



City of Salinas

Policies and Procedures Manual for
Environmental Reviews for Federally Funded Projects

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TABLE OF CONTENTS

Policies and Procedures Manual for Environmental Reviews for Federally Funded Projects

ENVIRONMENTAL REVIEW PROCEDURES.....	3
Introduction	3
Purpose of Environmental Review Process	3
Project Review.....	4
Requirements for Environmental Review	4
Full Project Review.....	4
<i>Review by City of Salinas – Housing and Community Development Division</i>	5
Environmental Review Record	5
GLOSSARY OF TERMS USED IN ENVIRONMENTAL REVIEW	6
<i>Abbreviations</i>	7
GENERAL STEPS: A SUMMARY OF ENVIRONMENTAL REVIEW PROCESS.....	8
INITIATION OF THE ENVIRONMENTAL REVIEW PROCESS: DRAFTING THE ERR	11
STEPS IN CONCLUDING THE ERR: <i>EXEMPT ACTIVITIES</i>	12
STEPS IN CONCLUDING THE ERR: <i>CATEGORICAL EXCLUSION NOT SUBJECT TO §58.5</i>	13
STEPS IN CONCLUDING THE ERR: <i>CATEGORICAL EXCLUSION SUBJECT TO §58.5</i>	14
<i>COMMON STATUTORY CONCERNS IDENTIFIED ON STATUTORY CHECKLIST</i>	20
DECISION MAKING PROCESS EXECUTIVE ORDER 11988 AND 24 CFR 55.20.....	21
STEPS IN CONCLUDING THE ERR: <i>PROJECTS REQUIRING AN ENVIRONMENTAL ASSESSMENT (EA)</i>	22
FONSI AND NOI/RROF PROCEDURES.....	23
SPECIAL PROBLEMS ENVIRONMENTAL REVIEW	25
STEPS IN CONCLUDING THE ERR: <i>PROJECTS REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT</i>	26
ATTACHMENTS	27
Attachment A: 24 CFR 58Regulations	
Attachment B: Summary of Levels of ER & Documentation Required in ERR.....	
Attachment C: Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5	
Attachment D: Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5	
Attachment E: Broad-Level Tiered Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5	
Attachment F: EA Determination and Compliance Findings	
Attachment G: Sample Notice of Intent to Request a Release of Funds	
Attachment H: Notice of Intent to Request Release of Funds.....	
Attachment I: Sample Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds (English).....	
Attachment J: Sample Notice of Findings of No Significant Impact and Notice of Intent to Request of Funds (Spanish).....	
Attachment K: Request for Release of Funds and Certification	
Attachment L: Authority to Use Grant Funds	
Attachment M: City of Salinas CDD, Housing and Community Development Division Tier Review Procedures	
Attachment N: HUD ERR Related Federal Laws and Authorities Worksheets	
Attachment O: Environmental Impact Statement Notice Requirements Responsible Entities	

ENVIRONMENTAL REVIEW PROCEDURES

Introduction

The City of Salinas, as a Responsible Entity, has assumed responsibility for environmental review, decision-making, and action that would otherwise apply to the U.S. Department of Housing and Urban Development (HUD) under National Environmental Policy Act of 1969 (NEPA) and other provisions of the law that further the purposes of NEPA as specified in Title 24 Part 58.5, by execution of a grant agreement with HUD. It is the City's goal to carry out these responsibilities to ensure compliance with all federal regulations as outlined in Title 24 Part 58.

Federal statutes set forth three basic goals for the three HUD Community Planning and Development Programs, CDBG, HOME and ESG. These goals are closely related to the major commitments and priorities of HUD of providing decent housing, a suitable living environment; and economic opportunities. The second of these goals clearly establishes concerns of environmental effect as an important consideration in all federal programs.

This Policies and Procedures Manual is intended to give detailed, step-by-step guidance in regard to the execution of environmental reviews as a component and function of grant program administration. References, information sources, and timeline suggestions are based on the City of Salinas' past experience and may not be applicable elsewhere.

City of Salinas – Housing and Community Development Division Staff Training

All Housing and Community Development Division staff involved with and responsible for conducting and performing HUD Environmental Review Record (ERR) activities will receive Title 24 Part 58.5 training. New staff will initially complete all sixteen (16) of HUD's Web-Based Instructional System for Environmental Review (WISER) training modules within sixty (60) days of the start of their employment. The City will proactively notify HUD of the completion of these trainings.

In addition to the WISER training modules, and to remain aware of emerging requirements and/or changes associated with Title 24 Part 58.5, the City of Salinas will proactively seek out additional HUD and other expert-sourced training opportunities for all ERR-involved staff.

Purpose of Environmental Review Process

The purpose of the City of Salinas' Policies and Procedures Manual is to ensure that all projects funded with federal funds, including program income, are in compliance with all applicable regulations and authorities as identified in Title 24 Part 58: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. Outlined procedures are intended to ensure a suitable living environment, or more specifically, to determine if any significant environmental impact may occur as a result of a proposed project; to enable the release of funds to support eligible projects that neither harm nor are harmed by the environment; to safeguard, enhance, and restore the environment; and to foster public participation in the development decision-making process.

Project Review

All CDBG and HOME Program Applications requesting funds are submitted to the City of Salinas Community Development Department's Housing and Community Development Division for review. Proposed projects would include those submitted to the department via CDBG, HOME or HOME CHDO applications developed by the City of Salinas' Housing and Housing and Community Development Division (Housing Division). The Housing Division will review each application and submit a recommendation for funding to the Community Development Director. All recommendations will need to be taken to the Housing and Land Use Committee (HLUC) and City Council (CC) before any funds are committed to any project.

Requirements for Environmental Review

All federally funded projects (e.g. CDBG, HOME, ESG, Public Housing Programs) are subject to environmental review using the criteria and statutory authorities specified in the HUD regulations 24 CFR Part 58 (see **Attachment A**) and for more complex projects, using procedures from the National Environmental Protection Act (NEPA).

Full Project Review

Under HUD rules, even if federal funds support only a portion of the project, the full project and its impacts must be examined before any funds are obligated or expended. In addition, even if a governmental agency or private independent firm has already conducted some other form of environmental review, the City of Salinas' Housing and Community Development Division Planning Manager must determine and document that the review meets the HUD requirements. The Environmental Review Record for any project will not begin until after the activity for a project is verified to be eligible and meets a national objective, as defined by HUD.

HUD's regulations at 24 CFR part 58.5 prohibit grant recipients from committing or spending HUD or non HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has become federal. This prohibition on "choice limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions, prior to completion of the environmental review. Housing and Community Development Division staff will coordinate with non-profit and for-profit developers, the Housing Authority of the County of Monterey (HACM) and any other project sponsors, subrecipients, and other partners to ensure environmental reviews are completed prior to expending HUD or non-HUD funds or undertaking activities that could adversely affect the environment or limit the choice of alternative actions. As soon as a project becomes federalized, Housing and Community Development Division staff will inform potential sponsors, subrecipients, and other partners of the consequences of taking action(s) or spending funds prior to the completion of the Environmental Review Record for the Project. The City will also ensure the inclusion of language in this section in all future application(s) that are issued by the Housing and Community Development Division, and that are making HUD funding, or any other source of federal funds, available for activities and/or projects.

Review by City of Salinas – Housing and Community Development Division

City of Salinas CDD staff will conduct necessary environmental reviews and/or collect and review applicable documents to determine that environment review requirements have been met. All federally funded activities/projects, to include those with an exempt HUD activity, will undergo this required review to ensure concurrence of any exempt determination and to maintain necessary records and documentation.

Environmental Review Record

City of Salinas CDD staff will maintain a written record of all environmental reviews undertaken for each project. This document will be designated as the "Environmental Review Record" (ERR) and shall be made available for public review. The City will use the most current HUD-recommended format or develop a compliant equivalent format.

The ERR shall contain all governmental review documents, public notices, and written determinations or environmental findings required by 24 CFR Part 58 to support and serve as evidence of the review, decision making and actions pertaining to a particular project. As appropriate, the ERR shall:

1. Describe the project and activities the recipient has determined to be part of the project;
2. Evaluate the effects of the project or the activities on the human environment and document compliance with applicable status and authorities, in particular those cited in Section 58.5 and 58.6; and
3. Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

The ERR contains, as appropriate, verifiable source documents and relevant base data used or cited in EAs, EISs, or other project review documents. These documents may be incorporated by reference into the ERR, provided that each source document is identified and available for inspections by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

GLOSSARY OF TERMS USED IN ENVIRONMENTAL REVIEW

Activity:	An action that a grantee or recipient puts forth as part of an assisted project regardless of whether it's to be borne directly by the HUD assistance or imparted by another funding source.
Certification:	Environmental certification including HUD form 7015.15, containing a statement forwarded to HUD along with the RROF/C and the FONSI certifying to HUD that City of Salinas has satisfied its responsibilities under the National Environmental Policy Act (NEPA) of 1969 and other related laws and authorities.
Certifying Officer:	The official authorized to execute the Request for Release of Funds and Certification with the legal capacity to carry out the responsibilities of §58.13 of the federal regulations.
ERR:	Environmental Review Record, an instrument documenting compliance with the environmental review requirements of NEPA and/or 24 CFR 58.
EIS:	Environmental Impact Statement, (under NEPA) a detailed examination of the proposed project, the environment of the proposed project, and the relationship between the two.
FOSI:	Finding of Significant Impact. If the proposed project does exceed any threshold in §58.37(b), make a FOSI in the ERR. Initiate the FOSI/EIS procedure outlined in 24 CFR Subparts F and G.
FONSI:	Finding of No Significant Impact, a statement forwarded to HUD finding that the proposed project (including mitigating measures) will not adversely affect or be affected by the environment.
NEPA:	The National Environmental Policy Act of 1969.
NOI:	Notice of Intent, as in Notice of Intent to Request Release of Funds (NOI/RROF).
Project:	An activity, or group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.
Responsible Entity:	The unit of general local government whose jurisdiction contains the project sites.
AUGF:	Authority to Use Grant Funds. (Form HUD 7015.16)

- RROF/C:** Request for Release of Funds and Certification (Form HUD 7015.15), a statement forwarded to HUD with the FONSI (see definition above) certifying that the environmental review is complete and requesting that funds for the proposed action be released to carry out the project.
- Section 106 Review:** An integral part of environmental review under 24 CFR 58.5 and (Historic Properties) NEPA which determines whether a federally permitted, licensed, or funded project affects any historic resources and if so, how to minimize any negative effects. The Section 106 consultation is mandated by The National Historic Preservation Act of 1966, as amended.
- Segmenting:** Conducting an environmental review so that only parts of the project come under review, a procedure strictly forbidden by NEPA regulations and 24 CFR 58.32.
- Subrecipients** Nonprofit Agencies, City Departments, CHDOs, etc....
- Tiering:** Conducting an environmental review in steps, commencing with a general review of the whole project, in which the ERR includes stipulated requirements for certain compliance to occur at a later time and certain documents to be attached to the ERR when it is practical to do so.

Abbreviations

- CDBG: Community Development Block Grant
- EA: Environmental Assessment
- EPA: Environmental Protection Agency
- HUD: U.S. Department of Housing and Urban Development
- NEPA: National Environmental Policy Act of 1969
- HOME: Home Investment Partnerships Program
- FEMA: Federal Emergency Management Agency
- AAP Annual Action Plan

GENERAL STEPS: A SUMMARY OF ENVIRONMENTAL REVIEW PROCESS

The list of approved projects through the City of Salinas' U.S. HUD Annual Action Plan (AAP) triggers the initiation of the environmental review process. Following the identification of approved AAP projects, City of Salinas staff will conduct an initial review and appraisal of each project, including all associated environmental conditions, to make an appropriate environmental determination. Key steps in implementing the environmental requirements include:

1. Creation of an ERR file with appropriate project identification.
2. Project or Project Aggregation - determine the full scope of project activities: consider all related activities that may be grouped and consider their aggregate potential impact. Activities may be grouped geographically or functionally. See §58.32 for a full description of aggregation, including descriptions of geographic and functional aggregation.
3. Visit the project site, obtain representative photographs of the site and surrounding area, and review pertinent maps (e.g. flood maps, wetland maps and topography maps). Initially, make use of available internet mapping and satellite images and/or data to conduct a preliminary "site" visit from your desktop computer. A review of available aerials and satellite images can assist with identifying any potential issues or concerns (e.g. identify rail lines, airports, highways, above ground storage tanks, schools, hospitals, toxic/contaminated sites, etc. – some internet mapping sites allow for on screen measuring to assist in getting a general sense of a project site's proximity to certain features of interest) prior to visiting the project site.
4. Applicants must submit an acceptable project description for review by City of Salinas staff to include an exact use of funds. Project descriptions shall include representative photographs, key map features and notes, corresponding site address(es) or legal descriptions, and a proposed site plan (if applicable or available). At a minimum, the project description shall include and address the following:
 - Project Name; Funding Source; and Project Number
 - Estimated Total Project Cost including any estimated HUD Funding, by Program
 - Project Location (address, site map)
 - Use of Project (park, affordable housing, public services)
 - Size of Project (sq. ft., number of units, etc.)
 - Services provided (who will be served by the project)
 - Projected numbers of individuals/households served by the project?
 - Relocation plans, if any, of individuals or households impacted by the project
 - Type of Construction (new, rehabilitation, conversion)
 - Other ER references used
5. Determine the level of review required. Levels of environmental review are characterized by the degree to which the regulations require a review or compliance determination under the statutes cited in sections 58.34, 58.35, 58.36, 58.3) of the HUD regulations. In order of complexity from minor to significant, they are:

Exempt Activities: activities that meet the requirements of the regulations under 24 CFR

58.34 (a)(1)-(11) do not have to comply with the other provisions of law or authorities cited in Section 58.5 except for the applicable requirement of Section 58.6 (see Attachment C). Skip to number 14. *If City staff responsible for completing ERRs intend to apply the emergency/disaster exemption at 24 CFR 58.34(a)(10) to any project, the Community Development Analyst Responsible for completing this ERR and the Responsible Entity Agency Official shall prepare a signed statement attesting to reviewing HUD's memorandum of December 11, 2012, regarding "Environmental Review Processing During Emergencies and Following Disasters under 24 CFR Part 58" and determining that, per the memorandum, the exemption is applicable to the specific project. Copies of the signed statements shall be included in the environmental review record for the specific project. This additional HUD requirement will remain in place until the next environmental monitoring of the City's Environmental Review Records.*

Categorical Exclusion not subject to 58.5: activities that, according to 24 CFR 58.35(b) regulations, would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in §58.5. However, these activities are still subject to 58.6 (see Attachment C). Skip to number 14.

Categorical Exclusions subject to 58.5: activities that, according to regulations under 24 CFR 58.35(a), do not require an EIS or an EA plus FONSI, but do require compliance with federal statutes on the Statutory Checklist (see Attachment D). If exempt, skip to number 14. If not, skip to number 9.

Environmental Assessment:

Environmental Impact Statement Not Required: activities that are neither exempt nor categorically excluded, which fall below the threshold of activities requiring an EIS. An EA must be prepared in accordance with Subpart E of Part 58 (see Attachment F). Skip to number 9.

Environmental Impact Statement Required: activities that are neither exempt nor categorically excluded, which exceed the threshold of activities requiring an EA.

6. Collect and evaluate data and information from other sources such as, but not limited to FEMA flood maps, wetland inventory maps, and soil survey maps.
7. Initiate contact with other agencies requesting jurisdictional confirmation or concurrence with the City's environmental determination.
8. Make a final environmental determination and complete all required forms (i.e. the Statutory Checklist and Environmental Assessment forms).
9. As appropriate, publish and disseminate a Notice of Intent to Request Release of Funds (NOI/RROF) for Level 3 projects (see Attachment G). If any of the categorical exclusions listed in Section 58.35(a) do not require compliance with any other Federal laws and authorities cited in Section 58.5, the project converts to Exempt, per Section 58.34(a)(12), and a NOI/RROF notice is not required.

10. For Level 4, publish a combined NOI/RROF and FONSI (see Attachment I and J).
11. Submit an official determination for the Certifying Officer review and signature.
12. Prepare the RROF and Certification, HUD Form 7015.15 (see Attachment K) to be submitted to HUD along with a letter of submittal signed by the City's Certifying Officer and a copy of all pertinent publications. This information shall be provided to HUD through the Environmental Review Online System (HEROS) and/or e-mail to the CPD Director at RROFSFRO@hud.gov
13. Obtain a signed Authorization to Use Grant Funds form (HUD Form 7015.16) prior to any use of funds (see Attachment L).
14. Document the EA process by concluding the Environmental Review Record (ERR) for the project and retaining all documents for public review or audit in accordance with City and HUD retention policies.
15. City Manager or designee to execute Contract and/or Agreement and CDD staff to issue notice to proceed with proposed activity.

How Subrecipients Can Expedite/Facilitate Environmental Review

Complete Project Description:	Project descriptions shall include any proposed physical alteration of a site, whether demolition, exterior alteration (including painting, siding, replacement windows, etc.), rehabilitation, or new construction (including expansion, replacement, etc.). Descriptions must have sufficient detail to allow the reviewer to visualize any proposed physical changes including square footage, linear footage, number of items to be installed, and number of people to be served. Descriptions must be inclusive of the entirety of a project as NEPA does not allow segmenting of a project. The information provided allows for an accurate determination of eligibility and helps reviewer determine the level of environmental review as required by NEPA regulations, and related laws and authorities identified in Section 58.5.
Location/Site information:	Project sites shall include street address(es), site maps, and any other information that may assist City staff in identifying and understanding a project's location.
Photographs:	Photographs of the project site with adequate reference points to assist in identifying the site. All elevations of any current structures, regardless of condition, shall be photographed and provided to City Staff.

INITIATION OF THE ENVIRONMENTAL REVIEW PROCESS: DRAFTING THE ERR

Document Title:	Environmental Review Record
Document Subtitle:	Example: Park Improvements: Name and location
Funding Sources/Amounts:	List all potential funding sources to be allocated/used to complete the project, to include grant identification number, grant year, programs, and amounts.
Prepared by:	Name of Reviewer
Contact Information:	Address, telephone number, and email of Reviewer
Agency:	Name, address, point of contact and phone number of Project Subrecipient
Project:	Name of proposed activity, project name, program name, etc. as listed in the AAP and/or Consolidated Plan.
Project Monitor:	Name and contact information of City staff responsible for the project, and individual to contact with any questions about the proposed activity.
Location of Proposed Activity:	A detailed description of the proposed activity shall be sufficiently precise to identify the project's location to include; street address(es), relational cross streets, any other equivalent description that adequately identifies the site, and site map. City staff shall not complete an Environmental Review in absence of sufficient, specific site information. However, for housing rehabilitation projects, tiering may be used due to potential unavailability of an applicable address. An Environmental Review Checklist will be completed on each property once identified.
Description of Proposed Activity:	A detailed project description of adequate description and completeness which clearly identifies each environmentally significant feature of the proposed activity.
Project Analysis:	Determination of Environmental Review Level: City staff shall determine an appropriate level of the environmental review for a project based upon a project's description and associated processes for conducting the five (5) levels of review previously listed and outlined as follows

STEPS IN CONCLUDING THE ERR: *EXEMPT ACTIVITIES*

An ERR must show that eligible project activities are included on the list of Exempt Activities in 24CFR 58.34(a) below:

Except for the applicable requirements of Sec. 58.6, the City of Salinas does not have to comply with the requirements of 24 CFR 58 or undertake any environmental review, consultation, or other action under NEPA and the other provisions of law or authorities cited in Sec. 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

- 1) Environmental and other studies, resource identification and the development of plans and strategies;
- 2) Information and financial services;
- 3) Administrative and management activities;
- 4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- 5) Inspections and testing of properties for hazards or defects;
- 6) Purchase of insurance;
- 7) Purchase of tools;
- 8) Engineering or design costs;
- 9) Technical assistance and training;
- 10) Assistance for temporary or permanent improvements that do not alter environmental conditions and is limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters, imminent threats or physical deterioration;
- 11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
- 12) Any of the categorical exclusions listed in Sec. 58.35(a) provided there are no circumstances, which require compliance with any other Federal laws, and authorities cited in Sec. 58.5. Projects classified as Exempt under 24 CFR58.34(a)(12), a statutory checklist must be completed to document the requirements have been satisfied.

