

# Treasury RESTORE Act Environmental Checklist

OMB Approval Number 1505-0250

*Directions: The following questions will aid the applicant in identifying the environmental laws that may apply to the eligible activity and the environmental documents that may be submitted with the grant application. Treasury will use the submittals to record the Applicant's assertion that it has complied with applicable environmental laws.*

## FEDERAL LAWS

### 1.1 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

The NEPA of 1969 (42 U.S.C. 4321 *et seq.*) provides a national policy that encourages “productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man . . .” The NEPA requires that all federal agencies use a systematic, interdisciplinary approach for protection of the human environment; this approach will ensure the integrated use of the natural and social sciences in any planning and decision-making that may have an impact upon the environment. The NEPA also requires the preparation of a detailed Environmental Impact Statement (EIS) on any major federal action that may have a significant impact on the environment.

1) Will the proposed activity be under the permitting authority of any federal agency?

Yes

No

2) Will the proposed activity receive federal assistance (other than RESTORE Act funding)?

Yes

No

3) Will the proposed activity be subject to any federal regulatory decision or approval?

Yes

No

If the answer to any of these questions is “yes,” contact the relevant federal agency or agencies for further guidance on environmental compliance. Additional information concerning NEPA can be found at: <http://ceq.hss.doe.gov/nepa/nepanet.htm>.

### 1.2. COASTAL ZONE MANAGEMENT ACT (CZMA)

[Direct Component or Centers of Excellence] grant applications may be subject to the review provisions of Section 307 of the Coastal Zone Management Act (CZMA) and implementing regulations at 15 C.F.R. Part 930. Questions as to the applicability of the CZMA consistency provisions should be directed to the Office of Ocean and Coastal Resource

*According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1505-0250. Comments concerning the time required to complete this information collection, including the time to review instructions, search existing data resources, gathering and maintaining the data needed, and completing and reviewing the collection of information, should be directed to the Department of the Treasury, RESTORE Act Program, 1500 Pennsylvania Ave., NW, Washington, DC 20220.*

Management/Coastal Services Center within the National Oceanic and Atmospheric Administration. A federal consistency determination or certification may be required from the state coastal zone management program, based on the following questions:

1) Will the proposed activity occur in or near the state designated coastal zone (<http://coastalmanagement.noaa.gov/mystate/docs/StateCZBoundaries.pdf>)?

Yes

No

2) Is the activity likely to have reasonably foreseeable effects on any land or water use or natural resource of the designated coastal zone?

Yes

No

If the answer to either of these questions is “yes,” contact the State Coastal Zone Management Program (<http://coastalmanagement.noaa.gov/programs/czm.html>) for further guidance on federal consistency requirements in your state. Additional information on federal consistency can be found at: <http://coastalmanagement.noaa.gov/consistency/welcome.html>

### 1.3 ENDANGERED SPECIES ACT (ESA)

Section 7 consultations may be required if a threatened or endangered species or critical habitat is present.

1) Will the proposed activity occur in proximity to threatened or endangered species or critical habitat as defined by the ESA and under the jurisdiction of the National Marine Fisheries Service (NMFS) (<http://www.nmfs.noaa.gov/pr/laws/esa/>) or the U.S. Fish and Wildlife Service (USFWS) (<http://endangered.fws.gov/>)?

Yes

No

2) Will the proposed activity potentially affect threatened or endangered species or critical habitat as defined by the ESA and under the jurisdiction of National Marine Fisheries Service (NMFS) or U.S. Fish and Wildlife Service (USFWS)?

