregon.gov/DEQ/WQ/pages/index.aspx)

Active Permitted Debris Facilities

[http://www.deq.state.or.us/lq/sw/disposal/
permitedfacilities.htm](http://www.deq.state.or.us/lq/sw/disposal/permitedfacilities.htm)

Department of Land Conservation and Development (DLCD)—Oregon Coastal Management Program (OCMP)

www.oregon.gov/LCD

Deanna Caracciolo
(503) 934-0026
deanna.caracciolo@state.or.us

Floodplain Management

[https://www.oregon.gov/lcd/NH/Pages/
NFIP.aspx](https://www.oregon.gov/lcd/NH/Pages/NFIP.aspx)
NFIP Coordinator
(503) 934-0069
celinda.adair@state.or.us

Oregon Department of Fish and Wildlife (ODFW) Fish Division

[http://www.dfw.state.or.us/agency/directory/
fish_division.asp](http://www.dfw.state.or.us/agency/directory/fish_division.asp)

Wildlife Division

[http://www.dfw.state.or.us/agency/directory/
wildlife_division.asp](http://www.dfw.state.or.us/agency/directory/wildlife_division.asp)

Oregon State Historic Preservation Office

[http://www.oregon.gov/oprd/HCD/SHPO/Pages/
index.aspx](http://www.oregon.gov/oprd/HCD/SHPO/Pages/index.aspx)

Jason Allen, Built Environment
(503) 986-0579
jason.Allen@oregon.gov

John Pouley, Assistant State Archaeologist
(503) 480-9164
john.pouley@oregon.gov

U.S. Fish and Wildlife Service (USFWS)

<http://www.fws.gov/oregonfwo/>

Jeff Dillon, Endangered Species Division
Manager
(503) 231-6179
Jeffrey_dillon@fws.gov

For project planning and additional contact
information: <http://ecos.fws.gov/ipac/>

National Marine Fisheries Service (NMFS) Endangered Species and Essential Fish Habitat

[http://www.westcoast.fisheries.noaa.gov/habitat/
complying_with_the_esa.html](http://www.westcoast.fisheries.noaa.gov/habitat/complying_with_the_esa.html)

West Coast Region, Regional and Satellite
Offices
[http://www.westcoast.fisheries.noaa.gov/
about_us/our_locations.html](http://www.westcoast.fisheries.noaa.gov/about_us/our_locations.html)

U.S. Army Corps of Engineers (Regulatory)

[http://www.nwp.usace.army.mil/Missions/
Regulatory.aspx](http://www.nwp.usace.army.mil/Missions/Regulatory.aspx)

Benton & Clackamas Counties

Jessica Menichino - 503-956-0863

Columbia, Jefferson & Wasco Counties

Caila Heintz - 503-808-4632

Coos County

Tyler Krug - 541-756-2097

Deschutes & Jackson Counties

Maya Goklany - 541-465-6877

Douglas, Josephine, Klamath & Lake Counties

Anita Andazola - 541-465-6894

Lane County

Benny Dean Jr - 541-465-6769

Lincoln & Washington Counties

Carrie Bond - 503-808-4387

Linn County

Jamiee Davis - 503-808-4381

Marion, Tillamook & Yamhill Counties

Kinsey Friesen-503-808-4378

Multnomah County

Melody White—503-808-4385