City of Salinas does not have to publish a NOI/RROF or submit HUD Form 7015.15. No further approval from HUD is required for the Housing & Community Development Division to drawdown of funds to carry out exempt activities and projects.

Sign and Forward: Sign the Certification of Exemption for HUD Funded Projects, and Compliance Document Checklist 24 CFR 58.6 when applicable. The original form is maintained in the project file. Environmental Review Record.

Documents to Retain: Retain the Exempt forms in the ERR and it is always made available for public review and audit.

STEPS IN CONCLUDING THE ERR: *CATEGORICAL EXCLUSION NOT SUBJECT TO §58.5*

ERR must show that the eligible activity appears on the list of Categorical exclusions not subject to §58.5 in 24 CFR 58.35(b) below:

Sec. 58.35 Categorical Exclusion: Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see Sec. 58.2(a)(3)) in which a normally excluded activity may have a significant impact. There are two levels of Categorical Exclusion identified in Section 58.35. Categorical exclusion subject to Section 58.5 and (b) Categorical exclusion not subject to Section 58.5

Categorical exclusion not subject to Sec. 58.5: Under this section, the Certifying Officer will make a determination that the following categorically excluded activities will not alter any conditions requiring a review or compliance determination under the Federal laws and authorities cited in Section 58.5. When the following types of activities are undertaken, the Housing and Community Development Division does not have to publish a NOI/RROF and does not have to submit a RROF to HUD except in the circumstances described in 24 CFR 58.35(c).

- 1) Tenant-based rental assistance;
- 2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, Federal government benefits and services;
- 3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
- 4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- 5) Activities to assist homeownership of existing “or new dwelling units not assisted with Federal funds” including closing costs and down payment assistance to home buyers, interest buy-downs and similar activities that result in the transfer of title to a property;
- 6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities not having a physical

impact. Circumstance requiring NEPA review: if the Community Development Analyst determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

- 7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under §58.47.

Determination: Determine that the proposed activity is a categorical exclusion not subject to §58.5 and therefore is not subject to further action under NEPA.

Sign and Forward: Sign the Certification of Categorical Exclusion (not subject to 58.5), and Compliance Document Checklist 24 CFR 58.6 when applicable (see Attachment C). The original form is maintained in the Environmental Review Record.

Documents to Retain: Retain the signed Certification of Categorical Exclusion (not subject to 58.5) and the Compliance Documentation Checklist 24 CFR 58.6 form in the ERR. These forms will make up the ERR which shall be kept in the Housing and Community Development Division office for public review and audit.

STEPS IN CONCLUDING THE ERR: CATEGORICAL EXCLUSION SUBJECT TO §58.5

Show that the proposed project appears on the list of Categorical exclusions subject to §58.5, in 24 CFR 58.35(a) below.

Sec. 58.35 Categorical exclusions: Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see Sec. 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in Sec. 58.5 is required for any categorical exclusion listed in this section.

Categorical exclusions subject to Sec. 58.5: The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in Sec. 58.5:

- 1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and

will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

- 2) Special projects directed to the removal of material and architectural barriers that restrict the mobility and accessibility to elderly and handicapped persons.
- 3) Rehabilitation of buildings and improvements when the following conditions are met:
 - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;
 - (ii) In the case of multifamily residential building:
 - (a) Unit density is not changed more than 20 percent;
 - (b) The project does not involve changes in land use from residential to non-residential; and
 - (c) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - (iii) In the case of non-residential structures, including commercial, industrial and public buildings:
 - (a) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - (b) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- 4) Individual Actions when the following conditions are met:
 - (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
 - (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
- 5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- 6) Combinations of the above activities.

Determination: Determine that the proposed project is a categorical exclusion subject to §58.5. Complete the Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist and the Compliance Documentation checklist 24 CFR 58.6 forms. Upon completion of the Statutory Checklist, provided that there are no circumstances which require compliance with any other Federal laws and authorities, a determination of exempt will be made and documented in the ERR.

Statutory Checklist: If the proposed project appears on the list of categorical exclusions subject to §58.5, a Statutory Checklist must be prepared for the project (see Attachment D). Include the checklist as part of the ERR. This checklist records in tabular form how the proposed project complies with the applicable federal environmental regulations in §58.5.

After the completion of the Statutory Checklist, one of the following determinations shall be made:

DETERMINATION:

- This project converts to Exempt, per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license (Status “A” has been determined in the status column for all authorities); Funds may be drawn down for this (now) EXEMPT project; OR
- This project cannot convert to Exempt because one or more statutes/authorities require consultation or mitigation. Complete consultation/mitigation requirements, publish NOI/RROF and obtain Authority to Use Grant Funds (HUD 7015.16) per Section 58.70 And 58.71 before drawing down or obligating funds; OR
- The unusual circumstance of this project may result in a significant environmental impact. This project requires preparation of an Environmental Assessment (EA). Prepare the EA according to 24 CFR Part 58 Subpart E.

EFFECT OF STATUTORY CHECKLIST

Following completion of the Statutory Checklist, the reviewer proceeds according to whether or not the proposal complies with all of the statutory requirements.

No Statutory Concerns Raised By Project:	If the proposed project complies fully with all of the items on the Statutory Checklist and the Compliance Documentation Checklist, revise the status of the project from categorical exclusion subject to §58.5 to exempt activity pursuant to §58.34(a)(12).
Findings:	Status Reverts to Exempt Activity when the determination is declared on the Statutory Checklist (see Attachment D).
Sign and Forward:	The Statutory Checklist form will be signed, dated and placed in the ERR. A copy of this form shall be part of the project file.
Documents to Retain:	Retain the HUD Region 6 Certification of Categorical Exclusion (subject to 58.5) form, Statutory Checklist form and Compliance Documentation Checklist form in the ERR. These forms will make up the ERR which shall be kept in the City's Community Development Department for public review and audit.
Some Statutory Concerns Raised By Project:	<p>If one or more items on the checklist trigger compliance the proposed activity cannot be approved until assurance is given that the necessary approvals, controls, or mitigating actions have taken place in order to bring the activity into compliance. Some activities cannot be made acceptable for federal funding due to the inability of being able to mitigate any items identified in 58.5 and 58.6.</p> <p>If, however, there is confidence that the appropriate reviews, controls, and mitigations will reasonably take place, reaffirm that the proposed activity is a categorical exclusion subject to §58.5. and document the basis for believing that necessary ameliorative action will occur.</p> <p>To ensure compliance with the statutes in §58.5, the ERR then needs to include conditions in the form of instructions to the Project Manager on steps necessary to complete compliance with the statutes. These conditions shall be incorporated in the contract and monitored for compliance by the project monitor. Project Manager/Owner shall provide City staff with documentation of compliance such as plans and specifications,</p>

field notes, photographs and inspection reports. All documentation shall be placed in the Environmental Review Record.

EXAMPLE General form of statement of conditions:

The City of Salinas Historic Resources Board (HRB) has determined that this property is eligible for inclusion into the National Registry. The rehabilitation of this property must include all work as outlined in the HRB letter. Make reference to the date of the letter, be able to verify the changes and the approval from HRB. If additional work or changes are needed, HRB must approve the work in writing. The letter shall be placed in the file to verification of all approved changes prior to the commencement of the rehabilitation. The rehabilitation work specification should include the work required by HRB. Project Managers/Owners shall provide a copy of the revised plans and specifications, inspection report and a copy should be placed in the ERR.

Determination:

Status remains Categorical Exclusion subject to §58.5

Initiate NOI/RROF Procedure:

The purpose of the NOI/RROF procedure is to make possible a degree of public input on projects, which qualify for this level of review.

Maintain ERR for Public Inspection:

Documents up to this point result in an ERR. ERR will be available at the City's Community Development Department for public review and audit by HUD.

Public Notice of NOI/RROF:

Prepare and publish a NOI/RROF (see Attachment G) in the official newspaper. An e-mail of this notice should be sent to the internal Housing Distribution List for review and comments. The Housing Distribution List is a list of individuals, groups and organizations known to be interested in the activities, projects, and funding from the City of Salinas.

Period of comment on Environmental Impacts:

The ERR will be made available for review in the Community Development Department office from 9:00 a.m. to 4:30 p.m., Monday through Friday and the department will receive comments from all interested parties for seven days after the publication. City staff will address all comments in writing within 30 days and a copy shall be placed in the ERR. The Housing and Community Development Division shall not submit the RROF to HUD until all comments have been addressed.

Prepare RROF and Environmental Certification:	HUD form 7015.15 (see Attachment K) must be completed and signed by the City's Certifying Officer after the end of the comment period.
Deliver RROF and Environmental Certification:	<p>On the next day following the 7-day comment period, the following items for hardcopy ERRs will be sent to HUD through e-mail and internally through HUD's Environmental Review Online System (HEROS) for digital ERRs by assigning the ERR for the respective project to our local HUD ER Representative.</p> <ul style="list-style-type: none"> • Copy of Publication of NOI/RROF notice, including the published notice; • RROF and Environmental Certification, HUD form 7015.15; and • Cover letter explaining the content of the submission and identifying the Housing and Community Development Division contact person.
Comment on compliance with rules:	A copy of the required information will be sent to HUD through e-mail and/or sent to HUD through HEROS to begin the 15-day comment period. For fifteen days following delivery of HUD form 7015.15, the HUD office will receive any objections that meet the conditions and procedures set forth in subpart H of 24 CFR 58. The Housing and Community Development Division will answer any comments received by HUD within 30 days. HUD can refuse the RROF and Certification on any grounds set forth in Section 58.75.
Receive Notice of Removal Grant Conditions from HUD:	After conclusion of the 15-day period of public notice and of for public review and comment, City of Salinas receives the Authority to Use Grant Funds, HUD form 7015.16 (see Attachment) from HUD. City of Salinas may then authorize the execution of the project contract or Funding/Grant Agreement for the project/activity.
Sign and Forward:	HUD form 7015.16 is placed in the Environmental Review Record. A copy of the form is filed in the Community Development Department file and in the Environmental Review Record.
Documents to Retain:	<p>ERR, including Statutory Checklist NOI/RROF Notice, Copy of Publication of NOI/RROF Notice, RROF and Environmental Certification (HUD Form 7015.15) and Authorization to Use Grant Funds (HUD Form 7015.16).</p> <p>These forms will make up the ERR which shall be kept in the Community Development Department office for public review and audit by HUD.</p>

COMMON STATUTORY CONCERNS IDENTIFIED ON STATUTORY CHECKLIST

Section 106 Review:

Any federal undertaking requires a Section 106 Review to determine if it is eligible for listing in the National Register of Historic Places by the grant conditions from HUD. The Housing and Community Development Division will submit to HRB a letter of determination. If HRB concurs that the action will not affect a property eligible for listing in the National Register, then the Section 106 Review ends at this point. The letter from the HRB is placed in the project ERR file as documentation.

If, however, the structure on the site is determined to be listed or eligible for listing in the National Register, then a Determination of Effect must be filed. The Determination of Effect application is a detailed explanation of all proposed construction activities-both interior and exterior in the case of renovation and includes plans, specifications, and photographs of the project. The Department of Interior’s Standard for Rehabilitation provides guidelines for the Section 106 Review.

Effect of Ambient Noise:

A Noise Assessment is required when housing and other noise sensitive activities are proposed if the project is:

- (1) Within 1,000 feet of a roadway with high ambient vehicular noise levels;
- (2) Within 3,000 feet of a railroad; or
- (3) Within 15 miles of a military airport or a commercial airport; or
- (4) A combination of any or all 3 noise sources.

Construction of noise-sensitive activities in these areas may require design modifications to mitigate the noise impacts. If the noise level is excessive, special approval from HUD may be required.

Site acceptability standards are listed below:

	Day-night average sound level (in decibels)	Special approvals and requirements
Acceptable.....	Not exceeding 65 dB(1).....	None
Normally Unacceptable.....	Above 65 dB but not exceeding 75 dB.....	Special Approvals (2) Environmental Review (3) Attenuation (4)
Unacceptable.....	Above 75 dB.....	Special Approval (2) Environmental Review (3)

Notes:

- (1) Acceptable threshold may be shifted to 70 dB in special circumstances pursuant to §51.105(a).
- (2) See §51.104(b) for requirements
- (3) See §51.104(b) for requirements
- (4) 5 dB additional attenuation required for sites above 65 dB but not exceeding 70 dB and 10 dB additional attenuation required for sites above 70 dB but not exceeding 75 dB. (See §51.104(a).)
- (5) Attenuation measures to be submitted to the Assistant Secretary for CPD for approval on a case-by- case basis.

Flood:

An 8-step assessment for project sites within the 100- year flood plain and for critical action activities falling within the 500-year floodplain as outlined in federal regulation part 55.20.

DECISION MAKING PROCESS EXECUTIVE ORDER 11988 AND 24 CFR 55.20

- Step 1. Determine whether the proposed action is located in a 100-year floodplain.
- Step 2. Publish notice of the proposal to consider an action in the floodplain (15 days).
- Step 3. Evaluate practicable alternatives to locating the proposed action in a floodplain.
- Step 4. Identify the potential impacts associated with occupancy and modification of the floodplain.
- Step 5. Design or modify the action to minimize adverse impacts and preserve the beneficial values of the floodplain.
- Step 6. Reevaluate whether the proposed action is practicable.
- Step 7. Publish a notice of decision to identify why there is “no practicable alternative,” and the alternative and mitigation measures adopted (15-day command).
- Step 8. Proceed with the project planning.

STEPS IN CONCLUDING THE ERR: *PROJECTS REQUIRING AN ENVIRONMENTAL ASSESSMENT (EA)*

- Determination to Conduct EA: State that the proposed project does not appear on either the list of exempt activities, 24 CFR 58.34(a), on page 10, nor the list of categorical exclusions not subject to §58.5, 24 CFR 58.35(b), on page 11, nor the list of categorical exclusions subject to §58.5, 24 CFR 58.35(a), on page 13.
- Compliance with Statutory Provisions of §58.5 Required on the Statutory Checklist: State that all of the statutes in 24 CFR 58.5 (as appearing Provisions of §58.5 Required on the Statutory Checklist) must be in compliance. Initiate compliance procedures as appropriate.
- EA Required: State that NEPA requires an Environmental Assessment for proposed projects that are neither exempt nor categorically excluded, according to §58.36. Review the proposal to determine if any part of the project exceeds any NEPA threshold in §58.37(b). Use the environmental assessment form in Attachment F to evaluate the project in conjunction with the Statutory Checklist (also in Attachment F) and assess the probable environmental impact.
- Finding FOSI: If the proposed project does exceed any threshold in §58.37(b), make a Finding of Significant Impact (FOSI) in the ERR. Initiate the FOSI/EIS procedure outlined in 24 CFR Subparts F and G.
- Finding FONSI: If the proposed project does not result in a Finding of Significant Impact or exceed any threshold in §58.37(b), make a Finding of No Significant Impact (FONSI) in the ERR. Initiate the FONSI and NOI/RROF procedures.

FONSI AND NOI/RROF PROCEDURES

The purpose of the FONSI and NOI/RROF procedures is to make possible a degree of public input on projects, which qualify for this level of review. A facsimile notice will be sent to all persons on the environmental review mailing list for review and comments.

Maintain ERR for Public Inspection: Steps up to this point have resulted in an ERR, based on the available information about the project. Keep the ERR documents shall remain available in the Community Development Department office for public review and audit.

Public Notice of FONSI NOI/RROF:

Prepare and publish a combined notice of FONSI and NOI/RROF in the official newspaper (see Attachment I and J for notice text). An e-mail of this notice should be sent to the internal Housing Distribution List for review and comments. The Housing Distribution List is a list of individuals, groups and organizations known to be interested in the activities, projects, and funding from the City of Salinas.

Comment Period on environmental impacts:

The Environmental Review Record must be available for review to the public in the Community Development Department office from 9:00 a.m. to 4:30 p.m., Monday through Friday. Comments will be accepted for 15 days from the date of publication. The Certifying Officer will address all comments in writing within 30 days and a copy shall be placed in the ERR. The Housing and Community Development Division shall not submit the RROF/C to HUD until all comments have been addressed.

Prepare RROF and Certification:

The City's Certifying Officer must sign Environmental HUD Form 7015.15 after the 15-day comment period.

Deliver RROF and Environmental Certification:

On the next day following the 15-day comment period, the following items for hardcopy ERRs will be sent to HUD through e-mail and internally through HUD's Environmental Review Online System (HEROS) for digital ERRs by assigning the ERR for the respective project to our local HUD ER Representative.

- Copy of publication of FONSI and NOI/RROF notice and a copy of the notice;
- RROF and Environmental Certification, HUD form 7015.15;
- Cover letter explaining the content of the submission and the Housing and Community Development Division contact person.

Comment on Compliance with rules:

A copy of the required information will be sent to HUD through e-mail and/or sent to HUD through HEROS to begin the 15-day comment period. For fifteen days following delivery of HUD Form 7015.15, the HUD office will receive any objectives that meet the conditions and procedures set forth in subpart H of 24 CFR 58. The Housing and Community Development Division will answer any comments received by HUD within 30 days. HUD can refuse the RROF and Certification on any grounds set forth in Section 58.75.

Receive Notice of Removal of Grant Conditions from HUD:

After conclusion of the period of public notice and opportunity for public review and comment, the City of Salinas receives HUD Form 7015.16, Authorization to Use Grant Funds. The City may then authorize the execution of the project contract or Funding/Grant Agreement.

Sign and Forward:

The Authorization to Use Grant Funds, HUD form 7015.16 is placed in the Environmental Review Record.

Documents to Retain:

ERR, including Statutory Checklist and EA, FONSI and NOI/RROF Notice, Copy of Publication of FONSI and NOI/RROF and Environmental Certification (HUD Form 7015.15), Authorization to Use Grant Funds (HUD Form 7015.16), Maintain ERR in the Community Development department offices.

These forms will make up the ERR which will be kept in the Community Development Department for public review and audit by HUD.

SPECIAL PROBLEMS ENVIRONMENTAL REVIEW

Avoiding Segmentation: The environmental review process requires that projects be evaluated in a holistic manner. The project as a whole is evaluated as to its impact on the environment as a whole. The urge to separate a project into components and deal with each segment individually produces good results in financing, phasing, or managing a project, but it tends to obscure understanding of the environmental effects.

Therefore, if an agency (subrecipient) uses even a very small amount of federal funds to support a project, City of Salinas must carry out an environmental review on the whole project from start to finish.

