

Wisconsin DR 4459

Rural Electric Co-op Guidance

The purpose of this document is to address repairs to Rural Electric Co-op (REC) equipment that was damaged during the July 18-20, 2019 incident period. It does not address any new construction.

Keys Points:

- FEMA EHP Staff will do all coordination with SHPO and Tribes
- REC Staff should review prior SHPO approvals to see if current projects are pre-approved
- REC Staff should work with WEM and FEMA to develop detailed complete SOWs for all projects

National Environmental Policy Act (NEPA)

The NEPA process evaluates cumulative impacts of a project to the natural and human-made environments. Timelines and findings for NEPA reviews depend on natural or cultural resources that may exist in the project area, the type of work and its impact, and availability alternatives. In most instances, restoring a feature to its pre-disaster condition will not significantly impact the environment. NEPA reviews are performed by FEMA.

Projects that contain complete and detailed scopes of work and fall into the following categories are most likely to have less issues during the review process.

- Repair of structures and facilities in a manner that conforms to pre-existing design, function, location, and land use.
- Relocation of structures and facilities, including the realignment of linear facilities that are part of a bigger system, when they do not involve ground disturbance of more than one acre.
- Reconstruction, elevation, retrofitting, upgrading to current codes and standards, and improvements of pre-existing facilities in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use.

Projects that do not easily fit into one of the categories above may require more detailed environmental reviews including environmental assessments.

National Historic Preservation Act (NHPA)

Section 106 requires federal entities to take into account the effect of their actions on historic properties. Any building, structure, object, district, or site (50 years or older) may be eligible for listing on the National Register of Historic Places (NRHP) and/or the Wisconsin Register of Historic Places. FEMA has the legal responsibility for compliance with Section 106 of the NHPA and as a result, FEMA staff coordinates projects with the State Historic Preservation Officers (SHPO). FEMA worked with

State Emergency Management Agencies, SHPOs, federally recognized Indian Tribes (Tribes), and the Advisory Council on Historic Preservation to develop a Programmatic Agreement that would help streamline the Section 106 review process.

A Programmatic Agreement with FEMA, the Wisconsin SHPO, Wisconsin Emergency Management and participating Tribes was implemented in 2017 and contains Programmatic Allowances which allows qualified FEMA EHP staff to review projects under Section 106 without coordination with the SHPO. Additionally, any project that does not meet a Programmatic Allowance and requires consultation with the SHPO will be done by qualified FEMA EHP staff.

At this time, we believe that certain Project scopes will meet allowances and FEMA will not need to coordinate with SHPO. However, this requires a full scope of work to be submitted to FEMA and under the Programmatic Agreement, the determination is made by qualified FEMA EHP staff. If we do not have the detail required to use an allowance, we may ask for additional clarification or we may not use an allowance.

Some examples of Project scopes that would meet allowances when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils as defined in the introduction to these allowances, including the area where the activity is staged are as follows:

1. In-kind repair or replacement, hardening or minor upgrading, small scale realignment, and elevation of utilities and associated features and structures within previously disturbed soils, as defined in the introduction to these allowances, of rights-of-way or utility corridors.
2. Installation of new utilities and associated features within existing, previously disturbed rights-of-way or *utility easements that existed prior to the disaster event*.
3. In off-road alignments, relocations of poles in existing holes or within substantially disturbed areas or *utility easements that existed prior to the disaster event*, as defined in the introduction to these allowances, within 5 feet of damaged poles.
4. The addition of 1-4 new poles per mile in existing utility corridors in substantially disturbed areas, as defined in the introduction to these allowances, if the impacted area is 8 miles or less in length.
5. Directional boring of new/replacement service line and related appurtenances involving boring or silt trenches within previously disturbed soils, as defined in the introduction to these allowances, of rights-of-way or *utility corridors that existed prior to the disaster event*.

For purposes of the agreement, “in-kind” and “previously disturbed soils” are defined as follows:

- “In-kind” shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects, including form, color, and workmanship. The in-kind repair should be limited to pre-existing architectural features and physical components of buildings and structures.
- “Previously disturbed soils” typically refers to soils that are not likely to possess intact and distinct soil horizons and have the reduced likelihood of possessing archaeological artifacts, features, and phenomena within their original depositional contexts. “Previously disturbed soils” will show obvious evidence of ground disturbance, such as previous construction activities, utilities burials, road or ditch construction, or extensive fill. Based on this description,

agricultural fields are not considered previously-disturbed areas. "Previously disturbed soils" should be evaluated by qualified FEMA EHP staff.

Tribal Lands:

Projects that are on Reservations will require full consultation and there are no applicable allowances. In addition, all other projects may need to be coordinated with various tribes with ancestral interest in those project areas as well.

Additional Environmental Laws

The project scopes can also trigger environmental review concerns with respect to Floodplains and Wetlands, work in or near water, and endangered species. These concerns may lead to consultations with the Wisconsin Department of Natural Resources, US Fish and Wildlife Service and the other Federal agencies. Like the Section 106 consultations, some of these consultations will be completed by qualified FEMA EHP staff.

The best way for qualified FEMA EHP staff to consider the effects of the Project scope on all aspects of the environment, it is important to provide a full and detailed Scope of Work. This would include where the work will occur, including GPS coordinates, and how the work will occur. If a project is to bury power lines as a 406 mitigation measure or as a best construction practice, FEMA EHP would also need to know the GPS start/stop, method of burial, size of bore pits, confirmation if within pre-disaster utility easement etc.

For More Information:

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