



# NEW YORK DISASTER 4085-DR-NY FEDERAL EMERGENCY MANAGEMENT AGENCY ENVIRONMENTAL CONSIDERATIONS GREENSHEET



## Environmental and Historic Preservation and Disaster Recovery

As you repair and rebuild your storm damaged communities, environmental and historic preservation issues may seem unimportant. As with all federal funding; however, certain requirements related to environmental and historic resources must be addressed. The information and assistance described here will help you avoid environmental roadblocks or funding delays.

The most important message is that the FEMA Environmental Planning and Historic Preservation (EHP) staff is committed to helping you identify and meet your environmental compliance responsibilities. This document discusses the environmental compliance process and provides important contacts. New York State Office of Emergency Management (NYSOEM) is the main point of contact for applicants and the public, oversees grant administration, and is committed to following all environmental laws and

regulations in its disaster recovery operations under the Stafford Act. For more information regarding NYSOEM, see [www.dhSES.ny.gov/](http://www.dhSES.ny.gov/)

Please identify any potential environmental issues and discuss these with our Joint Field Office (JFO) environmental staff as soon as possible. This will help streamline the environmental review process.

The EHP Advisor for this declaration, pledges to assist you in understanding and complying with environmental requirements.

Please contact the EHP staff, the New York State Office of Emergency Management, or FEMA Public Assistance for any environmental or historic preservation assistance.



Sincerely,

Your State and FEMA EHP Team

## Environmental Laws and Project Requirements

The National Environmental Policy Act (NEPA) is a major environmental law that directs federal agencies to consider the environmental effects of their actions. Additional EHP laws, regulations, and Executive Orders (EOs) may be triggered by the action depending on the scope of work.

Obtaining permits is the responsibility of the applicant or person performing the work and must be done **prior** to initiating any site activity, with the exception of emergency actions that address immediate threats to life or property, in which case the regulatory agencies should have been notified and documentation of the communication submitted for review.

Some activities can proceed without EHP review, others require

some environmental consideration, and some projects require consultation with other federal agencies, the State, and FEMA before work begins. Work completed during the emergency phase sometimes requires after-the-fact consultations and permits. Failure to comply with applicable federal, state and local environmental and historic laws could jeopardize or delay potential funding.

### Other Federal Laws

- Endangered Species Act
- National Historic Preservation Act
- Coastal Barrier Resource Act
- Magnuson-Stevens Fishers Act
- Clean Water Act
- Executive Order 11988: Floodplains
- Executive Order 11990: Wetlands
- Executive Order 12898: Environmental Justice

**Project types such as emergency protective measures and some debris removal may not require a detailed EHP review.**

**Examples of projects types that may require a detailed EHP review, including consultation, are:**

- Debris removal in streams or waterways
- Debris disposal in areas previously not permitted
- Projects located on the beach
- Improved or alternate projects
- Projects that may affect historic properties or endangered species.

## Work Along Coastlines and in Other Waters

**Coastal Barriers** Over 150 miles of Long Island coastline falls within the boundaries of coastal barrier zones, designated under the Coastal Barrier Resources Act (CBRA) and identified on FEMA Flood Insurance Rate Maps (FIRM) at <https://msc.fema.gov/>. These lands serve as protective buffers for the New York mainland from storms and serve as important habitat for fish and wildlife. Consultation with the US Fish and Wildlife Service (USFWS) is required for any actions proposed in a CBRA Zone.

**Coastal High Hazard Areas (CHHA)** These areas, also known as velocity (or V) zones, are locations where wave heights 3 feet or greater create hazardous conditions due to the power and speed by which waves come ashore during storms. All projects must meet the requirements of Executive Order 11988 Floodplain Management and the National Flood Insurance Program (NFIP). V zones are also mapped on FEMA FIRM at <https://msc.fema.gov/>.