When sites are not yet determined: Use the technique known as tiering based on site information. This consists of producing a general, programmatic Environmental Review Record with the information that is available at the time. Require documentation that the project sponsors address any statutory concerns identified on the Statutory Checklist when possible (see §58.15 Tiering). This results in a case-by-case review of the environmental elements not previously cleared.

A multiple-site project can commence even though some of the sites are not yet selected. This technique has the potential side benefit of injecting environmental concerns into the site selection process, as it should be in any case.

When project has multi-year funding: When planning and program development provide for activities to be implemented over two or more years, the City of Salinas's environmental review shall consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The complete project description will be listed in the environmental review and included in the RROF.

In the case of multiple-year funding, the City of Salinas' Environmental Review Section should revisit the project annually to confirm that a FONSI or other finding remains valid, or that an EA describes the project accurately. Document the site visit and finding in writing and include in the ERR for review and audit.

STEPS IN CONCLUDING THE ERR: PROJECTS REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT

In the event a project within City of Salinas limits is at the Environmental Impact Statement (EIS) level, the City of Salinas will proactively collaborate with HUD staff to determine the correct steps and protocol to follow as an EIS is a more detailed written statement required by section 102(2)(C) of NEPA for a proposed major Federal action significantly affecting the quality of the human environment.

For EIS Noticing purposes, the City of Salinas will follow the instructions stipulated in the EIS Notice Requirements for Responsible Entities dated July 22, 2011, and included as *Attachment O*. This memo describes an updated process that will no longer require an RE to publish a Federal Register notice for the DEIS and FEIS through HUD except where the EIS is for an action with effects of national concern. For actions with effects primarily of local concern, HUD and the RE will rely exclusively on the Environmental Protection Agency (EPA) for Federal Register publications at the DEIS and FEIS phases. RE's will also be required to publish a notice locally. In all cases, the NOI will still be published in the Federal Register by HUD. An appendix featuring EPA guidance pertaining to the filing process for EPA Federal Register publication is included at the end of this document.

ATTACHMENTS

Attachment A: 24 CFR 58 Regulations

This content is from the eCFR and is authoritative but unofficial.

Title 24 - Housing and Urban Development

Subtitle A - Office of the Secretary, Department of Housing and Urban Development

Part 58 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

Subpart A Purpose, Legal Authority, Federal Laws and Authorities

- § 58.1 Purpose and applicability.
- § 58.2 Terms, abbreviations and definitions.
- § 58.4 Assumption authority.
- § 58.5 Related Federal laws and authorities.
- § 58.6 Other requirements.

Subpart B General Policy: Responsibilities of Responsible Entities

- § 58.10 Basic environmental responsibility.
- § 58.11 Legal capacity and performance.
- § 58.12 Technical and administrative capacity.
- § 58.13 Responsibilities of the certifying officer.
- § 58.14 Interaction with State, Federal and non-Federal entities.
- § 58.15 Tiering.
- § 58.17 [Reserved]
- § 58.18 Responsibilities of States assuming HUD environmental responsibilities.

Subpart C General Policy: Environmental Review Procedures

- § 58.21 Time periods.
- § 58.22 Limitations on activities pending clearance.
- § 58.23 Financial assistance for environmental review.

Subpart D Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

- § 58.30 Environmental review process.
- § 58.32 Project aggregation.
- § 58.33 Emergencies.
- § 58.34 Exempt activities.
- § 58.35 Categorical exclusions.
- § 58.36 Environmental assessments.
- § 58.37 Environmental impact statement determinations.
- § 58.38 Environmental review record.

Subpart E Environmental Review Process: Environmental Assessments (EA's)

- § 58.40 Preparing the environmental assessment.
- § 58.43 Dissemination and/or publication of the findings of no significant impact.

§ 58.45 Public comment periods.

§ 58.46 Time delays for exceptional circumstances.

§ 58.47 Re-evaluation of environmental assessments and other environmental findings.

Subpart F Environmental Review Process: Environmental Impact Statement
Determinations

§ 58.52 Adoption of other agencies' EISs.

§ 58.53 Use of prior environmental impact statements.

Subpart G Environmental Review Process: Procedures for Draft, Final and
Supplemental Environmental Impact Statements

§ 58.55 Notice of intent to prepare an EIS.

§ 58.56 Scoping process.

§ 58.57 Lead agency designation.

§ 58.59 Public hearings and meetings.

§ 58.60 Preparation and filing of environmental impact statements.

Subpart H Release of Funds for Particular Projects

§ 58.70 Notice of intent to request release of funds.

§ 58.71 Request for release of funds and certification.

§ 58.72 HUD or State actions on RROFs and certifications.

§ 58.73 Objections to release of funds.

§ 58.74 Time for objecting.

§ 58.75 Permissible bases for objections.

§ 58.76 Procedure for objections.

§ 58.77 Effect of approval of certification.

PART 58 - ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

Authority: 12 U.S.C. 1707 note, 1715z-13a(k); 25 U.S.C. 4115 and 4226; 42 U.S.C. 1437x, 3535(d), 3547,
4321-4335, 4852, 5304(g), 12838, and 12905(h); title II of Pub. L. 105-276; E.O. 11514 as amended by E.O. 11991,
3 CFR, 1977 Comp., p. 123.

Source: 61 FR 19122, Apr. 30, 1996, unless otherwise noted.

Subpart A - Purpose, Legal Authority, Federal Laws and Authorities

§ 58.1 Purpose and applicability.

- (a) **Purpose.** This part provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.

- (b) **Applicability.** This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:
- (1) Community Development Block Grant programs authorized by Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));
 - (2) [Reserved]
 - (3)
 - (i) Grants to states and units of general local government under the Emergency Shelter Grant Program, Supportive Housing Program (and its predecessors, the Supportive Housing Demonstration Program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care Program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);
 - (ii) Grants beginning with Fiscal Year 2001 to private non-profit organizations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);
 - (4) The HOME Investment Partnerships Program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);
 - (5) Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));
 - (6)
 - (i) Public Housing Programs under Title I of the United States Housing Act of 1937, including HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 26 (42 U.S.C. 1437x);
 - (ii) Grants for the revitalization of severely distressed public housing (HOPE VI) for Fiscal Year 1999 and prior years, in accordance with Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998); and
 - (iii) Assistance administered by a public housing agency under section 8 of the United States Housing Act of 1937, except for assistance provided under part 886 of this title, in accordance with section 26 (42 U.S.C. 1437x);
 - (7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the heading "Annual Contributions for Assisted Housing" in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547);

- (8) The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note);
 - (9) The Self-Help Homeownership Opportunity Program under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 110 Stat. 834), in accordance with section 11(m));
 - (10) Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:
 - (i) Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities (25 U.S.C. 4115 and 4226); and
 - (ii) Section 806 for Native Hawaiian Housing Block Grants (25 U.S.C. 4226);
 - (11) Indian Housing Loan Guarantees authorized by section 184 of the Housing and Community Development Act of 1992, in accordance with section 184(k) (12 U.S.C. 1715z-13a(k)); and
 - (12) Grants for Housing Opportunities for Persons with AIDS (HOPWA) under the AIDS Housing Opportunity Act, as follows: competitive grants beginning with Fiscal Year 2001 and all formula grants, in accordance with section 856(h) (42 U.S.C. 12905(h)); all grants for Fiscal Year 1999 and prior years, in accordance with section 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998).
- (c) When HUD assistance is used to help fund a revolving loan fund that is administered by a recipient or another party, the activities initially receiving assistance from the fund are subject to the requirements in this part. Future activities receiving assistance from the revolving loan fund, after the fund has received loan repayments, are subject to the environmental review requirements if the rules of the HUD program that initially provided assistance to the fund continue to treat the activities as subject to the Federal requirements. If the HUD program treats the activities as not being subject to any Federal requirements, then the activities cease to become Federally-funded activities and the provisions of this part do not apply.
- (d) To the extent permitted by applicable laws and the applicable regulations of the Council on Environmental Quality, the Assistant Secretary for Community Planning and Development may, for good cause and with appropriate conditions, approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56127, Sept. 29, 2003]

§ 58.2 Terms, abbreviations and definitions.

- (a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:
- (1) **Activity** means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.
 - (2) **Certifying Officer** means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of § 58.13.

- (3) **Extraordinary Circumstances** means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:
- (i) Actions that are unique or without precedent;
 - (ii) Actions that are substantially similar to those that normally require an EIS;
 - (iii) Actions that are likely to alter existing HUD policy or HUD mandates; or
 - (iv) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.
- (4) **Project** means an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.
- (5) **Recipient** means any of the following entities, when they are eligible recipients or grantees under a program listed in § 58.1(b):
- (i) A State that does not distribute HUD assistance under the program to a unit of general local government;
 - (ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;
 - (iii) A unit of general local government;
 - (iv) An Indian tribe;
 - (v) With respect to Public Housing Programs under § 58.1(b)(6)(i), fiscal year 1999 and prior HOPE VI grants under § 58.1(b)(6)(ii) or Section 8 assistance under § 58.1(b)(6)(iii), a public housing agency;
 - (vi) Any direct grantee of HUD for a special project under § 58.1(b)(7);
 - (vii) With respect to the FHA Multifamily Housing Finance Agency Program under 58.1(b)(8), a qualified housing finance agency;
 - (viii) With respect to the Self-Help Homeownership Opportunity Program under § 58.1(b)(9), any direct grantee of HUD.
 - (ix)
 - (A) With respect to NAHASDA assistance under § 58.1(b)(10), the Indian tribe or the Department of Hawaiian Home Lands; and
 - (B) With respect to the Section 184 Indian Housing Loan Guarantee program under § 58.1(b)(11), the Indian tribe.
 - (x) With respect to the Shelter Plus Care and Supportive Housing Programs under § 58.1(b)(3)(ii), nonprofit organizations and other entities.
- (6) **Release of funds.** In the case of the FHA Multifamily Housing Finance Agency Program under § 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter. In the case

of the Section 184 Indian Housing Loan Guarantee program under § 58.1(b)(11), Release of Funds refers to HUD's issuance of a commitment to guarantee a loan, or if there is no commitment, HUD's issuance of a certificate of guarantee.

(7) **Responsible Entity.** Responsible Entity means:

- (i) With respect to environmental responsibilities under programs listed in § 58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.
- (ii) With respect to environmental responsibilities under the programs listed in § 58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) listed in § 58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in § 58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:
 - (A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;
 - (B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;
 - (C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(8) **Unit Density** refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.

(9) **Tiering** means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.

(10) **Vacant Building** means a habitable structure that has been vacant for more than one year.

(b) The following abbreviations are used throughout this part:

- (1) CDBG - Community Development Block Grant;
- (2) CEQ - Council on Environmental Quality;
- (3) EA - Environmental Assessment;
- (4) EIS - Environmental Impact Statement;
- (5) EPA - Environmental Protection Agency;
- (6) ERR - Environmental Review Record;
- (7) FONSI - Finding of No Significant Impact;

- (8) HUD - Department of Housing and Urban Development;
- (9) NAHA - Cranston-Gonzalez National Affordable Housing Act of 1990;
- (10) NEPA - National Environmental Policy Act of 1969, as amended;
- (11) NOI/EIS - Notice of Intent to Prepare an EIS;
- (12) NOI/RROF - Notice of Intent to Request Release of Funds;
- (13) ROD - Record of Decision;
- (14) ROF - Release of Funds; and
- (15) RROF - Request for Release of Funds.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

§ 58.4 Assumption authority.

- (a) **Assumption authority for responsible entities: General.** Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in § 58.5. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.
- (b) **Particular responsibilities of the States.**
 - (1) States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.
 - (2) States must exercise HUD's responsibilities in accordance with § 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the state. Approval by the state of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in § 58.5.
- (c) **Particular responsibilities of Indian tribes.** An Indian tribe may, but is not required to, assume responsibilities for environmental review, decision-making and action for programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a). The tribe must make a separate decision regarding assumption of responsibilities for each of these Acts and communicate that decision in writing to HUD. If the tribe assumes these responsibilities, the requirements of this part shall apply. If a tribe formally declines assumption of these responsibilities, they are retained by HUD and the provisions of part 50 of this title apply.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

§ 58.5 Related Federal laws and authorities.

In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities.

(a) *Historic properties.*

- (1) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2).
- (2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971-1975 Comp., p. 559, particularly section 2(c).
- (3) Federal historic preservation regulations as follows:
 - (i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and
 - (ii) 36 CFR part 801 with respect to UDAG.
- (4) The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), particularly section 3 (16 U.S.C. 469a-1).

(b) *Floodplain management and wetland protection.*

- (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see § 55.10 of this subtitle A.)
- (2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p. 121, as interpreted in HUD regulations at 24 CFR part 55, particularly sections 2 and 5 of the order.

(c) *Coastal Zone Management.* The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as amended, particularly section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).

(d) *Sole source aquifers.*

- (1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e)).
- (2) Sole Source Aquifers (Environmental Protection Agency - 40 CFR part 149).

(e) *Endangered species.* The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536).

(f) *Wild and scenic rivers.* The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

(g) *Air quality.*

- (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).

- (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency - 40 CFR parts 6, 51, and 93).

(h) **Farmlands protection.**

- (1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).
- (2) Farmland Protection Policy (Department of Agriculture - 7 CFR part 658).

(i) **HUD environmental standards.**

- (1) Applicable criteria and standards specified in part 51 of this title, other than the runway clear zone notification requirement in § 51.303(a)(3).

(2)

- (i) Also, it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.
- (ii) The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.
- (iii) Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.
- (iv) The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.

- (j) **Environmental justice.** Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003; 78 FR 68734, Nov. 15, 2013]

§ 58.6 Other requirements.

In addition to the duties under the laws and authorities specified in § 58.5 for assumption by the responsible entity under the laws cited in § 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under § 58.34(a)(12) and/or the applicability of § 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under § 58.34 or categorically excluded under § 58.35(a) or (b).

(a)

- (1) Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:
 - (i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and
 - (ii) Where the community is participating in the National Flood Insurance Program, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.
- (2) Where the community is participating in the National Flood Insurance Program and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.
- (3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.
- (4) Flood insurance requirements cannot be fulfilled by self-insurance except as authorized by law for assistance to state-owned projects within states approved by the Federal Insurance Administrator consistent with 44 CFR 75.11.
- (b) Under section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if:
 - (1) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and
 - (2) The person failed to obtain and maintain flood insurance.
- (c) Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.
- (d) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998; 78 FR 68734, Nov. 15, 2013]

Subpart B - General Policy: Responsibilities of Responsible Entities

§ 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in § 58.1(b), except as otherwise provided in § 58.4(c), the responsible entity must assume the environmental responsibilities for projects under programs cited in § 58.1(b). In doing so, the responsible entity must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part.

[68 FR 56128, Sept. 29, 2003]

§ 58.11 Legal capacity and performance.

- (a) A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part must contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case-by-case basis.
- (b) If a public housing, special project, HOPWA, Supportive Housing, Shelter Plus Care, or Self-Help Homeownership Opportunity recipient that is not a responsible entity objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.
- (c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with § 58.77(d)(1).
- (d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

§ 58.12 Technical and administrative capacity.

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the requirements of this part.

§ 58.13 Responsibilities of the certifying officer.

Under the terms of the certification required by § 58.71, a responsible entity's certifying officer is the "responsible Federal official" as that term is used in section 102 of NEPA and in statutory provisions cited in § 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in § 58.5. The Certifying Officer must also:

- (a) Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and
- (b) Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

§ 58.14 Interaction with State, Federal and non-Federal entities.

A responsible entity shall consult with appropriate environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in § 58.5 and § 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2 (b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs or joint environmental assessments (see 40 CFR 1501.5(b) and 1501.6). A single EIS or EA may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

[63 FR 15271, Mar. 30, 1998]

§ 58.15 Tiering.

Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better done at a later date. The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged to use the Consolidated Plan process to facilitate environmental reviews.

§ 58.17 [Reserved]

§ 58.18 Responsibilities of States assuming HUD environmental responsibilities.

States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The state must:

- (a) Designate the state agency or agencies that will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart H of this part and which will:
 - (1) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.
 - (2) Receive public notices, RROFs, and certifications from recipients pursuant to §§ 58.70 and 58.71; accept objections from the public and from other agencies (§ 58.73); and perform other related responsibilities regarding releases of funds.

- (b) Fulfill the state role in subpart H relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

[68 FR 56129, Sept. 29, 2003]

Subpart C - General Policy: Environmental Review Procedures

§ 58.21 Time periods.

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

§ 58.22 Limitations on activities pending clearance.

- (a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in § 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.
- (b) If a project or activity is exempt under § 58.34, or is categorically excluded (except in extraordinary circumstances) under § 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination as required in § 58.34(b) and § 58.35(d), but the recipient must comply with applicable requirements under § 58.6.
- (c) If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.
- (d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.
- (e) **Self-Help Homeownership Opportunity Program (SHOP).** In accordance with section 11(d)(2)(A) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note), an organization, consortium, or affiliate receiving assistance under the SHOP program may advance nongrant funds to acquire land prior to completion of an environmental review and approval of a Request for Release of Funds (RROF) and certification, notwithstanding paragraph (a) of this section. Any advances to acquire land prior to approval of the RROF and certification are made at the risk of the organization, consortium, or affiliate and reimbursement for such advances may depend on the result of the environmental review. This authorization is limited to the SHOP program only and all other forms of HUD assistance are subject to the limitations in paragraph (a) of this section.

- (f) **Relocation.** Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR part 42.

[68 FR 56129, Sept. 29, 2003]

§ 58.23 Financial assistance for environmental review.

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in § 58.5 and § 58.6, are eligible costs to the extent allowable under the HUD assistance program regulations.

Subpart D - Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

§ 58.30 Environmental review process.

- (a) The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with § 58.32.
- (b) The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

§ 58.32 Project aggregation.

- (a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.
- (b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: *functional aggregation* when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; *geographic aggregation* when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or a *combination of aggregation approaches*, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.
- (c) The purpose of project aggregation is to group together related activities so that the responsible entity can:
 - (1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).
 - (2) Consider reasonable alternative courses of action.
 - (3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.
 - (4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

(d) **Multi-year project aggregation -**

- (1) **Release of funds.** When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.
- (2) When one or more of the conditions described in § 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

§ 58.33 Emergencies.

- (a) In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.
- (b) If funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance during a Presidentially declared disaster, or during a local emergency that has been declared by the chief elected official of the responsible entity who has proclaimed that there is an immediate need for public action to protect the public safety, the combined Notice of FONSI and Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the RROF. The combined Notice of FONSI and NOI/RROF shall state that the funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to ensure that these comments will receive full consideration.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

§ 58.34 Exempt activities.

- (a) Except for the applicable requirements of § 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in § 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:
 - (1) Environmental and other studies, resource identification and the development of plans and strategies;
 - (2) Information and financial services;
 - (3) Administrative and management activities;
 - (4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
 - (5) Inspections and testing of properties for hazards or defects;
 - (6) Purchase of insurance;
 - (7) Purchase of tools;

- (8) Engineering or design costs;
 - (9) Technical assistance and training;
 - (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
 - (11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
 - (12) Any of the categorical exclusions listed in § 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in § 58.5.
- (b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

§ 58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see § 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

- (a) **Categorical exclusions subject to § 58.5.** The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in § 58.5:
- (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
 - (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
 - (3) Rehabilitation of buildings and improvements when the following conditions are met:
 - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;
 - (ii) In the case of multifamily residential buildings:
 - (A) Unit density is not changed more than 20 percent;
 - (B) The project does not involve changes in land use from residential to non-residential; and
 - (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:

- (A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
- (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(4)

- (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
- (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
- (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

(5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

(6) Combinations of the above activities.

