

General EHP Concerns – Conditions for Implementation of Temporary Relocation of Essential Services

FEMA must conduct an Environmental and Historic Preservation (EHP) review before an Applicant temporarily relocates essential services as eligible work under the Public Assistance program, where there is:

- Location in a floodplain
- Ground disturbance or alteration of an existing building over 45 years of age
- Potential impact of a threatened and endangered species.

I. Location of a Temporary Facility in a Floodplain

Executive Order 11988, 42 FR 26951 (May 24, 1977) requires federal agencies to minimize or avoid activity that adversely affects floodplains. FEMA publishes its implementing regulations for EO 11988 in 44 CFR Part 9. These regulations apply to temporary relocation of essential services through the Public Assistance program.

A. In General

FEMA discourages the temporary relocation of essential services in a special flood hazard area (SFHA). If the Applicant intends to locate a proposed temporary facility in a structure (including modular buildings) in the floodplain, then the Applicant must reevaluate its proposal to determine if there are any other areas or structures located outside the SFHA where the Applicant could place the temporary facility or house the essential services.

An Applicant may not build, replace, or substantially improve a structure in an SFHA as part of a temporary relocation of essential services unless the Applicant—

1. Provides justification to FEMA that locating the temporary facility outside the SFHA is not feasible;
2. Elevates the facility above the base flood elevation (BFE)¹, or to highest extent practicable, and anchors the unit;
3. Coordinates with the local floodplain administrator to obtain proper permitting; and
4. Obtains and maintains flood insurance on the structure.
5. Obtains FEMA EHP approval.

B. Critical Actions

Some projects constitute *critical actions* that require enhanced floodplain management requirements. A *critical action* is an action for which even a slight chance of flooding is too great. 44 CFR 9.4. Critical actions include the building of structures likely to contain occupants lacking mobility necessary to protect themselves during flood or storm events, such as hospitals, nursing homes, and housing for the elderly. The enhanced requirements reflect a concern that the impacts of floods on human safety, health, and welfare for many activities could not be minimized unless a higher degree of protection than the base flood was provided.

FEMA discourages the temporary relocation of essential services that constitute a critical action in an “area subject to inundation from a flood having a 0.2 percent chance of occurring in any given

¹ The base flood elevation is elevation of a flood that has a one percent chance of being equaled or exceeded in any given year. 44 CFR 9.4.

year,” also known as the 500-year or the 0.2 percent chance floodplain. 44 CFR 9.4. If the Applicant intends to locate a proposed temporary facility in a structure (including modular buildings) in the 0.2 percent chance floodplain, then the Applicant must reevaluate its proposal to determine if there are any other areas or structures located outside the 0.2 percent chance floodplain where the Applicant could place the temporary facility or house the essential services.

An Applicant may not build, replace, or substantially improve a structure in an SFHA as part of a temporary relocation of essential services unless the Applicant—

1. Provides justification to FEMA that locating the temporary facility outside the 0.2 percent chance floodplain is not feasible and there are no other practicable alternatives;
2. Elevates the facility above the 0.2 percent chance flood elevation, or to highest extent practicable, and anchors the unit;
3. Coordinates with the local floodplain administrator to obtain proper permitting; and
4. Obtains FEMA EHP approval.

C. Location of Structures in Floodways

Without exception, Applicants may not temporarily relocate essential services in a floodway. 44 CFR 9.11(d)(1). A floodway is that “portion of the floodplain which is effective in carrying flow, within which this carrying capacity must be preserved and where the flood hazard is generally highest.” 44 CFR 9.4.

D. Location of Structures in the Coastal High Hazard Areas (CHHA)

FEMA strongly advises applicants against temporarily relocating essential services in structures located in the Coastal High Hazard Areas (CHHA)² because doing so carries additional flood risk and poses an additional threat to human safety. Relocating to structures in the CHHA is subject to additional restrictions and requirements, but is allowed if determined to be the only practicable alternative.

II. Historic Preservation

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f) requires FEMA to consider the effects a project will have on historic properties. FEMA must conduct a higher level of EHP review for any proposed work on buildings over 45 years of age and/or that includes any new ground disturbance or expansion of footprint (including new or expanded site preparations). This review could include consultation with the State Historic Preservation Office (SHPO) and tribes.

The Applicant may limit effects on historic properties by installing and removing temporary structures for use as school classrooms, offices, or temporary shelters for essential public service agencies, such as police, fire, rescue and medical care, as well as temporary housing for disaster personnel at the following types of locations:

- A. Paved areas, such as parking lots and paved areas at such facilities as conference centers, shopping malls, airports, industrial port facilities business parks, and military bases when all utilities are installed above ground or tie into pre-existing utility lines.
- B. Sites that have been previously cleared and prepared for planned construction, such as land being developed for public housing, office buildings, city parks, ball fields, schools, etc. when all utilities are installed above-ground or tie into pre-existing utility lines.

² An area subject to high velocity waters, including, but not limited to, hurricane wash (also known as storm surge) and tsunamis. Usually represented on a Flood Insurance Rate Map (FIRM) as Zone V. 44 CFR 9.4.

- C. Areas previously filled to depths of at least six feet so that subsurface utilities can be installed.

III. Endangered Species

Unless the Applicant uses existing structures, there is a potential that the temporary relocation of essential services could impact threatened and endangered species that are protected under the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531 *et seq.*) A project may have the potential to adversely impact threatened and endangered species if—

- A. Species are known to occur in the community;
- B. The relocation site is located within designated critical habitat, if significant vegetation will be cleared from the site, or
- C. The site is located within an undeveloped natural area, including areas near coastal or water features.

Projects that have the potential to adversely impact threatened and endangered species may require consultation between FEMA and USFWS.