**Coastal Zones** Portions of the declared counties are located within coastal zones. Projects within the New York coastal zone must be consistent with the New York Coastal Zone Management Program and approved by New York Department of State (NYDOS) Division of Coastal Resources. An individual Federal Consistency Determination from NYDOS Coastal Management Program may be required for certain projects and *must be obtained by the applicant*. The consistency determination must be obtained prior to the start of construction. Coastal zone boundaries are found at [http://appext9.dos.ny.gov/coastal\\_map\\_public/map.aspx](http://appext9.dos.ny.gov/coastal_map_public/map.aspx)

**Work in Water** For any project involving work in a waterway (proposed or completed), the applicant must notify the United States Army Corps of Engineers (USACE) and provide documentation of coordination efforts; as well as obtain and comply with required USACE permits. The Clean Water Act (CWA) and The United States Rivers and Harbors Act (RHA) apply to actions in and/or adjacent to waters of the United States, including coastal areas, small streams, lakes, and wetlands. Examples of actions requiring permits include construction, demolition, or any dredging or filling in any part of surface water, tributaries or systems. Repairs to piers, bridges, causeways, etc. may require a permit or authorization from the United States Coast Guard (USCG).

Obtaining permits is the responsibility of the applicant or person performing the work and must be done **prior** to initiating any site activity, with the exception of emergency actions that address immediate threats to life or property, in which case the regulatory agencies should have been notified and documentation of the contact made by the applicant.

### Floodplains

Executive Order 11988 requires FEMA to review all projects for the potential to affect or be affected by the floodplain. For projects that take place in or near a floodplain, FEMA must seek ways to avoid, minimize or mitigate to the extent possible, long and short term impacts associated with occupancy and modification of a floodplain. Depending on the potential for impacts, an alternative analysis and public review may be required. **For additional information about working in a floodplain, contact your local floodplain administrator.**

### Wetlands

Executive Order 11990 requires FEMA to review proposed projects to evaluate the potential to affect a wetland. The applicant may be required to obtain a permit from USACE, New York State and/or the local jurisdiction. Depending on the potential for impacts, an alternative analysis and public review may be required.

Debris should not be stored in a wetland, even temporarily. Debris removal from a wetland must be coordinated with USACE and USFWS.

## Protected Species and Habitats



Kemp's Ridley Turtle

- **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 are likely to adversely affect threatened or endangered ("listed") species. Listed species can be found at: <http://www.fws.gov/northeast/nyfo/es/CoListCurrent.pdf>
- The USFWS and the National Marine Fisheries Service (NMFS) are the two federal agencies with ESA jurisdiction.
- FEMA must consult with NMFS and USFWS before funding any activities that have the potential to affect listed species or their Critical Habitat. MSA protects the "essential fish habitat" of commercially and recreational coastal fisheries. FEMA must consult with NMFS if a project may adversely affect such habitat. ESA and MSA frequently require conservation measures (e.g., project or timing restrictions) to minimize potential impacts.

## Historic Preservation and Tribal Relations

Any structure (e.g. buildings, walls, bridges, culverts) **50 years** or older may be eligible for listing on the National Register of Historic Places. It is FEMA's responsibility as a federal agency to determine if projects funded by its programs affect historic properties, and in certain instances, to consult with the State Historic Preservation Office (SHPO), THPO/Tribes, state and local organization such as the New York Landmarks Preservation Commission (LPC).

FEMA must also consider impacts to archaeological resources. Any proposed project which alters a previously undisturbed area of ground (e.g., relocating a utility, realigning a road, or constructing a material borrow area) or that is near a known archaeological site, must be reviewed by FEMA in consultation with the SHPO, THPO/Tribes to determine potential effects on archaeological sites **before** work can be conducted.

## Debris Management and Hazardous Materials

This disaster has generated a large quantity of debris consisting of vegetative, construction & demolition (C & D) building materials, and mixed debris. Management of storm-related debris (removal, staging, storage, and disposal) must be conducted in accordance with federal, state, and local solid and hazardous waste regulations. Storage, treatment, and disposal of debris in approved areas, such as permitted landfills, require special consideration and approval from the New York Department of Environmental Conservation (NYDEC) and in some instances, local regulatory authorities.