(b) **Categorical exclusions not subject to § 58.5.** The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in paragraph (c) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (c) of this section applies. The recipient remains responsible for carrying out any applicable requirements under § 58.6.

(1) Tenant-based rental assistance;

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;

(5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.

- (6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.
- (7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under § 58.47.
- (c) **Circumstances requiring NEPA review.** If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.
- (d) The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998; 68 FR 56129, Sept. 29, 2003; 78 FR 68734, Nov. 15, 2013]

§ 58.36 Environmental assessments.

If a project is not exempt or categorically excluded under §§ 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under § 58.37, the responsible entity should proceed directly to an EIS.

§ 58.37 Environmental impact statement determinations.

- (a) An EIS is required when the project is determined to have a potentially significant impact on the human environment.
- (b) An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:
 - (1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.
 - (2) The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.
 - (3) The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.
- (c) If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

- (d) Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where § 58.53 is applicable.
- (e) **Recommended EIS Format.** The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

§ 58.38 Environmental review record.

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR) and shall be available for public review. The Departmental Environmental Clearance Officer (DECO) shall establish a prescribed format that the responsible entity shall use to prepare the ERR. The DECO may prescribe alternative formats as necessary to meet specific program needs.

- (a) **ERR Documents.** The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decisionmaking and actions pertaining to a particular project of a recipient. The document shall:
 - (1) Describe the project and the activities that the recipient has determined to be part of the project;
 - (2) Evaluate the effects of the project or the activities on the human environment;
 - (3) Document compliance with applicable statutes and authorities, in particular those cited in § 58.5 and 58.6; and
 - (4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).
- (b) **Other documents and information.** The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

[61 FR 19122, Apr. 30, 1996, as amended at 79 FR 49229, Aug. 20, 2014]

Subpart E - Environmental Review Process: Environmental Assessments (EA's)

§ 58.40 Preparing the environmental assessment.

The DECO shall establish a prescribed format that the responsible entity shall use to prepare the EA. The DECO may prescribe alternative formats as necessary to meet specific program needs. In preparing an EA for a particular proposed project or other action, the responsible entity must:

- (a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.
- (b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.

- (c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in § 58.5 and § 58.6.
- (d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.
- (e) Discuss the need for the proposal, appropriate alternatives where the proposal involves unresolved conflicts concerning alternative uses of available resources, the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.
- (f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in §§ 58.5 and 58.6.
- (g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:
 - (1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to § 58.43.
 - (2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subpart F or G of this part.

[61 FR 19122, Apr. 30, 1996, as amended at 79 FR 49229, Aug. 20, 2014]

§ 58.43 Dissemination and/or publication of the findings of no significant impact.

- (a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process.
- (b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by § 58.70. If the notices are released as a combined notice, the combined notice shall:
 - (1) Clearly indicate that it is intended to meet two separate procedural requirements; and
 - (2) Advise the public to specify in their comments which "notice" their comments address.
- (c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

§ 58.45 Public comment periods.

Required notices must afford the public the following minimum comment periods, counted in accordance with § 58.21:

(a) Notice of Finding of No Significant Impact (FONSI)	15 days when published or, if no publication, 18 days when mailing and posting
(b) Notice of Intent to Request Release of Funds (NOI-RROF)	7 days when published or, if no publication, 10 days when mailing and posting
(c) Concurrent or combined notices	15 days when published or, if no publication, 18 days when mailing and posting

[68 FR 56130, Sept. 29, 2003]

§ 58.46 Time delays for exceptional circumstances.

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

- (a) There is a considerable interest or controversy concerning the project;
- (b) The proposed project is similar to other projects that normally require the preparation of an EIS; or
- (c) The project is unique and without precedent.

§ 58.47 Re-evaluation of environmental assessments and other environmental findings.

- (a) A responsible entity must re-evaluate its environmental findings to determine if the original findings are still valid, when:
 - (1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
 - (2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
 - (3) The recipient proposes the selection of an alternative not in the original finding.
- (b)
 - (1) If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.
 - (2) If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

- (3) Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the findings before proceeding.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

Subpart F - Environmental Review Process: Environmental Impact Statement Determinations

§ 58.52 Adoption of other agencies' EISs.

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in § 58.60(d) and otherwise comply with the clearance and time requirements of the EIS process, except that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

§ 58.53 Use of prior environmental impact statements.

Where any final EIS has been listed in the FEDERAL REGISTER for a project pursuant to this part, or where an areawide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

- (a) The ERR contains a decision based on a finding pursuant to § 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:
 - (1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;
 - (2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;
 - (3) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;
 - (4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.
- (b) The prior final EIS has been filed within five (5) years, and updated as follows:

- (1) The EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;
- (2) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.
- (c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

Subpart G - Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements

§ 58.55 Notice of intent to prepare an EIS.

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

§ 58.56 Scoping process.

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under § 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.

§ 58.57 Lead agency designation.

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

§ 58.59 Public hearings and meetings.

- (a) **Factors to consider.** In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:
 - (1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.
 - (2) The degree of interest in or controversy concerning the project.
 - (3) The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.
 - (4) The extent to which public involvement has been achieved through other means.
- (b) **Procedure.** All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date. The Notice must:
 - (1) State the date, time, place, and purpose of the hearing or meeting.
 - (2) Describe the project, its estimated costs, and the project area.

- (3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.
- (4) State the responsible entity's name and address and the name and address of its Certifying Officer.
- (5) State what documents are available, where they can be obtained, and any charges that may apply.

§ 58.60 Preparation and filing of environmental impact statements.

- (a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.
- (b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:
 - (1) Five copies to EPA Headquarters;
 - (2) Five copies to EPA Regional Office;
 - (3) Copies made available in the responsible entity's and the recipient's office;
 - (4) Copies or summaries made available to persons who request them; and
 - (5) FEIS only - one copy to State, HUD Field Office, and HUD Headquarters library.
- (c) The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.
- (d) When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.
- (e) The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1505.2.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

Subpart H - Release of Funds for Particular Projects

§ 58.70 Notice of intent to request release of funds.

The NOI/RROF must be disseminated and/or published in the manner prescribed by § 58.43 and § 58.45 before the certification is signed by the responsible entity.

§ 58.71 Request for release of funds and certification.

- (a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(b). The RROF and certification must be in a form specified by HUD.
- (b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in § 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the

assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.

- (c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

§ 58.72 HUD or State actions on RROFs and certifications.

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

- (a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.
- (b) HUD (or the state) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in § 58.75, or that the RROF and certification are inaccurate.
- (c) In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated § 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

§ 58.73 Objections to release of funds.

HUD (or the State) will not approve the ROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to § 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. HUD (or the State) can refuse the RROF and certification on any grounds set forth in § 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

§ 58.74 Time for objecting.

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.

§ 58.75 Permissible bases for objections.

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

- (a) The certification was not in fact executed by the responsible entity's Certifying Officer.
- (b) The responsible entity has failed to make one of the two findings pursuant to § 58.40 or to make the written determination required by §§ 58.35, 58.47 or 58.53 for the project, as applicable.
- (c) The responsible entity has omitted one or more of the steps set forth at subpart E of this part for the preparation, publication and completion of an EA.
- (d) The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.
- (e) The recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by this part before release of funds and approval of the environmental certification by HUD (or the state).
- (f) Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

§ 58.76 Procedure for objections.

A person or agency objecting to a responsible entity's RROF and certification shall submit objections in writing to HUD (or the State). The objections shall:

- (a) Include the name, address and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of an agency.
- (b) Be dated when signed.
- (c) Describe the basis for objection and the facts or legal authority supporting the objection.
- (d) State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

§ 58.77 Effect of approval of certification.

- (a) **Responsibilities of HUD and States.** HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at § 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in § 58.1(b).
- (b) **Public and agency redress.** Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It is HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.
- (c) **Implementation of environmental review decisions.** Projects of a recipient will require post-review monitoring and other inspection and enforcement actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

(d) *Responsibility for monitoring and training.*

- (1) At least once every three years, HUD intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:
 - (i) In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;
 - (ii) HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided periodically at various locations around the country;
 - (iii) HUD may refuse to accept the certifications of environmental compliance on subsequent grants;
 - (iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;
 - (v) HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.
- (2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under § 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.

**Attachment B: Summary of Levels of Environmental Review & Documentation
Required in ERR**

SUMMARY OF LEVELS OF ENVIRONMENTAL REVIEW & DOCUMENTATION REQUIRED IN ERR

rev. 1-27-2010

LEVEL OF ENVIRONMENTAL REVIEW				
58.34 Exempt	58.35(b) Categorically Excluded NOT subject to 58.5	58.35(a) Categorically Excluded AND subject to 58.5 "A" checked for all on Statutory Worksheet*	58.35(a) Categorically Excluded AND subject to 58.5 statutory authorities: "B" checked for one or more on Statutory Worksheet*	58.36 NEPA Environmental Assessment
TYPE OF ACTIVITIES				
Environmental and other studies Resource Identification Development of plans and strategies Information and financial services Administrative and Management Activities Public services, i.e., employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation, welfare, recreational needs Inspections and testing for hazards or defects Purchase insurance and tools Engineering or design costs Technical assistance and training Temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities to control or arrest the effects from disasters or imminent threats to public safety, including those resulting from physical deterioration. Payments of principal and interest on loans or obligations guaranteed by HUD	Tenant-based rental assistance Supportive services such as health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent, mortgage, or utilities, assistance in gaining access to government benefits. Operating costs including maintenance, furnishings, security, equipment, operation, supplies, utilities, staff training and recruitment Economic development activities including equipment purchase, inventory financing, interest subsidy, operating costs, and other expenses not associated with construction or expansion Activities to assist homeownership of existing dwelling units or units under construction, including closing costs and down payment assistance to homebuyers, interest buy downs or other actions resulting in transfer of title. Affordable housing pre-development costs: legal consulting, developer and other site-option costs, project financing, administrative costs for loan commitments, zoning approvals, and other activities which don't have a physical impact. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under Part 58, if: approval is by same the RE, and re-evaluation is not required, per 58.47	Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are already in place and will be retained in the same use without change in size or capacity of more than 20% <ul style="list-style-type: none"> • Replacement of water or sewer lines • Reconstruction of curbs & sidewalks • repaving of streets Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped. Single Family Housing Rehab <ul style="list-style-type: none"> • Unit density is not increased beyond 4 units, • Project doesn't involve change in land use from residential to non-residential • The footprint of the building in not increased in a floodplain or a wetland. Multifamily Housing Rehab <ul style="list-style-type: none"> • Unit density change is not more than 20% • Project doesn't involve change in land use from residential to non-residential • Cost of rehabilitation is less than 75% of the estimated cost of replacement after rehab Non-Residential Structures <ul style="list-style-type: none"> • Facilities and improvements were in place and will not be changed in size or capacity by more than 20% • Activity does not involve change in land use from non-residential to residential, commercial to industrial, or one industrial use to another Individual action (e.g., disposition, new construction, demolition, acquisition) on a 1 to 4 family dwelling; or individual action on five or more units scattered on sites more than 2000 feet apart and no more than 4 units per site. Acquisition (including leasing) or disposition of, or equity loans on an existing structure or acquisition (including leasing) of vacant land provided that the structure or land acquired or disposed of will be retained for the same use. Combinations of the above activities	Activities not exempt or categorically excluded. Generally, new construction of 5 or more homes, and conversion from one type of land use to another.	
DOCUMENTATION REQUIRED IN ERR				
Describe activity and make a written determination of exemption. Also, determine compliance with 58.6: <ul style="list-style-type: none"> ◆ National Flood Insurance Program ◆ Coastal Barrier Resource Act ◆ Runway Clear Zones 	Describe activity and make a written 58.35(b) determination. Also, determine compliance with 58.6: <ul style="list-style-type: none"> ◆ National Flood Insurance Program (NFIP) ◆ Coastal Barrier Resource Act (CBRA) ◆ Runway Clear Zones 	Complete Statutory Worksheet, (sec. 58.5) and indicate converts exempt. Also, determine compliance with 58.6 <ul style="list-style-type: none"> ◆ NFIP ◆ CBRA ◆ Runway Clear Zones 	Complete Statutory Worksheet (sec. 58.5) NOI/RROF notification RROF & Certification (form 7015.15) Authority to Use Grant Funds (form 7015.16) Also, determine compliance with 58.6 <ul style="list-style-type: none"> ◆ National Flood Insurance Program ◆ Coastal Barrier Resource Act ◆ Runway Clear Zones 	Environmental Assessment (including Statutory Checklist)* FONSI and NOI/RROF notification Form 7015.15 Form 7015.16 Also, determine compliance with 58.6

*HUD recommended format

Adapted from chart prepared by Anchorage Office of Native American Programs, HUD

Attachment C: Environmental Review for Activity/Project that is Exempt or
Categorically Excluded Not Subject to Section 58.5
Pursuant to 24 CFR Part 58.34(a) and 58.35(b)



**U.S. Department of Housing and Urban
Development**

451 Seventh Street, SW
Washington, DC 20410
www.hud.gov

espanol.hud.gov

Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 Pursuant to 24 CFR Part 58.34(a) and 58.35(b)

This is a suggested format that may be used by Responsible Entities to document completion of an Exempt or Categorically Excluded Not Subject to Section 58.5 environmental review.

Project Information

Project Name:

Responsible Entity:

Grant Recipient (if different than Responsible Entity):

State/Local Identifier:

Preparer:

Certifying Officer Name and Title:

Consultant (if applicable):

Project Location:

Description of the Proposed Project [24 CFR 58.32; 40 CFR 1508.25]:

Level of Environmental Review Determination:

Activity/Project is Exempt per 24 CFR 58.34(a): _____

Activity/Project is Categorically Excluded Not Subject To §58.5 per 24 CFR 58.35(b):

Funding Information

Grant Number	HUD Program	Funding Amount

Estimated Total HUD Funded Amount:

This project anticipates the use of funds or assistance from another Federal agency in addition to HUD in the form of (if applicable):

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

Compliance with 24 CFR §50.4 and §58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4 and 58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.6		
Airport Runway Clear Zones and Accident Potential Zones 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Flood Insurance	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Project Name

Project Locality and State

HEROS Number

Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]		
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Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

Responsible Entity Agency Official Signature:

_____ Date: _____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

**Attachment D: Environmental Review for Activity/Project that is Categorically
Excluded Subject to Section 58.5
Pursuant to 24 CFR 58.35(a)**



**U.S. Department of Housing and Urban
Development**

451 Seventh Street, SW
Washington, DC 20410
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espanol.hud.gov

Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5

Pursuant to 24 CFR 58.35(a)

**This is a suggested format that may be used by Responsible Entities to document completion of a
Categorically Excluded Subject to Section 58.5 environmental review.**

Project Information

Project Name:

Responsible Entity:

Grant Recipient (if different than Responsible Entity):

State/Local Identifier:

Preparer:

Certifying Officer Name and Title:

Grant Recipient (if different than Responsible Entity):

Consultant (if applicable):

Direct Comments to:

Project Location:

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

Level of Environmental Review Determination:

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5: _____

Funding Information

Grant Number	HUD Program	Funding Amount

Estimated Total HUD Funded Amount:

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994	Yes No <input type="checkbox"/> <input type="checkbox"/>	

[42 USC 4001-4128 and 42 USC 5154a]		
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Field Inspection (Date and completed by):

Summary of Findings and Conclusions:

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Determination:

- This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR
- This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain “Authority to Use Grant Funds”** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR
- This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

Responsible Entity Agency Official Signature:

_____ Date: _____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment E: Broad-Level Tiered Environmental Review for Activity/Project that
is Categorically Excluded Subject to Section 58.5
Pursuant to 24 CFR Part 58.35(a)



**U.S. Department of Housing and Urban
Development**

451 Seventh Street, SW
Washington, DC 20410
www.hud.gov

espanol.hud.gov

Broad-Level Tiered Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 Pursuant to 24 CFR Part 58.35(a)

**This is a suggested format that may be used by Responsible Entities to document completion of a tiered
Categorically Excluded Subject to Section 58.5 environmental review.**

Project Information

Project Name:

Responsible Entity (RE):

State/Local Identifier:

RE Preparer:

Certifying Officer:

Grant Recipient (if different than Responsible Entity):

Point of Contact:

Consultant (if applicable):

Point of Contact:

Project Location:

Additional Location Information:

Direct Comments to:

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

Approximate size of the project area:

Length of time covered by this review:

Maximum number of dwelling units or lots addressed by this tiered review:

Level of Environmental Review Determination:

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5: _____

Funding Information

Grant Number	HUD Program	Program Name	Funding Amount

Estimated Total HUD Funded Amount:

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities and Written Strategies

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6	Was compliance achieved at the broad level of review?	If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	

<p>Coastal Barrier Resources</p> <p>Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>Flood Insurance</p> <p>Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.5</p>		
<p>Clean Air</p> <p>Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>Coastal Zone Management</p> <p>Coastal Zone Management Act, sections 307(c) & (d)</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>Contamination and Toxic Substances</p> <p>24 CFR Part 50.3(i) & 58.5(i)(2)]</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>Endangered Species</p> <p>Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>Explosive and Flammable Hazards</p> <p>24 CFR Part 51 Subpart C</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>Farmlands Protection</p> <p>Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>Floodplain Management</p> <p>Executive Order 11988, particularly section 2(a); 24 CFR Part 55</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Attach supporting documentation as necessary, including a site-specific checklist.

Determination:

- Extraordinary circumstances exist and this project may result in significant environmental impact. This project requires preparation of an Environmental Assessment (EA); OR
- There are no extraordinary circumstances which would require completion of an EA, and this project may remain CEST.

Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

Responsible Entity Agency Official Signature:

_____ Date: _____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

This document represents the Tier 1 or Broad-Level review *only*. As individual sites are selected, this review must be supplemented by individual Tier 2 or Site-Specific reviews for each site. All laws and authorities requiring site-specific analysis will be addressed in these individual reviews.

APPENDIX: Site-Specific or Tier 2 Reviews

Update this document as site-specific reviews are completed. Complete each site-specific review according to the written strategies outlined in the broad-level review and attach it in the environmental review record.