Yes

No

If the answer to either of these questions is “yes,” contact the regional office of USFWS (<http://www.fws.gov/offices/>) and/or NMFS (<http://www.nmfs.noaa.gov/>) to determine if consultation is required. Most consultations are conducted informally with the federal agency or a designated non-federal representative. Non-federal representatives may be involved in the informal consultation process and may request and receive species lists, prepare the biological assessment, and provide information for the formal consultation. However, the USFWS requires the action agency to designate formally the non-federal representative in writing. Moreover, the ultimate responsibility for Section 7 obligations remains with the action agency. Additional information concerning Section 7 consultations can be found in the *Endangered Species Act Consultation Handbook* at: <http://www.fws.gov/policy/m0002.html>

#### 1.4 MAGNUSON – STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT (FCMA)

Consultation with the NMFS may be required if Essential Fish Habitat (EFH) is present. The trigger for EFH consultation is a federal agency’s determination that an action or proposed action, funded, authorized, or undertaken by that agency may adversely affect EFH.

1) Will the proposed activity occur in proximity to EFH as identified by the nearest Regional Fishery Management Council (<http://www.fisherycouncils.org/> and <http://www.nmfs.noaa.gov/sfa/management/councils/>)

Yes  No

2) Will the proposed activity potentially adversely affect EFH?

Yes  No

If the answer to either of these questions is “yes,” contact the nearest regional office of the NMFS (<http://www.nmfs.noaa.gov/>) or Regional Fishery Management Council (<http://www.fisherycouncils.org/>) to determine if consultation is required. Additional information concerning EFH can be found at: <http://www.habitat.noaa.gov/index.html>. Information about consultations can be found in the *Essential Fish Habitat Consultation Guidance* at: [http://www.habitat.noaa.gov/pdf/efhconsultationguidancev1\\_1.pdf](http://www.habitat.noaa.gov/pdf/efhconsultationguidancev1_1.pdf).

#### 1.5 MARINE MAMMAL PROTECTION ACT (MMPA)

A permit may be required if an activity will result in the “take” of a marine mammal. Taking is defined as “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.” Permits for most marine mammals are issued by NMFS. Manatees, polar bears, sea otters, walruses, and dugongs, however, are under the jurisdiction of the USFWS.

1) Will the proposed activity occur in proximity to any known marine mammals (<http://www.nmfs.noaa.gov/pr/species/mammals/>)?

Yes  No

2) Will the proposed activity likely result in the take of a marine mammal?

Yes  No

If the answer to either of these questions is “yes,” contact the nearest regional office of NMFS (<http://www.nmfs.noaa.gov/>) to determine if a permit is required. Additional information concerning marine mammal permits can be found at: [http://www.nmfs.noaa.gov/pr/permits/mmpa\\_permits.htm](http://www.nmfs.noaa.gov/pr/permits/mmpa_permits.htm) and <http://www.nmfs.noaa.gov/pr/permits/guide.htm>.

#### 1.6 CLEAN WATER ACT (CWA)

A separate type of permit is required to dispose of dredge or fill material in the Nation’s waters, including wetlands. Authorized by Section 404 of the Act, this permit program is

administered by the U.S. Army Corps of Engineers (USACE), subject to and using environmental guidance from the Environmental Protection Agency (EPA). Some types of activities are exempt from permit requirements, including certain farming, ranching, and forestry practices that do not alter the use or character of the land; some construction and maintenance; and activities already regulated by States under other provisions of the Act.

A permit may be required from the USACE for the disposal of dredge or fill material in the nation's waters, including wetlands.

1) Will the proposed activity result in any disposal of dredge or fill material to the nation's waters or wetlands?

Yes  No

If the answer to this question is "yes," contact the Regulatory Program of the nearest District Office of the USACE (<http://www.usace.army.mil/Locations.aspx>) for further guidance on Section 404 permits.

A Water Quality Certification (Section 401) is required for activities that may result in a discharge into navigable waters, including wetlands, watercourses, and natural or man-made ponds. A National Pollution Discharge Elimination System (NPDES) permit may also be required for such discharges. 1) Will the proposed activity result in any discharge to navigable waters?

Yes  No

If the answer to this question is "yes," contact your state water quality agency for additional guidance. Additional information concerning Section 401 or NPDES requirements can be found at: <http://www.epa.gov/owow/wetlands/waterquality> and (<http://cfpub.epa.gov/npdes/>).

