

Maritime Administration (MARAD) MAR-410.1 Office of Environmental Compliance

Process on pre-NEPA Field Surveys Prior to Grant/Loan Award Execution

It is the responsibility of the funding recipient to ensure that the information contained herein is followed.

After the recipient has been officially notified of USDOT/MARAD grant award selection¹ or has submitted a Letter of Interest for a USDOT loan, the environmental review process under the National Environmental Policy Act (NEPA) (42 USC § 4331 et seq.) is immediately implemented. NEPA and its implementing regulations (40 CFR Parts 1500-1508) require MARAD to consider the potential effects of funding a project on the natural and human environment prior to the expenditure of funds. Until the NEPA review is completed, no action concerning the proposed project may be taken that would adversely impact existing environmental resources; alter the existing conditions of the site in any way; or limit the choice of reasonable alternatives for the project (40 CFR § 1506.1).

MARAD recognizes that certain field surveys, studies, and/or investigations are necessary to collect data, inform a NEPA decision, and comply with regulatory permits. Pedestrian and desktop site surveys are permitted during the NEPA review and do not require MARAD approval.

However, certain field surveys that require minimally invasive environmental disturbances to the natural and manmade environment are permitted only with prior notification to and approval from MARAD. Disturbances to the natural and manmade environment include, but are not limited to, any change to existing infrastructure, soil, vegetation, wetlands, waterbodies, water discharges, or air emissions within or related to the project site. As such, preliminary engineering and other analyses such as topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic and hydraulic analyses, utility engineering, traffic studies, and hazardous materials assessments may be authorized by MARAD after notice from the recipient. The Office of Environmental Compliance, in conjunction with the appropriate MARAD grant/loan program office and legal counsel, has discretion in determining whether the surveys, studies, and/or investigations are allowable. It is highly recommended that the recipient retain the services of a consultant who is experienced in conducting field surveys and evaluating results.

Additionally, purchase of construction materials and property acquisition may be permitted only with prior notification to and approval from MARAD.

The recipient is responsible for all federal, state, and local permits and approvals that may be required for certain field activities. Nothing in MARAD's guidance should be interpreted as authorization to proceed without proper permits and authorizations from other jurisdictional authorities.

The following categories of actions are identified to assist a recipient in planning and performing pre-NEPA review field surveys/work:

PRE-NEPA REVIEW ACTIVITIES THAT CAN BE PERFORMED WITHOUT MARAD APPROVAL

Pedestrian and desktop site surveys are permitted during the NEPA review and do not require MARAD approval.

¹ Official notice of grant award selection occurs when the list of selected grant projects is posted on the applicable USDOT website.

PRE-NEPA REVIEW ACTIVITIES THAT REQUIRE MARAD APPROVAL PRIOR TO ACTION

Actions that require notification to MARAD and agency approval prior to being performed by the recipient include those activities that require intrusive field sampling activities or installation of scientific measurement instruments. Physical field surveys that may require invasive sampling techniques but are also necessary to support the project planning, permits, agency approvals, and NEPA include, but would not be limited to:

- Wetland delineations;
- Section 106 of the National Historic Preservation Act 1966, as amended (54 U.S.C. § 300101 et seq.), and its implementing regulations, 36 CFR § 800 cultural resource surveys; and
- Soil, groundwater, and surface water investigations.

Actions that may be authorized by MARAD during the NEPA review process include:

- Manual shovel tests for Section 106 cultural resource investigations;
- Manual soil samples extracted and documented onsite as needed for identification and delineation of wetlands;
- Manual collection of surface soil and surface water samples;
- Bathymetric surveys; and
- Utility location investigations.

Installation of groundwater monitoring wells, piezometers, air monitoring equipment, similar scientific equipment, and soils borings may be authorized by MARAD with the following limitations:

- Where required all permits and approvals will be in place prior to start of any invasive work;
- The recipient must comply with the conditions of any applicable permits, approvals, and jurisdictional guidance;
- All associated impacts will be avoided or minimized to the maximum extent practicable;
- No vegetation removal or soil disturbance is permitted to access work locations;
- Use of equipment mats for access to wetlands are not permitted prior to completion of NEPA;
- Small weirs and flumes constructed primarily to record water quantity and velocity are permitted, provided any discharge associated with the device is limited to a total of 25 cubic yards;
- Upon completion of the use of a device to measure and record scientific data, the measuring device and any other structures or fills associated with that device (e.g., foundations, anchors, buoys, lines, etc.) must be removed to the maximum extent practicable and the site restored to pre-construction elevations and any environmental disturbances mitigated; and
- The recipient must comply with all applicable methods of abandoning borings and/or groundwater monitoring wells, i.e. per local, state, and federal regulations.

ACTIONS THAT CANNOT BE PERFORMED UNTIL THE NEPA REVIEW PROCESS IS COMPLETED

Final design activities, project construction, and/or other elements associated with the grant/loan award that will adversely impact the environment or limit the choice of reasonable alternatives shall not proceed until the MARAD Office of Environmental Compliance deems the NEPA process complete (Categorical Exclusion, Finding of No Significant Impact, or Record of Decision) and a grant/loan agreement is executed.