Site-specific project name	Address or location

**Attachment F: EA Determination and Compliance Findings
for HUD-assisted Projects
24 CFR Part 58**



**U.S. Department of Housing and Urban
Development**

451 Seventh Street, SW
Washington, DC 20410
www.hud.gov

espanol.hud.gov

Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58

**This is a suggested format that may be used by Responsible Entities to document completion of an
Environmental Assessment.**

Project Information

Project Name:

Responsible Entity:

Grant Recipient (if different than Responsible Entity):

State/Local Identifier:

Preparer:

Certifying Officer Name and Title:

Grant Recipient (if different than Responsible Entity):

Consultant (if applicable):

Direct Comments to:

Project Location:

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

Statement of Purpose and Need for the Proposal [40 CFR 1508.9(b)]:

Existing Conditions and Trends [24 CFR 58.40(a)]:

Funding Information

Grant Number	HUD Program	Funding Amount

Estimated Total HUD Funded Amount:

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders,	Are formal compliance steps or	Compliance determinations
---	--------------------------------------	---------------------------

and Regulations listed at 24 CFR §58.5 and §58.6	mitigation required?	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes No <input type="checkbox"/> <input type="checkbox"/>	

Environmental Assessment Factors [24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27] Recorded below is the qualitative and quantitative significance of the effects of the proposal on the character, features and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed action. Verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable and supportive source

documentation for each authority has been provided. Where applicable, the necessary reviews or consultations have been completed and applicable permits of approvals have been obtained or noted. Citations, dates/names/titles of contacts, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation or mitigation measures have been clearly identified.**

Impact Codes: Use an impact code from the following list to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

Environmental Assessment Factor	Impact Code	Impact Evaluation
LAND DEVELOPMENT		
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design		
Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff		
Hazards and Nuisances including Site Safety and Noise		

Environmental Assessment Factor	Impact Code	Impact Evaluation
SOCIOECONOMIC		
Employment and Income Patterns		
Demographic Character Changes, Displacement		
Environmental Justice		

Environmental Assessment Factor	Impact Code	Impact Evaluation
COMMUNITY FACILITIES AND SERVICES		
Educational and Cultural Facilities		
Commercial Facilities		
Health Care and Social Services		
Solid Waste Disposal / Recycling		
Waste Water / Sanitary Sewers		
Water Supply		
Public Safety - Police, Fire and Emergency Medical		
Parks, Open Space and Recreation		
Transportation and Accessibility		

Environmental Assessment Factor	Impact Code	Impact Evaluation
NATURAL FEATURES		
Unique Natural Features, Water Resources		
Vegetation, Wildlife		
Other Factors		

Environmental Assessment Factor	Impact Code	Impact Evaluation
CLIMATE AND ENERGY		
Climate Change Impacts		
Energy Efficiency		

Additional Studies Performed:

Field Inspection (Date and completed by):

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]:

List of Permits Obtained:

Public Outreach [24 CFR 50.23 & 58.43]:

Cumulative Impact Analysis [24 CFR 58.32]:

Alternatives [24 CFR 58.40(e); 40 CFR 1508.9]

No Action Alternative [24 CFR 58.40(e)]:

Summary of Findings and Conclusions:

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Determination:

Finding of No Significant Impact [24 CFR 58.40(g)(1); 40 CFR 1508.27]
The project will not result in a significant impact on the quality of the human environment.

Finding of Significant Impact [24 CFR 58.40(g)(2); 40 CFR 1508.27]
The project may significantly affect the quality of the human environment.

Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

Certifying Officer Signature: _____ Date: _____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

Attachment G: Sample Notice of Intent to Request a Release of Funds

Sample Notice of Intent to Request a Release of Funds

The sample language below is HUD's recommended wording of the Notice of Intent to Request a Release of Funds. This Notice is used to request the environmental release of funds for Categorically Excluded projects [24 CFR Part 58, Section 58.35(a)] or for projects for which a Notice of Finding of No Significant Impact was previously issued. Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity. The minimum comment period is seven days following publication or ten days if posting and mailing without publication is used

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Notice

Name of Responsible Entity [RE]

Address (e.g., Street No. or P.O. Box)

City, State, Zip Code

Telephone Number of RE

On or about *at least one day after the end of the comment period* **the name of RE will** *if the RE is not also the grant recipient, insert the following language here: "authorize the [name of grant recipient] to"* **submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [] of the name of the Act of [year], as amended, to undertake a project known as project title for the purpose of nature/scope of project, estimated funding (include non-HUD funding sources if applicable) and project location if applicable.**

The activities proposed *alternative #1: are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements or alternative #2: comprise a project for which a Finding of No Significant Impact on the environment was [published/posted] on [date of Finding publication/posting].* **An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays __A.M to __P.M.**

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by *if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days* **will be considered by the name of RE prior to authorizing submission of a request for release of funds.**

ENVIRONMENTAL CERTIFICATION

The name of RE certifies to HUD/State that name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's State's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD/State will accept objections to its release of fund and the RE's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD/State administration office at address of that office. Potential objectors should contact HUD/State to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer

Note: The seven or ten-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of Funds and Certification [form HUD-7015.15] to HUD/State. The Responsible Entity may choose to allow a longer comment period. The fifteen-day objection period following submission of the request is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

Following completion of the comment period recipients may FAX the form HUD-7015.15 to HUD/State together with a copy of the public notice and a cover letter stating whether comments were received and, if so, how the recipient responded to the comment. The Request for Release of Funds and Certification should not be submitted before the recipient has responded. If the request is sent by FAX, the original signed form should be mailed to HUD/State. The date of receipt by FAX will be counted as the submission date. However, HUD will not issue the 7015.16 "Authority to Use Grant Funds" until after the original signed form is received.

**Attachment H: Notice of Intent to Request Release of Funds
[Tiered Reviews]**

Notice of Intent to Request Release of Funds [Tiered Reviews]

The sample language below is HUD's recommended wording of the Notice of Intent to Request Release of Funds. This Notice is used to request the environmental release of funds for Categorically Excluded projects (24 CFR Part 58, §58.35(a)] or for projects for which a Notice of Finding of No Significant Impact was previously issued. Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity.

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS FOR TIERED PROJECTS AND PROGRAMS

Date of Publication: *[date published]*

Name of Responsible Entity (RE)

Address (e.g., Street No. or P.O. Box)

City, State, Zip Code

Telephone Number of RE

On or after *at least one day after the end of the comment period* **the name of RE will** *if the RE is not also the grant recipient, insert the following language here: "authorize the [name of grant recipient] to"* **submit a request to the HUD Program Office/State administering agency for the release of name of grant program funds under Title/Section [xx] of the name of the appropriation Act of [year], as amended, to undertake the following project:**

Tier 1 Broad Review Project/Program Title: *State the project/program name.*

Purpose: *Summarize purpose and need for the project/program.*

Location: *Give the general idea of the location and state specific addresses will be assessed in the site specific reviews.*

Project/Program Description: *Describe what the project/program does, what is going to be done and how.* **Tier 2 site specific reviews will be completed for those laws and authorities not addressed in the tier 1 broad review for each address under this program when addresses become known.**

Level of Environmental Review Citation: *Give the specific categorical exclusion citation under which the program falls. For example, for a Rehabilitation Program of home-owner occupied single family homes, state: "24 CFR Part 58.35(a)(3)(i)"*

Tier 2 Site Specific Review: **The site specific reviews will cover the following laws and authorities not addressed in the Tier 1 broad review:** *List the laws and authorities that were not addressed in the tier 1 broad review and will be addressed in the tier 2 site specific review.*

Mitigation Measures/Conditions/Permits (if any): *For each of the laws and authorities listed in the tier 2 site specific review, describe how issues will be addressed, and how mitigation measures, conditions or permits required will be implemented.*

Estimated Project Cost: *Include HUD funding & total estimated project cost.*

The activity/activities proposed are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements per give citation listed above. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may

be examined or copied weekdays __A.M to __P.M. or if the review was completed in HEROS at <https://www.hudexchange.info/programs/environmental-review/environmental-review-records/>.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days will be considered by the name of RE prior to authorizing submission of a request for release of funds.

ENVIRONMENTAL CERTIFICATION

The name of RE certifies to HUD/State that name of Certifying Officer, Certifying Officer, in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's/State's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use HUD program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD/State will accept objections to its release of fund and the RE's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD/State administration office at address of that office. Potential objectors should contact HUD/State to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer, Certifying Officer

Note: The seven or ten-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of funds and Certification (form HUD-7015.15 to HUD/State. The Responsible Entity may choose to allow a longer comment period. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

Attachment I: Sample Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds (English)

Sample Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds

The sample language below is HUD's recommended wording of the combined Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds. This Notice is used for projects requiring an Environmental Assessment (24 CFR Part 58, Section 58.36). Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity.

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Notice

Name of Responsible Entity [RE]

Address (e.g., Street No. or P.O. Box)

City, State, Zip Code

Telephone Number of RE

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the name of RE or grant recipient.

REQUEST FOR RELEASE OF FUNDS

On or about *at least one day after the end of the comment period* **the name of RE will if the RE is not also the grant recipient, insert the following language here: "authorize the [name of grant recipient] to"** **submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [] of the name of the Act of [year], as amended, to undertake a project known as project title for the purpose of nature/scope of project, estimated funding (include non-HUD funding sources if applicable) and project location if applicable.**

FINDING OF NO SIGNIFICANT IMPACT

The name of RE has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays __A.M to __P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: publication date plus fifteen days; if notice is mailed and posted: mailing and posting date plus eighteen days will be considered by the name of RE prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

ENVIRONMENTAL CERTIFICATION

The name of RE certifies to HUD/State that name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's State's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD/State will accept objections to its release of fund and the RE's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD/State administration office at address of that office. Potential objectors should contact HUD/State to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer

Note: The fifteen or eighteen-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of Funds and Certification (form HUD-7015.15) to HUD/State. The Responsible Entity may choose to allow a longer comment period. 24 CFR Part 58 requires, at Section 58.46, "Time delays for exceptional circumstances," a 30-day comment period for controversial or unique projects or those similar to projects normally requiring preparation of an Environmental Impact Statement. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

Following completion of the comment period recipients may FAX the form HUD-7015.15 to HUD/State together with a copy of the public notice and a cover letter stating whether comments were received and, if so, how the recipient responded to the

comment. The Request for Release of Funds and Certification should not be submitted before the recipient has responded. If the request is sent by FAX, the original signed form should be mailed to HUD/State. The date of receipt by FAX will be counted as the submission date. However, HUD will not issue the 7015.16 "Authority to Use Grant Funds" until after the original signed form is received.

Attachment J: Sample Notice of Findings of No Significant Impact and Notice of Intent to Request of Funds (Spanish)

MODELO DE AVISO CONJUNTO DE DETERMINACIÓN DE NO IMPACTO SIGNIFICATIVO E INTENCIÓN DE SOLICITAR LIBERACIÓN DE FONDOS

A continuación se provee el lenguaje recomendado por el Departamento de Vivienda Federal (HUD, por sus siglas en inglés) para redactar un Aviso Conjunto de Determinación de No Impacto Significativo e Intención de Solicitar Liberación de Fondos. Dicho aviso se utiliza para proyectos que necesitan una Evaluación Ambiental [24 CFR (Código de Reglamentos Federales, por sus siglas en inglés) Parte 58, Sección 58.36]. Palabras destacadas en **letra negrita** son lenguaje obligatorio. Palabras en *letra itálica* deben ser reemplazadas por lenguaje apropiado para el proyecto y entidad responsable particular.

AVISO DE DETERMINACIÓN DE NO IMPACTO SIGNIFICATIVO Y AVISO DE INTENCIÓN DE SOLICITAR LIBERACIÓN DE FONDOS

Fecha del aviso

Nombre de la Entidad Responsable [RE, por sus siglas en inglés]

Dirección (por ejemplo, calle o apartado postal)

Ciudad, estado, código postal

Número de teléfono del RE

Estos avisos satisfacen dos requisitos procesales distintos pero relacionados para actividades que llevará a cabo nombre del RE o beneficiario de la subvención.

SOLICITUD PARA LIBERACIÓN DE FONDOS

En o cerca del al menos un día después del final del período para comentarios el o la nombre del RE procederá a (si el RE no es también el beneficiario de la subvención inserte aquí el siguiente lenguaje: “autorizar a [nombre del beneficiario de la subvención] a)” someter una solicitud a HUD / Agencia Estatal encargada para la liberación de fondos del programa nombre del programa de subvención bajo la Sección / el Título [] de la nombre de la Ley del [año], según enmendada, para llevar a cabo el proyecto conocido como nombre del proyecto con el propósito de naturaleza / alcance / componentes del proyecto, estimado de fondos (incluyendo fuentes de fondos ajenas a HUD, si aplica) y localización del proyecto, si aplica.

DETERMINACIÓN DE NO IMPACTO SIGNIFICATIVO

Nombre del RE ha determinado que el proyecto no tendrá impacto significativo en el ambiente humano. Por lo tanto, no es necesaria una Declaración de Impacto Ambiental bajo la Ley de Política Ambiental Nacional del 1969 (NEPA, por sus siglas en inglés). Un Expediente de Revisión Ambiental (ERR, por sus siglas en inglés) que contiene información adicional del proyecto está disponible en nombre y dirección de la oficina del RE donde el ERR puede ser examinado, y nombre y dirección de otros lugares donde el expediente está

disponible para revisión y puede ser examinado o reproducido en días laborables de _____ a. m. a _____ p. m.

COMENTARIOS PÚBLICOS

Cualquier individuo, grupo o agencia puede proveer comentarios por escrito acerca del ERR a oficina designada por el RE como responsable de recibir y responder a comentarios. Todo comentario recibido hasta si el aviso se publica en prensa escrita: fecha del aviso más quince días; si el aviso se envía por correo y se exhibe en lugares públicos y el área del proyecto: fecha de envío y exhibición más dieciocho días será considerado por nombre del RE antes de autorizar que se someta la solicitud de liberación de fondos. Los comentarios deben indicar a cuál aviso en específico responden.

CERTIFICACIÓN AMBIENTAL

Nombre del RE certifica a HUD / Estado que nombre del Oficial Certificador en su capacidad como Título oficial da su consentimiento a aceptar la jurisdicción de las cortes federales si una acción legal fuera iniciada para hacer cumplir responsabilidades relacionadas al proceso de revisión ambiental y que estas responsabilidades se satisfagan. La aprobación de la certificación por parte de HUD / Estado satisface sus responsabilidades bajo NEPA, y las leyes y autoridades relacionadas, y permite que nombre del beneficiario de la subvención utilice fondos del programa.

OBJECIONES A LA LIBERACIÓN DE FONDOS

HUD / Estado aceptará objeciones a su liberación de fondos y la certificación por parte de Nombre del RE por un período de quince días a partir de la fecha anticipada de recibo o la fecha en que en efecto se reciba la solicitud de liberación de fondos (lo que ocurra más tarde) solamente si estas se basan en una de las siguientes posibles razones: (a) la certificación no fue firmada por el Oficial Certificador de Nombre del RE; (b) Nombre del RE omitió un paso o no tomó una decisión o determinación que es requisito de la reglamentación de HUD en 24 CFR Parte 58; (c) el beneficiario de la subvención u otros participantes en el proceso de desarrollo comprometieron fondos, incurrieron en gastos o llevaron a cabo actividades no autorizadas por 24 CFR Parte 58 antes de que HUD / Estado apruebe la liberación de fondos; o (d) otra agencia federal actuando de acuerdo con 40 CFR Parte 1504 sometió una determinación de que el proyecto no es satisfactorio desde el punto de vista de calidad ambiental. Las objeciones deben prepararse y someterse de acuerdo con los requisitos procesales (24 CFR Parte 58, Sección 58.76) y dirigirse a HUD / Oficina de Administración Estatal a dirección de esa oficina. Objetores potenciales deben contactar a HUD / Estado para verificar la fecha en que en efecto finaliza el período para objeciones.

Nombre y título del Oficial Certificador

Nota: Los períodos para comentarios públicos de quince o dieciocho días son los períodos mínimos establecidos en la reglamentación previo a someter una Solicitud de Liberación de Fondos y Certificación [forma HUD-7015.15] a HUD / Estado. La Entidad Responsable puede permitir un período para comentarios más largo. 24 CFR

Part 58, Sección 58.46 establece requisitos de “retrasos de tiempo en circunstancias excepcionales”, un período para comentarios de 30 días para proyectos singulares o controversiales o aquellos similares a proyectos que normalmente requieren la preparación de una Declaración de Impacto Ambiental. El período para objeciones de 15 días a partir de la fecha de entrega de la solicitud es un requisito estatutario. El período para objeciones viene después de la fecha de radicación especificada en el aviso o la fecha efectiva de recibo por HUD / Estado, la que sea más tarde.

Después que se complete el período para comentarios los beneficiarios pueden enviar la forma HUD-7015.15 a HUD / Estado por fax junto con una copia del aviso público y una carta de trámite indicando si se recibieron comentarios, y de ser así, como el beneficiario respondió a los comentarios. La Solicitud de Liberación de Fondos y Certificación no debe someterse antes que el beneficiario haya respondido. Si la solicitud se envía por fax, la forma original firmada debe enviarse por correo a HUD / Estado. La fecha de recibo por fax se considerará como la fecha de entrega. Sin embargo, HUD no emitirá la forma 7015.16 (Autorización para Utilizar Fondos de Subvención) hasta después que la forma de solicitud original firmada se reciba.

Attachment K: Request for Release of Funds and Certification
HUD Form 7015.15

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB No. 2506-0087
(exp. 08/31/2023)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s) <input type="text"/>	2. HUD/State Identification Number <input type="text"/>	3. Recipient Identification Number (optional) <input type="text"/>
4. OMB Catalog Number(s) <input type="text"/>	5. Name and address of responsible entity <input type="text"/>	
6. For information about this request, contact (name & phone number) <input type="text"/>	7. Name and address of recipient (if different than responsible entity) <input type="text"/>	
8. HUD or State Agency and office unit to receive request <input type="text"/>		

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s) <input type="text"/>	10. Location (Street address, city, county, State) <input type="text"/>
--	--

11. Program Activity/Project Description

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did did not require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

Title of Certifying Officer

X

Date signed

Address of Certifying Officer

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

X

Date signed

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Attachment L: Authority to Use Grant Funds
HUD Form 7015.16

Authority to Use Grant Funds

**U.S. Department of Housing
and Urban Development**
Office of Community Planning
and Development

To: (name & address of Grant Recipient & name & title of Chief Executive Officer)

Copy To: (name & address of SubRecipient)

We received your Request for Release of Funds and Certification, form HUD-7015.15 on

Your Request was for HUD/State Identification Number

All objections, if received, have been considered. And the minimum waiting period has transpired.
You are hereby authorized to use funds provided to you under the above HUD/State Identification Number.
File this form for proper record keeping, audit, and inspection purposes.

Typed Name of Authorizing Officer

Signature of Authorizing Officer

Date (mm/dd/yyyy)

Title of Authorizing Officer

X

**Attachment M: City of Salinas CDD, Housing and Community Development Division Tier
Review Procedures**

City of Salinas
Community Development Department
Housing and Community Development Division
Tier Review Procedures

24 CFR Part 58 states that a responsible entity may tier its environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site specific analysis or mitigation is not currently feasible, and a more narrow or focused analysis is better done at a later date.

The following procedures constitute the tiering process:

1. A program description should be provided. (describe timing and staff responsibility)
2. A broad environmental review (the strategy) of the program must be completed. The broad review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site-specific review and include the following:
 - a. A complete project description (including contract number, total cost and HUD funds used, how funds will be used, target population, number receiving assistance, amount per individual, location, size, function, existing and future need, and an evaluation of the effects)
 - b. Determine classification (level of review) for project (unspecified sites)
 - c. Complete the applicable environmental review based on classification. Identify and evaluate issues ripe for decision.
 - d. Establish the policy, standard or process to be followed in the site-specific review and develop the site-specific checklist.
 - e. Complete the Public Notice, Finding of No Significant Impact (FONSI) (summary of the assessment), and RROF procedures. The FONSI with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site-specific reviews.
3. After each location is determined the staff must:
 - a. Describe activity for that location.
 - b. Summarize the issues addressed in the broader review.
 - c. Complete site-specific review checklist and certify.
 - d. File site-specific review checklist and any supporting documentation in the environmental review record.