Vegetative debris should be separated from storm-generated C & D debris. Mixed storm-related C & D debris can be temporarily staged for sorting and separating at a NYDEC-approved location.

Communities considering opening new sites for storage, processing and disposal of storm-related debris are advised to call DEC for guidance & permitting requirements.

For listing of temporary staging areas and permitted landfills go to: <http://www.dec.ny.gov>



## Other Considerations

### **Environmental Justice**

Executive Order 12898 requires that FEMA identify and address disproportionately high and adverse human health, environmental, economic, and social effects of its programs and activities on minority and/or low-income populations. All FEMA projects are evaluated to ensure compliance.

**State, County, and Local Permits and Approvals** *Obtaining permits and approvals is the responsibility of the applicant.* NYDEC has provided a webpage that addresses Hurricane Sandy information and guidance: <http://www.dec.ny.gov/public/76659.html>.

A General Permit written specifically for Hurricane Sandy for work in tidal wetlands, excavation and fill in navigable waters, water quality certification and coastal erosion management is located at [www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/gp012006sandypermit.pdf](http://www.dec.ny.gov/docs/permits_ej_operations_pdf/gp012006sandypermit.pdf).

The State's Environmental Quality Review Act requires a review for certain actions, similar to NEPA. Additional information is located at: <http://www.dec.ny.gov/permits/357.html>

### **Stormwater Permits**

Stormwater management programs under the Clean Water Act and State authorities require permits to discharge stormwater from both industrial facilities and construction projects that are 1 acre or greater in size. These permits must be obtained by the applicant. More information can be found at [www.dec.ny.gov/](http://www.dec.ny.gov/)

### **Hazard Mitigation**

Hazard Mitigation is intended to reduce or eliminate the threat of future damages. All hazard mitigation proposals undergo environmental review because they typically involve new ground disturbance, a change in project footprint, or may affect historic structures. Examples of mitigation projects include: acquiring, elevating or relocating at-risk structures, upsizing culverts, improving erosion control measures, etc. For additional information on this program go to: [www.fema.gov/hazard-mitigation-grant-program](http://www.fema.gov/hazard-mitigation-grant-program).

# NEW YORK DISASTER 4085-DR-NY

## CONTACTS

Some applicants already have well-established relationships with agencies like the DEC, Corps of Engineers, and State Historic Preservation Office. If you do, you may coordinate directly with those agencies and provide all documentation coordination efforts to your state-federal team to expedite review. However, if you're unfamiliar with these reviews, or if you're overwhelmed by the disaster and unable to conduct your normal coordination, please let your state-federal team know and our EHP specialists can perform the required consultation for you. You can contact the following agencies for more information and guidance on the laws and requirements for environmental and historic preservation (EHP) review, permitting, and approvals. FEMA staff in the Joint Field Office can assist in answering questions and guiding you to the appropriate agencies. For more information regarding FEMA's EHP program, see [www.fema.gov/environmental-planning-and-historic-preservation-program](http://www.fema.gov/environmental-planning-and-historic-preservation-program)

### **FEMA Joint Field Office (JFO)**

April Cummings  
Environmental & Historic Preservation  
Advisor  
[april.cummings@fema.dhs.gov](mailto:april.cummings@fema.dhs.gov)  
(404) 561-9315

### **New York State Department of Environmental Conservation**

General Permits and Notice of Intent for Stabilization Actions in Coastal Areas due to Sandy:  
<http://www.dec.ny.gov/permits/6061.html>  
**Send NOIs to (via email HIGHLY recommended)**  
NYSDEC Division of Environmental Permits  
625 Broadway, Albany, NY 12233-1750  
fax (518) 402-9168

### **Nassau & Suffolk Counties**

**GP-0-12-006:**  
[sandyr1@gw.dec.state.ny.us](mailto:sandyr1@gw.dec.state.ny.us)  
(631) 444-0365; Regional Permit Adm.  
**New York City GP-2-12-001** (includes freshwater wetlands):  
[sandyr2@gw.dec.state.ny.us](mailto:sandyr2@gw.dec.state.ny.us)  
(718) 482-4997; Regional Permit Adm.