### 1.7 CLEAN AIR ACT (CAA)

Special conditions may be required on projects that could affect air quality.

1) Will the proposed activity result in any direct or indirect emissions within a non-attainment area (<http://www.epa.gov/oar/oaqps/greenbk/index.html>)?

Yes  No

If the answer to this question is "yes," contact the nearest state air quality agency (<http://www.4cleanair.org>) for further guidance on determining conformity with the state implementation plan.

### 1.8 NATIONAL HISTORIC PRESERVATION ACT (NHPA)

Special conditions may be required on projects that could affect historic resources.

1) Will the proposed activity occur near property listed or eligible for listing in the National Register of Historic Places (<http://www.cr.nps.gov/nr>), or near property otherwise protected by section 106 of the National Historic Preservation Act (<http://www.nps.gov/history/local-law/nhpa1966.htm>) or a similar State Preservation Act?

Yes  No

If the answer to this question is “yes,” contact the U.S. Advisory Council on Historic Preservation (<http://www.achp.gov>), or your state historic preservation office (<http://www.ncshpo.org/>) for further guidance concerning compliance requirements.

### **1.9 COASTAL BARRIER RESOURCE ACT (CBRA)**

Federal funding may be prohibited for projects that occur on certain designated coastal barriers.

1) Is the proposed activity located on an undeveloped coastal barrier designated by the Coastal Barriers Resources Act (<http://www.fws.gov/cbra/>)?

Yes  No

If the answer to this question is “yes,” contact the nearest Regional Office of USFWS (<http://www.fws.gov/where>) for further guidance.

### **1.10 RIVERS AND HARBORS ACT**

A permit may be required from the USACE if the proposed activity involves any work in, over, or under navigable waters of the United States.

1) Will the proposed activity involve any work (including structures) that will occur in, over or under navigable waters of the United States?

Yes  No

If the answer to this question is “yes,” contact the Regulatory Program of the nearest District Office of the USACE (<http://www.usace.army.mil/Locations.aspx>) for further guidance on Section 10 permits. The USACE can authorize activities by a standard individual permit, letter-of-permission, nationwide permit, or regional permit. The USACE will make the determination on what type of permit is needed.

### **1.11 RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)**

A RCRA permit may be required from the EPA or designated state agency for the long-term storage, treatment, or disposal of hazardous materials or petroleum products.

1) Will the proposed activity include the long-term storage of hazardous materials or petroleum products?

Yes  No

If the answer to this question is “yes,” contact the nearest RCRA Regional Office of the EPA or state authorized agency (<http://www.epa.gov/epawaste/inforesources/online/index.htm>) for further guidance on RCRA compliance.

### 1.12 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

Special provisions and requirements may apply if the proposed activity involves a Superfund site (<http://www.epa.gov/superfund/sites/index.htm>).

1) Will the proposed activity involve a known Superfund site?

Yes

No

If the answer to this question is “yes,” contact the nearest Regional Office of the EPA (<http://www2.epa.gov/aboutepa#pane-4>) for further guidance on CERCLA requirements.

### 1.13 WILD AND SCENIC RIVERS ACT

The Wild and Scenic Rivers Act prohibits federal support for actions such as the construction of dams or other instream activities that would harm the free-flowing condition, water quality, or outstanding resource values of a designated Wild and Scenic River. There are designated rivers in the Gulf Coast States.

1) Is the proposed activity located on a designated Wild and Scenic River (<http://www.rivers.gov/index.php>)?

Yes

No

If the answer to this question is “yes,” contact the nearest Regional Office of the USFWS (<http://www.fws.gov/where>) for further guidance.

### 1.14 SAFE DRINKING WATER ACT

A permit may be required if the proposed activity will involve underground injection which may impact drinking water sources.

1) Will the proposed activity involve underground injection which may impact drinking water sources?

Yes

No

If the answer to the question is “yes,” contact the nearest state drinking water or underground injection control program. For more information see: <http://water.epa.gov/lawsregs/guidance/sdwa/>.