Attachment N: HUD ERR Related Federal Laws and Authorities Worksheets

HUD ERR Related Laws and Authorities Worksheets

Air Quality (CEST and EA)

General Requirements	Legislation	Regulation
The Clean Air Act is administered by the U.S. Environmental Protection Agency (EPA), which sets national standards on ambient pollutants. In addition, the Clean Air Act is administered by States, which must develop State Implementation Plans (SIPs) to regulate their state air quality. Projects funded by HUD must demonstrate that they conform to the appropriate SIP.	Clean Air Act (42 USC 7401 et seq.) as amended particularly Section 176(c) and (d) (42 USC 7506(c) and (d))	40 CFR Parts 6, 51 and 93
Reference		
https://www.hudexchange.info/environmental-review/air-quality		

Scope of Work

- 1. Does your project include new construction or conversion of land use facilitating the development of public, commercial, or industrial facilities OR five or more dwelling units?**

Yes

→ Continue to Question 2.

No

Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.

Air Quality Attainment Status of Project's County or Air Quality Management District

- 2. Is your project's air quality management district or county in non-attainment or maintenance status for any criteria pollutants?**

Follow the link below to determine compliance status of project county or air quality management district:

<http://www.epa.gov/oaqps001/greenbk/>

No, project's county or air quality management district is in attainment status for all criteria pollutants

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.

Yes, project's management district or county is in non-attainment or maintenance status for one or more criteria pollutants.

Describe the findings:

→ Continue to Question 3.

3. Determine the estimated emissions levels of your project for each of those criteria pollutants that are in non-attainment or maintenance status on your project area. Will your project exceed any of the *de minimis* or *threshold* emissions levels of non-attainment and maintenance level pollutants or exceed the screening levels established by the state or air quality management district?

No, the project will not exceed *de minimis* or threshold emissions levels or screening levels

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Explain how you determined that the project would not exceed *de minimis* or threshold emissions.

Yes, the project exceeds *de minimis* emissions levels or screening levels.

→ Continue to Question 4. Explain how you determined that the project would not exceed *de minimis* or threshold emissions in the Worksheet Summary.

4. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Airport Hazards (CEST and EA)

General policy	Legislation	Regulation
It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields.		24 CFR Part 51 Subpart D
References		
https://www.hudexchange.info/environmental-review/airport-hazards		

1. To ensure compatible land use development, you must determine your site's proximity to civil and military airports. Is your project within 15,000 feet of a military airport or 2,500 feet of a civilian airport?

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within the applicable distances to a military or civilian airport.*

Yes → *Continue to Question 2.*

2. Is your project located within a Runway Potential Zone/Clear Zone (RPZ/CZ) or Accident Potential Zone (APZ)?

Yes, project is in an APZ → *Continue to Question 3.*

Yes, project is an RPZ/CZ → *Project cannot proceed at this location.*

No, project is not within an APZ or RPZ/CZ

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within either zone.*

3. Is the project in conformance with DOD guidelines for APZ?

Yes, project is consistent with DOD guidelines without further action.

Explain how you determined that the project is consistent:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documentation supporting this determination.*

No, the project cannot be brought into conformance with DOD guidelines and has not been approved. → *Project cannot proceed at this location.*

Project is not consistent with DOD guidelines, but it has been approved by Certifying Officer or HUD Approving Official.

Explain approval process:

If mitigation measures have been or will be taken, explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documentation supporting this determination.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Coastal Barrier Resources (CEST and EA)

General requirements	Legislation	Regulation
HUD financial assistance may not be used for most activities in units of the Coastal Barrier Resources System (CBRS). See 16 USC 3504 for limitations on federal expenditures affecting the CBRS.	Coastal Barrier Resources Act (CBRA) of 1982, as amended by the Coastal Barrier Improvement Act of 1990 (16 USC 3501)	
References		
https://www.hudexchange.info/environmental-review/coastal-barrier-resources		

Projects located in the following states must complete this form.

Alabama	Georgia	Massachusetts	New Jersey	Puerto Rico	Virgin Islands
Connecticut	Louisiana	Michigan	New York	Rhode Island	Virginia
Delaware	Maine	Minnesota	North Carolina	South Carolina	Wisconsin
Florida	Maryland	Mississippi	Ohio	Texas	

1. Is the project located in a CBRS Unit?

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within a CBRS Unit.*

Yes → *Continue to Question 2.*

Federal assistance for most activities may not be used at this location. You must either choose an alternate site or cancel the project. In very rare cases, federal monies can be spent within CBRS units for certain exempted activities (e.g., a nature trail), after consultation with the Fish and Wildlife Service (FWS) (see [16 USC 3505](#) for exceptions to limitations on expenditures).

2. Indicate your selected course of action.

After consultation with the FWS the project was given approval
 → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map and documentation of a FWS approval.*

Project was not given approval
Project cannot proceed at this location.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Coastal Zone Management Act (CEST and EA)

General requirements	Legislation	Regulation
Federal assistance to applicant agencies for activities affecting any coastal use or resource is granted only when such activities are consistent with federally approved State Coastal Zone Management Act Plans.	Coastal Zone Management Act (16 USC 1451-1464), particularly section 307(c) and (d) (16 USC 1456(c) and (d))	15 CFR Part 930
References		
https://www.onecpd.info/environmental-review/coastal-zone-management		

Projects located in the following states must complete this form.

Alabama	Florida	Louisiana	Mississippi	Ohio	Texas
Alaska	Georgia	Maine	New Hampshire	Oregon	Virgin Islands
American Samona	Guam	Maryland	New Jersey	Pennsylvania	Virginia
California	Hawaii	Massachusetts	New York	Puerto Rico	Washington
Connecticut	Illinois	Michigan	North Carolina	Rhode Island	Wisconsin
Delaware	Indiana	Minnesota	Northern Mariana Islands	South Carolina	

1. Is the project located in, or does it affect, a Coastal Zone as defined in your state Coastal Management Plan?

Yes → *Continue to Question 2.*

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within a Coastal Zone.*

2. Does this project include activities that are subject to state review?

Yes → *Continue to Question 3.*

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination.*

3. Has this project been determined to be consistent with the State Coastal Management Program?

Yes, with mitigation. → *Continue to Question 4.*

Yes, without mitigation. → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination.*

No, project must be canceled.

Project cannot proceed at this location.

4. Explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Continue to the Worksheet Summary below. Provide documentation of the consultation (including the State Coastal Management Program letter of consistency) and any other documentation used to make your determination.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Endangered Species Act (CEST and EA)

General requirements	ESA Legislation	Regulations
Section 7 of the Endangered Species Act (ESA) mandates that federal agencies ensure that actions that they authorize, fund, or carry out shall not jeopardize the continued existence of federally listed plants and animals or result in the adverse modification or destruction of designated critical habitat. Where their actions may affect resources protected by the ESA, agencies must consult with the Fish and Wildlife Service and/or the National Marine Fisheries Service (“FWS” and “NMFS” or “the Services”).	The Endangered Species Act of 1973 (16 U.S.C. 1531 <i>et seq.</i>); particularly section 7 (16 USC 1536).	50 CFR Part 402
References		
https://www.hudexchange.info/environmental-review/endangered-species		

1. Does the project involve any activities that have the potential to affect species or habitats?

No, the project will have No Effect due to the nature of the activities involved in the project.
 → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.*

No, the project will have No Effect based on a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office.
 Explain your determination:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.*

Yes, the activities involved in the project have the potential to affect species and/or habitats. → *Continue to Question 2.*

2. Are federally listed species or designated critical habitats present in the action area?

Obtain a list of protected species from the Services. This information is available on the [FWS Website](#) or you may contact your [local FWS](#) and/or [NMFS](#) offices directly.

No, the project will have No Effect due to the absence of federally listed species and designated critical habitat.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination. Documentation*

may include letters from the Services, species lists from the Services' websites, surveys or other documents and analysis showing that there are no species in the action area.

- Yes, there are federally listed species or designated critical habitats present in the action area. → *Continue to Question 3.*

3. What effects, if any, will your project have on federally listed species or designated critical habitat?

- No Effect: Based on the specifics of both the project and any federally listed species in the action area, you have determined that the project will have absolutely no effect on listed species or critical habitat.
→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination. Documentation should include a species list and explanation of your conclusion, and may require maps, photographs, and surveys as appropriate.*

- May Affect, Not Likely to Adversely Affect: Any effects that the project may have on federally listed species or critical habitats would be beneficial, discountable, or insignificant.
→ *Continue to Question 4, Informal Consultation.*

- Likely to Adversely Affect: The project may have negative effects on one or more listed species or critical habitat.
→ *Continue to Question 5, Formal Consultation.*

4. Informal Consultation is required

Section 7 of ESA (16 USC. 1536) mandates consultation to resolve potential impacts to endangered and threatened species and critical habitats. If a HUD-assisted project may affect any federally listed endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

Did the Service(s) concur with the finding that the project is Not Likely to Adversely Affect?

- Yes, the Service(s) concurred with the finding.
→ *Based on the response, the review is in compliance with this section. Continue to Question 6 and provide the following:*
- (1) A biological evaluation or equivalent document*
 - (2) Concurrence(s) from FWS and/or NMFS*
 - (3) Any other documentation of informal consultation*

Exception: If finding was made based on procedures provided by a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office, provide whatever documentation is mandated by that agreement.

No, the Service(s) did not concur with the finding. → Continue to Question 5.

5. Formal consultation is required

Section 7 of ESA (16 USC 1536) mandates consultation to resolve potential impacts to federally listed endangered and threatened species and critical habitats. If a HUD assisted project may affect any endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

→ Once consultation is complete, the review is in compliance with this section. Continue to Question 6 and provide the following:

- (1) A biological assessment, evaluation, or equivalent document
- (2) Biological opinion(s) issued by FWS and/or NMFS
- (3) Any other documentation of formal consultation

6. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the proposed measures that will be implemented to mitigate for the impact or effect, including the timeline for implementation.

Mitigation as follows will be implemented:

No mitigation is necessary.

Explain why mitigation will not be made here:

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Environmental Justice (CEST and EA)

General requirements	Legislation	Regulation
Determine if the project creates adverse environmental impacts upon a low-income or minority community. If it does, engage the community in meaningful participation about mitigating the impacts or move the project.	Executive Order 12898	
References		
https://www.hudexchange.info/environmental-review/environmental-justice		

HUD strongly encourages starting the Environmental Justice analysis only after all other laws and authorities, including Environmental Assessment factors if necessary, have been completed.

1. Were any adverse environmental impacts identified in any other compliance review portion of this project's total environmental review?

Yes → *Continue to Question 2.*

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

2. Were these adverse environmental impacts disproportionately high for low-income and/or minority communities?

Yes

Explain:

→ *Continue to Question 3. Provide any supporting documentation.*

No

Explain:

→ *Continue to the Worksheet Summary and provide any supporting documentation.*

3. All adverse impacts should be mitigated. Explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

Mitigation as follows will be implemented:

→ Continue to Question 4.

No mitigation is necessary.

Explain why mitigation will not be made here:

→ Continue to Question 4.

4. Describe how the affected low-income or minority community was engaged or meaningfully involved in the decision on what mitigation actions, if any, will be taken.

→ Continue to the Worksheet Summary and provide any supporting documentation.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Explosive and Flammable Hazards (CEST and EA)

General requirements	Legislation	Regulation
HUD-assisted projects must meet Acceptable Separation Distance (ASD) requirements to protect them from explosive and flammable hazards.	N/A	24 CFR Part 51 Subpart C
Reference		
https://www.hudexchange.info/environmental-review/explosive-and-flammable-facilities		

1. Is the proposed HUD-assisted project itself the development of a hazardous facility (a facility that mainly stores, handles or processes flammable or combustible chemicals such as bulk fuel storage facilities and refineries)?

No

→ Continue to Question 2.

Yes

Explain:

→ Go directly to Question 5.

2. Does this project include any of the following activities: development, construction, rehabilitation that will increase residential densities, or conversion?

No

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

Yes

→ Continue to Question 3.

3. Within 1 mile of the project site, are there any current *or planned* stationary aboveground storage containers that are covered by 24 CFR 51C? Containers that are NOT covered under the regulation include:

- Containers 100 gallons or less in capacity, containing common liquid industrial fuels
OR
- Containers of liquified petroleum gas (LPG) or propane with a water volume capacity of 1,000 gallons or less that meet the requirements of the 2017 version of National Fire Protection Association (NFPA) Code 58.

If all containers within the search area fit the above criteria, answer “no.” For any other type of aboveground storage container within the search area that holds one of the

flammable or explosive materials listed in Appendix I of 24 CFR part 51 subpart C, answer “yes.”

No

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide all documents used to make your determination.

Yes

→ Continue to Question 4.

4. Visit HUD’s website to identify the appropriate tank or tanks to assess and to calculate the required separation distance using the [electronic assessment tool](#). To document this step in the analysis, please attach the following supporting documents to this screen:

- Map identifying the tank selected for assessment, and showing the distance from the tank to the proposed HUD-assisted project site; and
- Electronic assessment tool calculation of the required separation distance.

Based on the analysis, is the proposed HUD-assisted project site located at or beyond the required separation distance from all covered tanks?

Yes

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

No

→ Go directly to Question 6.

5. Is the hazardous facility located at an acceptable separation distance from residences and any other facility or area where people may congregate or be present?

Please visit HUD’s website for information on calculating Acceptable Separation Distance.

Yes

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide map(s) showing the location of the project site relative to residences and any other facility or area where people congregate or are present and your separation distance calculations.

No

→ Provide map(s) showing the location of the project site relative to residences and any other facility or area where people congregate or are present and your separation distance calculations.
Continue to Question 6.

6. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Mitigation measures may include both natural and manmade barriers, modification of the project design, burial or removal of the hazard, or other engineered solutions. Describe selected mitigation measures, including the timeline for implementation, and attach an implementation plan. If negative effects cannot be mitigated, cancel the project at this location.

Note that only licensed professional engineers should design and implement blast barriers. If a barrier will be used or the project will be modified to compensate for an unacceptable separation distance, provide approval from a licensed professional engineer.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
 No

Farmlands Protection (CEST and EA)

General requirements	Legislation	Regulation
The Farmland Protection Policy Act (FPPA) discourages federal activities that would convert farmland to nonagricultural purposes.	Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.)	7 CFR Part 658
Reference		
https://www.hudexchange.info/environmental-review/farmlands-protection		

1. Does your project include any activities, including new construction, acquisition of undeveloped land or conversion, that could convert agricultural land to a non-agricultural use?

- Yes → *Continue to Question 2.*
 No

Explain how you determined that agricultural land would not be converted:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documentation supporting your determination.*

2. Does “important farmland,” including prime farmland, unique farmland, or farmland of statewide or local importance regulated under the Farmland Protection Policy Act, occur on the project site?

You may use the links below to determine important farmland occurs on the project site:

- Utilize USDA Natural Resources Conservation Service’s (NRCS) Web Soil Survey <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>
- Check with your city or county’s planning department and ask them to document if the project is on land regulated by the FPPA (zoning important farmland as non-agricultural does not exempt it from FPPA requirements)
- Contact NRCS at the local USDA service center <http://offices.sc.egov.usda.gov/locator/app?agency=nracs> or your NRCS state soil scientist http://soils.usda.gov/contact/state_offices/ for assistance

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.*

Yes → *Continue to Question 3.*

3. Consider alternatives to completing the project on important farmland and means of avoiding impacts to important farmland.

- Complete form **AD-1006**, "Farmland Conversion Impact Rating" http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf and contact the state soil scientist before sending it to the local NRCS District Conservationist.
(NOTE: for corridor type projects, use instead form **NRCS-CPA-106**, "Farmland Conversion Impact Rating for Corridor Type Projects: http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045395.pdf.)
- Work with NRCS to minimize the impact of the project on the protected farmland. When you have finished with your analysis, return a copy of form AD-1006 (or form NRCS-CPA-106 if applicable) to the USDA-NRCS State Soil Scientist or his/her designee informing them of your determination.

Document your conclusion:

- Project will proceed with mitigation.

Explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide form AD-1006 and all other documents used to make your determination.*

- Project will proceed without mitigation.

Explain why mitigation will not be made here:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide form AD-1006 and all other documents used to make your determination.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Flood Insurance (CEST and EA)

General requirements	Legislation	Regulation
Certain types of federal financial assistance may not be used in floodplains unless the community participates in National Flood Insurance Program and flood insurance is both obtained and maintained.	Flood Disaster Protection Act of 1973 as amended (42 USC 4001-4128)	24 CFR 50.4(b)(1) and 24 CFR 58.6(a) and (b); 24 CFR 55.1(b).
Reference		
https://www.hudexchange.info/environmental-review/flood-insurance		

1. Does this project involve mortgage insurance, refinance, acquisition, repairs, construction, or rehabilitation of a structure, mobile home, or insurable personal property?

No. This project does not require flood insurance or is excepted from flood insurance. →
Continue to the Worksheet Summary.

Yes → *Continue to Question 2.*

2. Provide a FEMA/FIRM map showing the site.

The Federal Emergency Management Agency (FEMA) designates floodplains. The [FEMA Map Service Center](#) provides this information in the form of FEMA Flood Insurance Rate Maps (FIRMs). For projects in areas not mapped by FEMA, use the best available information to determine floodplain information. Include documentation, including a discussion of why this is the best available information for the site. Provide FEMA/FIRM floodplain zone designation, panel number, and date within your documentation.

Is the structure, part of the structure, or insurable property located in a FEMA-designated Special Flood Hazard Area?

No → *Continue to the Worksheet Summary.*

Yes → *Continue to Question 3.*

3. Is the community participating in the National Flood Insurance Program or has less than one year passed since FEMA notification of Special Flood Hazards?

Yes, the community is participating in the National Flood Insurance Program.

For loans, loan insurance or loan guarantees, flood insurance coverage must be continued for the term of the loan. For grants and other non-loan forms of financial assistance, flood insurance coverage must be continued for the life of the building irrespective of the transfer of ownership. The amount of coverage must equal the total project cost or the maximum coverage limit of the National Flood Insurance Program, whichever is less

Provide a copy of the flood insurance policy declaration or a paid receipt for the current annual flood insurance premium and a copy of the application for flood insurance.

→ *Continue to the Worksheet Summary.*

- Yes, less than one year has passed since FEMA notification of Special Flood Hazards.
If less than one year has passed since notification of Special Flood Hazards, no flood Insurance is required.

→ *Continue to the Worksheet Summary.*

- No. The community is not participating, or its participation has been suspended.

Federal assistance may not be used at this location. Cancel the project at this location.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Floodplain Management (CEST and EA)

General Requirements	Legislation	Regulation
Executive Order 11988, Floodplain Management, requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable.	Executive Order 11988	24 CFR 55
Reference		
https://www.hudexchange.info/environmental-review/floodplain-management		

1. Does [24 CFR 55.12\(c\)](#) exempt this project from compliance with HUD's floodplain management regulations in Part 55?