### **Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester GP-0-12-006:**

[sandyr3@gw.dec.state.ny.us](mailto:sandyr3@gw.dec.state.ny.us)  
(845) 256-3054; Regional Permit Adm.

### **Maps for Waters, Wetlands, and Endangered, Threatened, & Rare Species**

Division of Fish, Wildlife, & Marine Resources  
<http://www.dec.ny.gov/animals/38801.html>  
[fwhabtat@gw.dec.state.ny.us](mailto:fwhabtat@gw.dec.state.ny.us)  
(518) 402-8848

### **Environmental Justice**

<http://www.dec.ny.gov/public/333.html>  
[ej@gw.dec.state.ny.us](mailto:ej@gw.dec.state.ny.us)

### **New York Department of State: Coastal Zone Management**

Division of Coastal Resources: Consistency Review

<http://www.dos.ny.gov/communitieswaterfronts/consistency/index.html>  
[cr@dos.ny.gov](mailto:cr@dos.ny.gov)  
(518) 474-6000

### **State Environmental Quality Review**

[www.dec.ny.gov/permits/357.html](http://www.dec.ny.gov/permits/357.html)  
NYSDEC Division of Environmental Permits  
[depprmt@gw.dec.state.ny.us](mailto:depprmt@gw.dec.state.ny.us)  
(518) 402-9167

### **Floodplain Management (Division of Water)**

<http://www.dec.ny.gov/lands/24267.html>  
[floodpln@gw.dec.state.ny.us](mailto:floodpln@gw.dec.state.ny.us)  
(518) 402-8185

### **Stormwater Management: State Pollutant Discharge Elimination System (SPDES)**

Division of Environmental Permits  
<http://www.dec.ny.gov/permits/6054.html>  
[depprmt@gw.dec.state.ny.us](mailto:depprmt@gw.dec.state.ny.us)  
(518) 402-9167

### **Wetlands**

[www.dec.ny.gov/permits/6058.html](http://www.dec.ny.gov/permits/6058.html)  
[www.dec.ny.gov/imsmaps/ERM/viewer.htm](http://www.dec.ny.gov/imsmaps/ERM/viewer.htm)

### **New York State Department of Fish and Wildlife**

<http://www.dec.ny.gov/about/634.html>  
(518) 237-8643 x3263

### **State Historic Preservation Office**

<http://nysparks.com/shpo>  
[femarecovery@parks.ny.gov](mailto:femarecovery@parks.ny.gov)  
John Bonafide, Director  
(518) 237-8643 x3263

### **U.S. Army Corps of Engineers** Regulatory Branch

<http://www.nan.usace.army.mil/Missions/Regulatory/Boundaries.aspx>

### **National Marine Fisheries Service**

<http://www.nero.noaa.gov/>  
[www.nmfs.noaa.gov/pr/species/esa/fish.htm](http://www.nmfs.noaa.gov/pr/species/esa/fish.htm)  
[Christopher.Boelke@noaa.gov](mailto:Christopher.Boelke@noaa.gov)  
Chris Boelke  
(978) 281- 9131

### **U.S. Fish and Wildlife Service**

<http://www.fws.gov/northeast/ny.htm>  
[Steve\\_papa@fws.gov](mailto:Steve_papa@fws.gov)  
Steve Papa, Sec.7 Coordinator  
(631) 286-0485 x2120

### **Coastal Barrier Resource System**

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

### **US Coast Guard**

[http://uscg.mil/hq/cg5/cg551/BPAG\\_Page.asp](http://uscg.mil/hq/cg5/cg551/BPAG_Page.asp)

### **FEMA - Environmental Justice**

[www.fema.gov/environmental-planning-and-historic-preservation-program/executive-order-12898-environmental-justice](http://www.fema.gov/environmental-planning-and-historic-preservation-program/executive-order-12898-environmental-justice)  
April Cummings  
(404) 561-9315