## EXECUTIVE ORDERS

Executive Orders are directives from the President of the United States to federal agencies and officials.

### 2.1 E.O. 11988 – FLOODPLAIN MANAGEMENT

This Executive Order requires that an eight-step process be followed for projects that may have potential impacts to or within floodplains.

- 1) Is the proposed activity located in a designated floodway or “V-zone” on a National Flood Insurance Program map:

(<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>)?

Yes

No

If the answer to this question is “yes,” contact the nearest Regional Office of the Federal Emergency Management Agency (<http://www.fema.gov/regional-operations>) for further guidance.

### 2.2 E.O. 11990 – WETLAND PROTECTION

This Executive Order requires agencies to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural beneficial values of wetlands.

- 1) Is any portion of the proposed activity in wetlands?

Yes

No

If the answer to this question is “yes,” provide documentation in the grant application demonstrating that: (1) there is no practicable alternative, and (2) the proposed activity includes all practicable measures to minimize harm to wetlands.

### 2.3 E.O. 12898 – ENVIRONMENTAL JUSTICE

This Executive Order requires that "each federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

- 1) Will the proposed activity have disproportionately high and adverse human health or environmental effects on minority or low-income populations?

Yes

No

If the answer to this question is “yes,” see the Council on Environmental Quality website for further guidance on Environmental Justice:  
[http://ceq.hss.doe.gov/nepa\\_information/justice.html](http://ceq.hss.doe.gov/nepa_information/justice.html).

#### **2.4 E.O. 13089 – CORAL REEF PROTECTION**

This Executive Order requires that any actions that are authorized or funded by federal agencies not degrade the condition of coral reef ecosystems. The some of the Gulf Coast States contain coral reef ecosystems and include National Marine Sanctuaries (<http://sanctuaries.noaa.gov>).

1) Will the proposed activity involve a coral reef ecosystem or National Marine Sanctuary?

Yes  No

If the answer to this question is “yes,” contact the National Oceanic and Atmospheric Administration Coral Reef Conservation Program (<http://www.coralreef.noaa.gov>) for further guidance. Additional information regarding Executive Order 13089 can be found at: <http://ceq.hss.doe.gov/nepa/regs/eos/eo13089.html>.

#### **2.5 E.O. 13112 – INVASIVE SPECIES**

This Executive Order requires agencies to prevent the introduction of invasive species and provide for their control.

1) Will the proposed activity have the potential to introduce or cause the spread of an invasive species? For more information on invasive species, see <http://www.invasivespeciesinfo.gov/index.shtml>.

Yes  No

If the answer to this question is “yes,” provide documentation demonstrating that the benefits of the activity clearly outweigh the potential harm caused by invasive species, and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

#### **2.6 E.O. 13186 – RESPONSIBILITIES OF FEDERAL AGENCIES TO PROTECT MIGRATORY BIRDS**

This Executive Order requires the incorporation and promotion of migratory bird conservation considerations into all agency activities. The Gulf Coast States contain North American migration flyways.

1) Is the proposed activity likely to occur during a time of the year when migrating birds are in the vicinity?

Yes  No



If the answer to this question is “yes,” contact the nearest Regional Office of the U.S. Fish and Wildlife Service (<http://www.fws.gov/where>) for further guidance. Additional information regarding Executive Order 13186 can be found at: <http://www.fws.gov/migratorybirds>.

## **2.7 E.O. 13653 – PREPARING THE UNITED STATES FOR THE IMPACTS OF CLIMATE CHANGE**

This Executive Order requires federal agencies to identify and support smarter, more climate-resilient investments by States, local communities, and tribes, including by providing incentives through agency guidance and grants.

- 1) Will the proposed activity incorporate elements that promote climate-resilience (e.g., to rising sea levels)?

Yes

No

If yes, include a brief description of the climate-resilient elements in the grant application - proposed activity description.

Additional information regarding Executive Order 13563 can be found at: <https://sftool.gov/learn/annotation/427/executive-order-13653-preparing-united-states-impacts-climate-change>.