Yes

Provide the applicable citation at 24 CFR 55.12(c) here. If project is exempt under 55.12(c)(7) or (8), provide supporting documentation.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

No → *Continue to Question 2.*

2. **Provide a FEMA/FIRM or ABFE map showing the site.**

The Federal Emergency Management Agency (FEMA) designates floodplains. The FEMA Map Service Center provides this information in the form of FEMA Flood Insurance Rate Maps (FIRMs) or Advisory Base Flood Elevations (ABFEs). For projects in areas not mapped by FEMA, use the best available information to determine floodplain information. Include documentation, including a discussion of why this is the best available information for the site.

Does your project occur in a floodplain?

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

Yes

Select the applicable floodplain using the FEMA map or the best available information:

Floodway → *Continue to Question 3, Floodways*

- Coastal High Hazard Area (V Zone) → *Continue to Question 4, Coastal High Hazard Areas*
- 500-year floodplain (B Zone or shaded X Zone) → *Continue to Question 5, 500-year Floodplains*
- 100-year floodplain (A Zone) → *The 8-Step Process is required. Continue to Question 6, 8-Step Process*

3. **Floodways**

Is this a functionally dependent use?

- Yes

The 8-Step Process is required. Work with your HUD FEO to determine a way to satisfactorily continue with this project. Provide a completed 8-Step Process, including the early public notice and the final notice.

→ *Continue to Question 6, 8-Step Process*

- No

Federal assistance may not be used at this location unless a 55.12(c) exception applies. You must either choose an alternate site or cancel the project at this location.

4. **Coastal High Hazard Area**

Is this a critical action?

- Yes

Critical actions are prohibited in coastal high hazard areas. Federal assistance may not be used at this location. Unless the action is excepted at 24 CFR 55.12(c), you must either choose an alternate site or cancel the project.

- No

Does this action include construction that is not a functionally dependent use, existing construction (including improvements), or reconstruction following destruction caused by a disaster?

- Yes, there is new construction.

New construction is prohibited in V Zones ((24 CFR 55.1(c)(3)).

- No, this action concerns only a functionally dependent use, existing construction(including improvements), or reconstruction following destruction caused by a disaster.

This construction must have met FEMA elevation and construction standards for a coastal high hazard area or other standards applicable at the time of construction.

→ Continue to Question 6, 8-Step Process

5. 500-year Floodplain

Is this a critical action?

No → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

Yes → Continue to Question 6, 8-Step Process

6. 8-Step Process.

Does the 8-Step Process apply? Select one of the following options:

8-Step Process applies.

Provide a completed 8-Step Process, including the early public notice and the final notice.

→ Continue to Question 7, Mitigation

5-Step Process is applicable per 55.12(a)(1-3).

Provide documentation of 5-Step Process.

Select the applicable citation:

55.12(a)(1) HUD actions involving the disposition of HUD-acquired multifamily housing projects or “bulk sales” of HUD-acquired one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24).

55.12(a)(2) HUD's actions under the National Housing Act (12 U.S.C. 1701) for the purchase or refinancing of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, and intermediate care facilities, in communities that are in good standing under the NFIP.

55.12(a)(3) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, intermediate care facilities, and one- to four-family properties, in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, the action does not meet the thresholds for “substantial improvement” under § 55.2(b)(10), and the footprint of the structure and paved areas is not significantly increased.

55.12(a)(4) HUD's (or the recipient's) actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing nonresidential buildings and structures, in communities that are in the

Regular Program of the NFIP and are in good standing, provided that the action does not meet the thresholds for “substantial improvement” under § 55.2(b)(10) and that the footprint of the structure and paved areas is not significantly increased.

→ *Continue to Question 7, Mitigation*

- 8-Step Process is inapplicable per 55.12(b)(1-4).

Select the applicable citation:

- 55.12(b)(1) HUD's mortgage insurance actions and other financial assistance for the purchasing, mortgaging or refinancing of existing one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24), where the action is not a critical action and the property is not located in a floodway or coastal high hazard area.
- 55.12(b)(2) Financial assistance for minor repairs or improvements on one- to four-family properties that do not meet the thresholds for “substantial improvement” under § 55.2(b)(10)
- 55.12(b)(3) HUD actions involving the disposition of individual HUD-acquired, one- to four-family properties.
- 55.12(b)(4) HUD guarantees under the Loan Guarantee Recovery Fund Program (24 CFR part 573) of loans that refinance existing loans and mortgages, where any new construction or rehabilitation financed by the existing loan or mortgage has been completed prior to the filing of an application under the program, and the refinancing will not allow further construction or rehabilitation, nor result in any physical impacts or changes except for routine maintenance.
- 55.12(b)(5) The approval of financial assistance to lease an existing structure located within the floodplain, but only if—
- (i) The structure is located outside the floodway or Coastal High Hazard Area, and is in a community that is in the Regular Program of the NFIP and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24);
 - (ii) The project is not a critical action; and
 - (iii) The entire structure is or will be fully insured or insured to the maximum under the NFIP for at least the term of the lease.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

7. Mitigation

For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

Which of the following mitigation/minimization measures have been identified for this project in the 8-Step or 5-Step Process? Select all that apply.

- Permeable surfaces
- Natural landscape enhancements that maintain or restore natural hydrology
- Planting or restoring native plant species
- Bioswales
- Evapotranspiration
- Stormwater capture and reuse
- Green or vegetative roofs with drainage provisions
- Natural Resources Conservation Service conservation easements or similar easements
- Floodproofing of structures
- Elevating structures including freeboarding above the required base flood elevations
- Other

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Historic Preservation (CEST and EA)

General requirements	Legislation	Regulation
Regulations under Section 106 of the National Historic Preservation Act (NHPA) require a consultative process to identify historic properties, assess project impacts on them, and avoid, minimize, or mitigate adverse effects	Section 106 of the National Historic Preservation Act (16 U.S.C. 470f)	36 CFR 800 "Protection of Historic Properties"
References		
https://www.hudexchange.info/environmental-review/historic-preservation		

Threshold

Is Section 106 review required for your project?

- No, because the project consists solely of activities listed as exempt in a Programmatic Agreement (PA). (See the [PA Database](#) to find applicable PAs.)

Either provide the PA itself or a link to it here. Mark the applicable exemptions or include the text here:

→ *Continue to the Worksheet Summary.*

- No, because the project consists solely of activities included in a No Potential to Cause Effects memo or other determination [36 CFR 800.3(a)(1)].

Either provide the memo itself or a link to it here. Explain and justify the other determination here:

→ *Continue to the Worksheet Summary.*

- Yes, because the project includes activities with potential to cause effects (direct or indirect). → *Continue to Step 1.*

The Section 106 Process

After determining the need to do a Section 106 review, initiate consultation with regulatory and other interested parties, identify and evaluate historic properties, assess effects of the project on properties listed on or eligible for the National Register of Historic Places, and resolve any adverse effects through project design modifications or mitigation.

Note that consultation continues through all phases of the review.

Step 1: Initiate consultation

Step 2: Identify and evaluate historic properties

Step 3: Assess effects of the project on historic properties

Step 4: Resolve any adverse effects

Step 1 - Initiate Consultation

The following parties are entitled to participate in Section 106 reviews: Advisory Council on Historic Preservation; State Historic Preservation Officers (SHPOs); federally recognized Indian tribes/Tribal Historic Preservation Officers (THPOs); Native Hawaiian Organizations (NHOs); local governments; and project grantees. The general public and individuals and organizations with a demonstrated interest in a project may participate as consulting parties at the discretion of the RE or HUD official. Participation varies with the nature and scope of a project. Refer to HUD's website for guidance on consultation, including the required timeframes for response. Consultation should begin early to enable full consideration of preservation options.

Use the [When To Consult With Tribes checklist](#) within [Notice CPD-12-006: Process for Tribal Consultation](#) to determine if you should invite tribes to consult on a particular project. Use the [Tribal Directory Assessment Tool \(TDAT\)](#) to identify tribes that may have an interest in the area where the project is located. Note that consultants may not initiate consultation with Tribes.

Select all consulting parties below (check all that apply):

- State Historic Preservation Officer (SHPO)
- Advisory Council on Historic Preservation
- Indian Tribes, including Tribal Historic Preservation Officers (THPOs) or Native
- Hawaiian Organizations (NHOs)

List all tribes that were consulted here and their status of consultation:

- Other Consulting Parties

List all consulting parties that were consulted here and their status of consultation:

Describe the process of selecting consulting parties and initiating consultation here:

Provide all correspondence, notices, and notes (including comments and objections received) and continue to Step 2.

Step 2 - Identify and Evaluate Historic Properties

Define the Area of Potential Effect (APE), either by entering the address(es) or providing a map depicting the APE. Attach an additional page if necessary.

Gather information about known historic properties in the APE. Historic buildings, districts and archeological sites may have been identified in local, state, and national surveys and registers, local historic districts, municipal plans, town and county histories, and local history websites. If not already listed on the National Register of Historic Places, identified properties are then evaluated to see if they are eligible for the National Register. Refer to HUD’s website for guidance on identifying and evaluating historic properties.

In the space below, list historic properties identified and evaluated in the APE.

Every historic property that may be affected by the project should be listed. For each historic property or district, include the National Register status, whether the SHPO has concurred with the finding, and whether information on the site is sensitive. Attach an additional page if necessary.

Provide the documentation (survey forms, Register nominations, concurrence(s) and/or objection(s), notes, and photos) that justify your National Register Status determination.

Was a survey of historic buildings and/or archeological sites done as part of the project?

If the APE contains previously unsurveyed buildings or structures over 50 years old, or there is a likely presence of previously unsurveyed archeological sites, a survey may be necessary. For Archeological surveys, refer to HP Fact Sheet #6, [Guidance on Archeological Investigations in HUD Projects](#).

- Yes → *Provide survey(s) and report(s) and continue to Step 3.*

Additional notes:

- No → *Continue to Step 3.*

Step 3 - Assess Effects of the Project on Historic Properties

Only properties that are listed on or eligible for the National Register of Historic Places receive further consideration under Section 106. Assess the effect(s) of the project by applying the Criteria of Adverse Effect. ([36 CFR 800.5](#)) Consider direct and indirect effects as applicable as per HUD guidance.

Choose one of the findings below - No Historic Properties Affected, No Adverse Effect, or Adverse Effect; and seek concurrence from consulting parties.

- No Historic Properties Affected

Document reason for finding:

- No historic properties present. → *Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*
- Historic properties present, but project will have no effect upon them. → *Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*

If consulting parties concur or fail to respond to user's request for concurrence, project is in compliance with this section. No further review is required. If consulting parties object, refer to ([36 CFR 800.4\(d\)\(1\)](#)) and consult further to try to resolve objection(s).

No Adverse Effect

Document reason for finding:

Does the No Adverse Effect finding contain conditions?

Yes

Check all that apply: (check all that apply)

- Avoidance
- Modification of project
- Other

Describe conditions here:

→ *Monitor satisfactory implementation of conditions. Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*

No → *Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*

If consulting parties concur or fail to respond to user's request for concurrence, project is in compliance with this section. No further review is required. If consulting parties object, refer to ([36 CFR 800.5\(c\)\(2\)](#)) and consult further to try to resolve objection(s).

Adverse Effect

Document reason for finding:

Copy and paste applicable Criteria into text box with summary and justification.

Criteria of Adverse Effect: [36 CFR 800.5](#)]

Notify the Advisory Council on Historic Preservation of the Adverse Effect and provide the documentation outlined in [36 CFR 800.11\(e\)](#). The Council has 15 days to decide whether to enter the consultation (Not required for projects covered by a Programmatic Agreement).

→ *Continue to Step 4.*

Step 4 - Resolve Adverse Effects

Work with consulting parties to try to avoid, minimize or mitigate adverse effects. Refer to HUD guidance and [36 CFR 800.6 and 800.7](#).

Were the Adverse Effects resolved?

Yes

Describe the resolution of Adverse Effects, including consultation efforts and participation by the Advisory Council on Historic Preservation:

For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Provide signed Memorandum of Agreement (MOA) or Standard Mitigation Measures Agreement (SMMA). Continue to the Worksheet Summary.*

No

The project must be cancelled unless the “Head of Agency” approves it. Either provide approval from the “Head of Agency” or cancel the project at this location.

Describe the failure to resolve Adverse Effects, including consultation efforts and participation by the Advisory Council on Historic Preservation and “Head of the Agency”:

Explain in detail the exact conditions or measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Provide correspondence, comments, documentation of decision, and “Head of Agency” approval. Continue to the Worksheet Summary.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Noise (CEST Level Reviews)

General requirements	Legislation	Regulation
HUD's noise regulations protect residential properties from excessive noise exposure. HUD encourages mitigation as appropriate.	Noise Control Act of 1972 General Services Administration Federal Management Circular 75-2: "Compatible Land Uses at Federal Airfields"	Title 24 CFR 51 Subpart B
References		
https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control		

1. What activities does your project involve? Check all that apply:

- New construction for residential use

NOTE: HUD assistance to new construction projects is generally prohibited if they are located in an Unacceptable zone, and HUD discourages assistance for new construction projects in Normally Unacceptable zones. See 24 CFR 51.101(a)(3) for further details.

→ *Continue to Question 4.*

- Rehabilitation of an existing residential property

NOTE: For modernization projects in all noise zones, HUD encourages mitigation to reduce levels to acceptable compliance standards. See 24 CFR 51 Subpart B for further details.

→ *Continue to Question 2.*

- A research demonstration project which does not result in new construction or reconstruction, interstate, land sales registration, or any timely emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

- None of the above

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

2. Do you have standardized noise attenuation measures that apply to all modernization and/or minor rehabilitation projects, such as the use of double glazed windows or extra insulation?

Yes

Indicate the type of measures that will apply (check all that apply):

Improved building envelope components (better windows and doors, strengthened sheathing, insulation, sealed gaps, etc.)

Redesigned building envelope (more durable or substantial materials, increased air gap, resilient channels, staggered wall studs, etc.)

Other

Explain:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below and provide any supporting documentation.*

No

→ *Continue to Question 3.*

3. Complete the Preliminary Screening to identify potential noise generators in the vicinity (1000' from a major road, 3000' from a railroad, or 15 miles from an airport). Describe findings of the Preliminary Screening:

→ *Continue to Question 6.*

4. Complete the Preliminary Screening to identify potential noise generators in the vicinity (1000' from a major road, 3000' from a railroad, or 15 miles from an airport). Indicate the findings of the Preliminary Screening below:

There are no noise generators found within the threshold distances above.

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing the location of the project relative to any noise generators.

Noise generators were found within the threshold distances.

→ Continue to Question 5.

5. Complete the Noise Assessment Guidelines to quantify the noise exposure. Indicate the findings of the Noise Assessment below:

Acceptable: (65 decibels or less; the ceiling may be shifted to 70 decibels in circumstances described in §24 CFR 51.105(a))

Indicate noise level here:

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide noise analysis, including noise level and data used to complete the analysis.

Normally Unacceptable: (Above 65 decibels but not exceeding 75 decibels; the floor may be shifted to 70 decibels in circumstances described in 24 CFR 51.105(a))

Indicate noise level here:

Is the project in a largely undeveloped area¹?

No

→Your project requires completion of an Environmental Assessment (EA) pursuant to 51.104(b)(1)(i). Elevate this review to an EA-level review.

Provide noise analysis, including noise level and data used to complete the analysis.

Continue to Question 6.

Yes

→Your project requires completion of an Environmental Impact Statement (EIS) pursuant to 51.104(b)(1)(i). Elevate this review to an EIS-level review.

Provide noise analysis, including noise level and data used to complete the analysis.

Continue to Question 6.

¹ A largely undeveloped area means the area within 2 miles of the project site is less than 50 percent developed with urban uses or does not have water and sewer capacity to serve the project.

Unacceptable: (Above 75 decibels)

Indicate noise level here:

Your project requires completion of an Environmental Impact Statement (EIS) pursuant to 51.104(b)(1)(i). You may either complete an EIS or provide a waiver signed by the appropriate authority. Indicate your choice:

Convert to an EIS

→ Provide noise analysis, including noise level and data used to complete the analysis.

Continue to Question 6.

Provide waiver

→ Provide an Environmental Impact Statement waiver from the Certifying Officer or the Assistant Secretary for Community Planning and Development per 24 CFR 51.104(b)(2) and noise analysis, including noise level and data used to complete the analysis.

Continue to Question 6.

6. HUD strongly encourages mitigation be used to eliminate adverse noise impacts. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation. This information will be automatically included in the Mitigation summary for the environmental review.

Mitigation as follows will be implemented:

→ Provide drawings, specifications, and other materials as needed to describe the project's noise mitigation measures.

Continue to the Worksheet Summary.

No mitigation is necessary.

Explain why mitigation will not be made here:

→ *Continue to the Worksheet Summary.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Noise (EA Level Reviews)

General requirements	Legislation	Regulation
HUD's noise regulations protect residential properties from excessive noise exposure. HUD encourages mitigation as appropriate.	Noise Control Act of 1972 General Services Administration Federal Management Circular 75-2: "Compatible Land Uses at Federal Airfields"	Title 24 CFR 51 Subpart B
References		
https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control		

1. What activities does your project involve? Check all that apply:

- New construction for residential use

NOTE: HUD assistance to new construction projects is generally prohibited if they are located in an Unacceptable zone, and HUD discourages assistance for new construction projects in Normally Unacceptable zones. See 24 CFR 51.101(a)(3) for further details.

→ *Continue to Question 2.*

- Rehabilitation of an existing residential property

NOTE: For major or substantial rehabilitation in Normally Unacceptable zones, HUD encourages mitigation to reduce levels to acceptable compliance standards. For major rehabilitation in Unacceptable zones, HUD strongly encourages mitigation to reduce levels to acceptable compliance standards. See 24 CFR 51 Subpart B for further details.

→ *Continue to Question 2.*

- A research demonstration project which does not result in new construction or reconstruction, interstate, land sales registration, or any timely emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

- None of the above

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

2. Complete the Preliminary Screening to identify potential noise generators in the vicinity (1000' from a major road, 3000' from a railroad, or 15 miles from an airport).

Indicate the findings of the Preliminary Screening below:

There are no noise generators found within the threshold distances above.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing the location of the project relative to any noise generators.*

Noise generators were found within the threshold distances.

→ *Continue to Question 3.*

3. Complete the Noise Assessment Guidelines to quantify the noise exposure. Indicate the findings of the Noise Assessment below:

Acceptable: (65 decibels or less; the ceiling may be shifted to 70 decibels in circumstances described in §24 CFR 51.105(a))

Indicate noise level here:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide noise analysis, including noise level and data used to complete the analysis.*

Normally Unacceptable: (Above 65 decibels but not exceeding 75 decibels; the floor may be shifted to 70 decibels in circumstances described in 24 CFR 51.105(a))

Indicate noise level here:

If project is rehabilitation:

→ *Continue to Question 4. Provide noise analysis, including noise level and data used to complete the analysis.*

If project is new construction:

Is the project in a largely undeveloped area¹?

No

→ *Continue to Question 4. Provide noise analysis, including noise level and data used to complete the analysis, and any other relevant information.*

¹ A largely undeveloped area means the area within 2 miles of the project site is less than 50 percent developed with urban uses or does not have water and sewer capacity to serve the project.

Yes

→ Your project requires completion of an Environmental Impact Statement (EIS) pursuant to 51.104(b)(1)(i). Elevate this review to an EIS-level review.

Unacceptable: (Above 75 decibels)

Indicate noise level here:

If project is rehabilitation:

HUD strongly encourages conversion of noise-exposed sites to land uses compatible with high noise levels. Consider converting this property to a non-residential use compatible with high noise levels.

→ Continue to Question 4. Provide noise analysis, including noise level and data used to complete the analysis, and any other relevant information.

If project is new construction:

Your project requires completion of an Environmental Impact Statement (EIS) pursuant to 51.104(b)(1)(i). You may either complete an EIS or provide a waiver signed by the appropriate authority. Indicate your choice:

Convert to an EIS

→ Provide noise analysis, including noise level and data used to complete the analysis.

Continue to Question 4.

Provide waiver

→ Provide an Environmental Impact Statement waiver from the Certifying Officer or the Assistant Secretary for Community Planning and Development per 24 CFR 51.104(b)(2) and noise analysis, including noise level and data used to complete the analysis.

Continue to Question 4.

- 4. HUD strongly encourages mitigation be used to eliminate adverse noise impacts. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation. This information will be automatically included in the Mitigation summary for the environmental review.**

Mitigation as follows will be implemented:

→ Provide drawings, specifications, and other materials as needed to describe the project's noise mitigation measures. Continue to the Worksheet Summary.

No mitigation is necessary.

Explain why mitigation will not be made here:

→ Continue to the Worksheet Summary.

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Contamination and Toxic Substances (Single Family Properties)

General requirements	Legislation	Regulations
It is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of the occupants or conflict with the intended utilization of the property.		24 CFR 58.5(i)(2) 24 CFR 50.3(i)
Reference		
https://www.hudexchange.info/programs/environmental-review/site-contamination		

1. Evaluate the site for contamination. Were any on-site or nearby toxic, hazardous, or radioactive substances found that could affect the health and safety of project occupants or conflict with the intended use of the property?

Provide a map or other documentation of absence or presence of contamination¹ and explain evaluation of site contamination in the Worksheet below.

No

Explain:

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

Yes

→ *Describe the findings, including any recognized environmental conditions (RECs), in Worksheet Summary below. Continue to Question 2.*

¹ Utilize EPA's EnviroMapper and state/tribal databases to identify nearby dumps, junk yards, landfills, hazardous waste sites, and industrial sites, including EPA National Priorities List Sites (Superfund sites), CERCLA or state-equivalent sites, RCRA Corrective Action sites with release(s) or suspected release(s) requiring clean-up action and/or further investigation. Additional supporting documentation may include other inspections and reports.

Check here if an ASTM Phase I Environmental Site Assessment (ESA) report was utilized. [Note: HUD regulations does not require an ASTM Phase I ESA report for single family homes]

2. Mitigation

Document the mitigation needed according to the requirements of the appropriate federal, state, tribal, or local oversight agency. If the adverse environmental mitigation cannot be mitigated, then HUD assistance may not be used for the project at this site.

Can adverse environmental impacts be mitigated?

Adverse environmental impacts cannot feasibly be mitigated

→ Project cannot proceed at this location.

Yes, adverse environmental impacts can be eliminated through mitigation.

→ *Provide all mitigation requirements² and documents. Continue to Question 3.*

3. Describe how compliance was achieved. Include any of the following that apply: State Voluntary Clean-up Program, a No Further Action letter, use of engineering controls³, or use of institutional controls⁴.

If a remediation plan or clean-up program was necessary, which standard does it follow?

² Mitigation requirements include all clean-up actions required by applicable federal, state, tribal, or local law. Additionally, provide, as applicable, the long-term operations and maintenance plan, Remedial Action Work Plan, and other equivalent documents.

³ Engineering controls are any physical mechanism used to contain or stabilize contamination or ensure the effectiveness of a remedial action. Engineering controls may include, without limitation, caps, covers, dikes, trenches, leachate collection systems, signs, fences, physical access controls, ground water monitoring systems and ground water containment systems including, without limitation, slurry walls and ground water pumping systems.

⁴ Institutional controls are mechanisms used to limit human activities at or near a contaminated site, or to ensure the effectiveness of the remedial action over time, when contaminants remain at a site at levels above the applicable remediation standard which would allow for unrestricted use of the property. Institutional controls may include structure, land, and natural resource use restrictions, well restriction areas, classification exception areas, deed notices, and declarations of environmental restrictions.

- Complete removal
- Risk-based corrective action (RBCA)
- Other

→ *Continue to the Worksheet Summary.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

- Yes
- No

Contamination and Toxic Substances (Multifamily and Non-Residential Properties)

General requirements	Legislation	Regulations
It is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of the occupants or conflict with the intended utilization of the property.		24 CFR 58.5(i)(2) 24 CFR 50.3(i)
Reference		
https://www.hudexchange.info/programs/environmental-review/site-contamination		

1. How was site contamination evaluated? ¹ Select all that apply.

- ASTM Phase I ESA
- ASTM Phase II ESA
- Remediation or clean-up plan
- ASTM Vapor Encroachment Screening
- None of the above

→ Provide documentation and reports and include an explanation of how site contamination was evaluated in the Worksheet Summary.

Continue to Question 2.

2. Were any on-site or nearby toxic, hazardous, or radioactive substances found that could affect the health and safety of project occupants or conflict with the intended use of the property? (Were any recognized environmental conditions or RECs identified in a Phase I ESA and confirmed in a Phase II ESA?)

- No

Explain:

¹ HUD regulations at 24 CFR § 58.5(i)(2)(ii) require that the environmental review for multifamily housing with five or more dwelling units or non-residential property include the evaluation of previous uses of the site or other evidence of contamination on or near the site. For acquisition and new construction of multifamily and nonresidential properties HUD strongly advises the review include an ASTM Phase I Environmental Site Assessment (ESA) to meet real estate transaction standards of due diligence and to help ensure compliance with HUD's toxic policy at 24 CFR §58.5(i) and 24 CFR §50.3(i). Also note that some HUD programs require an ASTM Phase I ESA.

→ Based on the response, the review is in compliance with this section.
Continue to the Worksheet Summary below.

Yes.

→ Describe the findings, including any recognized environmental conditions (RECs), in Worksheet Summary below. Continue to Question 3.

3. Mitigation

Document the mitigation needed according to the requirements of the appropriate federal, state, tribal, or local oversight agency. If the adverse environmental effects cannot be mitigated, then HUD assistance may not be used for the project at this site.

Can adverse environmental impacts be mitigated?

Adverse environmental impacts cannot feasibly be mitigated

→ Project cannot proceed at this location.

Yes, adverse environmental impacts can be eliminated through mitigation.

→ Provide all mitigation requirements² and documents. Continue to Question 4.

4. Describe how compliance was achieved. Include any of the following that apply: State Voluntary Clean-up Program, a No Further Action letter, use of engineering controls³, or use of institutional controls⁴.

² Mitigation requirements include all clean-up actions required by applicable federal, state, tribal, or local law. Additionally, provide, as applicable, the long-term operations and maintenance plan, Remedial Action Work Plan, and other equivalent documents.

³ Engineering controls are any physical mechanism used to contain or stabilize contamination or ensure the effectiveness of a remedial action. Engineering controls may include, without limitation, caps, covers, dikes, trenches, leachate collection systems, signs, fences, physical access controls, ground water monitoring systems and ground water containment systems including, without limitation, slurry walls and ground water pumping systems.

⁴ Institutional controls are mechanisms used to limit human activities at or near a contaminated site, or to ensure the effectiveness of the remedial action over time, when contaminants remain at a site at levels above the applicable remediation standard which would allow for unrestricted use of the property. Institutional controls may include structure, land, and natural resource use restrictions, well restriction areas, classification exception areas, deed notices, and declarations of environmental restrictions.

If a remediation plan or clean-up program was necessary, which standard does it follow?

Complete removal

→ *Continue to the Worksheet Summary.*

Risk-based corrective action (RBCA)

→ *Continue to the Worksheet Summary.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Sole Source Aquifers (CEST and EA)

General requirements	Legislation	Regulation
The Safe Drinking Water Act of 1974 protects drinking water systems which are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.	Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300f et seq., and 21 U.S.C. 349)	40 CFR Part 149
Reference		
https://www.hudexchange.info/environmental-review/sole-source-aquifers		

1. Does your project consist solely of acquisition, leasing, or rehabilitation of an existing building(s)?

- Yes → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*
- No → *Continue to Question 2.*

2. Is the project located on a sole source aquifer (SSA)¹?

- No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination, such as a map of your project (or jurisdiction, if appropriate) in relation to the nearest SSA and its source area.*
- Yes → *Continue to Question 3.*

3. Does your region have a memorandum of understanding (MOU) or other working agreement with EPA for HUD projects impacting a sole source aquifer?

Contact your Field or Regional Environmental Officer or visit the HUD webpage at the link above to determine if an MOU or agreement exists in your area.

- Yes → *Provide the MOU or agreement as part of your supporting documentation. Continue to Question 4.*
- No → *Continue to Question 5.*

4. Does your MOU or working agreement exclude your project from further review?

- Yes → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination and document where your project fits within the MOU or agreement.*

¹ A sole source aquifer is defined as an aquifer that supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer. This includes streamflow source areas, which are upstream areas of losing streams that flow into the recharge area.

No → Continue to Question 5.

5. Will the proposed project contaminate the aquifer and create a significant hazard to public health?

Consult with your Regional EPA Office. Your consultation request should include detailed information about your proposed project and its relationship to the aquifer and associated streamflow source area. EPA will also want to know about water, storm water and waste water at the proposed project. Follow your MOU or working agreement or contact your Regional EPA office for specific information you may need to provide. EPA may request additional information if impacts to the aquifer are questionable after this information is submitted for review.

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide your correspondence with the EPA and all documents used to make your determination.*

Yes → *Work with EPA to develop mitigation measures. If mitigation measures are approved, attach correspondence with EPA and include the mitigation measures in your environmental review documents and project contracts. If EPA determines that the project continues to pose a significant risk to the aquifer, federal financial assistance must be denied. Continue to Question 6.*

6. In order to continue with the project, any threat must be mitigated, and all mitigation must be approved by the EPA. Explain in detail the proposed measures that can be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Continue to the Worksheet Summary below. Provide documentation of the consultation (including the Managing Agency's concurrence) and any other documentation used to make your determination.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Wetlands (CEST and EA)

General requirements	Legislation	Regulation
Executive Order 11990 discourages that direct or indirect support of new construction impacting wetlands wherever there is a practicable alternative. The Fish and Wildlife Service's National Wetlands Inventory can be used as a primary screening tool, but observed or known wetlands not indicated on NWI maps must also be processed. Off-site impacts that result in draining, impounding, or destroying wetlands must also be processed.	Executive Order 11990	24 CFR 55.20 can be used for general guidance regarding the 8 Step Process.
References		
https://www.hudexchange.info/environmental-review/wetlands-protection		

1. Does this project involve new construction as defined in Executive Order 11990, expansion of a building's footprint, or ground disturbance?

The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of the Order.

No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.*

Yes → *Continue to Question 2.*

2. Will the new construction or other ground disturbance impact an on- or off-site wetland?

The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds. Wetlands under E.O. 11990 include isolated and non-jurisdictional wetlands.

No, a wetland will not be impacted in terms of E.O. 11990's definition of new construction.
→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map or any other relevant documentation to explain your determination.*

Yes, there is a wetland that be impacted in terms of E.O. 11990's definition of new construction.

→ You must determine that there are no practicable alternatives to wetlands development by completing the 8-Step Process.

Provide a completed 8-Step Process as well as all documents used to make your determination, including a map. Be sure to include the early public notice and the final notice with your documentation.

Continue to Question 3.

- 3. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.**

Which of the following mitigation actions have been or will be taken? Select all that apply:

- Permeable surfaces
- Natural landscape enhancements that maintain or restore natural hydrology through infiltration
- Native plant species
- Bioswales
- Evapotranspiration
- Stormwater capture and reuse
- Green or vegetative roofs with drainage provisions
- Natural Resources Conservation Service conservation easements
- Compensatory mitigation

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Wild and Scenic Rivers (CEST and EA)

General requirements	Legislation	Regulation
The Wild and Scenic Rivers Act provides federal protection for certain free-flowing, wild, scenic and recreational rivers designated as components or potential components of the National Wild and Scenic Rivers System (NWSRS) from the effects of construction or development.	The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287), particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c))	36 CFR Part 297
References		
https://www.hudexchange.info/environmental-review/wild-and-scenic-rivers		

1. Is your project within proximity of a NWSRS river as defined below?

Wild & Scenic Rivers: These rivers or river segments have been designated by Congress or by states (with the concurrence of the Secretary of the Interior) as wild, scenic, or recreational

Study Rivers: These rivers or river segments are being studied as a potential component of the Wild & Scenic River system.

Nationwide Rivers Inventory (NRI): The National Park Service has compiled and maintains the NRI, a register of river segments that potentially qualify as national wild, scenic, or recreational river areas

No

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination, such as a map identifying the project site and its surrounding area or a list of rivers in your region in the Screen Summary at the conclusion of this screen.*

Yes, the project is in proximity of a Nationwide Rivers Inventory (NRI) River.

→ *Continue to Question 2.*

2. Could the project do *any* of the following?

- Have a direct and adverse effect within Wild and Scenic River Boundaries,
- Invade the area or unreasonably diminish the river outside Wild and Scenic River Boundaries, or
- Have an adverse effect on the natural, cultural, and/or recreational values of a NRI segment.

Consultation with the appropriate federal/state/local/tribal Managing Agency(s) is required, pursuant to Section 7 of the Act, to determine if the proposed project may have an adverse effect on a Wild & Scenic River or a Study River and, if so, to determine the appropriate avoidance or mitigation measures.

Note: Concurrence may be assumed if the Managing Agency does not respond within 30 days; however, you are still obligated to avoid or mitigate adverse effects on the rivers identified in the NWSRS

No, the Managing Agency has concurred that the proposed project will not alter, directly, or indirectly, any of the characteristics that qualifies or potentially qualifies the river for inclusion in the NWSRS.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation of the consultation (including the Managing Agency's concurrence) and any other documentation used to make your determination.*

Yes, the Managing Agency was consulted and the proposed project may alter, directly, or indirectly, any of the characteristics that qualifies or potentially qualifies the river for inclusion in the NWSRS.

→ *Continue to Question 3.*

3. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.

→ *Continue to the Worksheet Summary below. Provide documentation of the consultation (including the Managing Agency's concurrence) and any other documentation used to make your determination.*

Worksheet Summary

Compliance Determination

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

Are formal compliance steps or mitigation required?

Yes

No

Attachment O: Environmental Impact Statement Notice Requirements Responsible Entities




U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

JUL 22 2011

MEMORANDUM FOR: Regional Environmental Officers
Field Environmental Officers

FROM: Charles Bien, Acting Director, Office of Environment and Energy,
DGE 

SUBJECT: EIS Notice Requirements for Responsible Entities

The Council on Environmental Quality (CEQ) and HUD regulations implementing the National Environmental Policy Act (NEPA) require that public notice be given at various stages of an Environmental Impact Statement (EIS). In the past, HUD policy has required that the Responsible Entities (RE), through HUD, publish a Federal Register notice for the Notice of Intent (NOI), Draft Environmental Impact Statement (DEIS), and Final Environmental Impact Statement (FEIS) when completing an EIS. This memo describes an updated process that will no longer require an RE to publish a Federal Register notice for the DEIS and FEIS through HUD except where the EIS is for an action with effects of national concern. For actions with effects primarily of local concern, HUD and the RE will rely exclusively on the Environmental Protection Agency (EPA) for Federal Register publications at the DEIS and FEIS phases. RE's will also be required to publish a notice locally. In all cases, the NOI will still be published in the Federal Register by HUD. An appendix featuring EPA guidance pertaining to the filing process for EPA Federal Register publication is included at the end of this document.

Procedure for Publishing a Notice of Intent to Prepare an EIS

Prior to the RE's preparation of an EIS, HUD will continue to publish, on behalf of RE's, a Notice of Intent to prepare an EIS (NOI) in the Federal Register as required by 24 CFR §58.55 and 40 CFR §1501.7. A NOI, as described at 40 CFR § 1508.22, is a notice that an environmental impact statement will be prepared and considered. The notice should describe the proposed action, possible alternatives, and the scoping process including whether, when, and where a scoping meeting will occur. The notice should also include the contact information of a person within the agency who can answer questions about the notice and the EIS.

The notice should be prepared as "soon as practicable" after the Responsible Entity decides to prepare an EIS. The notice should follow the format provided by HUD Headquarters staff and be reviewed by Field and Regional environmental staff prior to being submitted to Headquarters. Once the notice is submitted to HUD Headquarters, OEE and HUD counsel will review the notice. After review, the document will be sent to the Federal Register for publishing when approved.

Notice and Filing Requirements for Draft Environmental Impact Statements and Final Environmental Impact Statements

Copies of the Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) as well as associated comments and responses, must be filed by the RE in accordance with 40 CFR §1506.9 and 24 CFR §58.60. Sec. 58.60 requires copies to be filed and distributed in the following manner:

1. Five copies to EPA Headquarters (Further information on filing with the EPA is attached in the appendix and available at: <http://www.epa.gov/compliance/nepa/submiteis/index.html>);
2. Five copies to the EPA Regional Office;
3. Copies made available in the Responsible Entity's and recipient's office;
4. Copies or summaries made available to persons who request them; and
5. FEIS only – one copy to State, HUD Field Office, and HUD Headquarters Library.

HUD's Office of Environment and Energy website will serve as the HUD Headquarters library at 24 CFR §58.60(b)(5) and will keep a record of EIS filings. A HUD-published Federal Register notice will no longer be required for the DEIS and the FEIS unless the EIS is for "an action with effects of national concern" consistent with 40 CFR §1506.6(b)(2). In all cases, the DEIS and FEIS will be made available in the Federal Register through submission to the EPA, which maintains a filing system and provides notices for all DEIS and FEIS documents prepared by Federal agencies. However, the DEIS and FEIS cannot be submitted to EPA earlier than they are transmitted to the public and commenting agencies.

For matters that an RE has determined to be of local concern, public notice will be published by the RE through a local newspaper and a website maintained by HUD Headquarters staff. DEIS and FEIS notices sent to HUD for publishing should include a link to a web address for the DEIS or FEIS document. If the Responsible Entity is unable to publish the document on the web, the RE must make alternative arrangements with OEE staff.

In addition to and consistent with the notices described above, the RE may also provide notice to State and areawide clearinghouses, Indian tribes when effects may occur on reservations,¹ groups or individuals consistent with the State's public notice procedures for comparable actions, local media, potentially interested community organizations including small business associations, newsletters that may be expected to reach potentially interested persons, direct mailing to owners and occupants of nearby or affected property, or in the form of a posting on and off site in the area where the action is to be located.

Should you have any questions, please contact Jeremiah Sanders at (202) 402-4571.

¹ Where an Indian tribe has been consulted under the National Historic Preservation Act with respect to properties with religious and cultural significance, whether on or off a reservation, and has expressed interest in the project, the RE should provide the NOI and EIS notices to the tribe.

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8994-7]

Amended Environmental Impact Statement Filing System Guidance for Implementing 40 CFR 1506.9 and 1506.10 of the Council on Environmental Quality's Regulations Implementing the National Environmental Policy Act

1. Introduction

On October 7, 1977, the Council of Environmental Quality (CEQ) and the Environmental Protection Agency (EPA) signed a Memorandum of Agreement (MOA) that allocated the responsibilities of the two agencies for assuring the government-wide implementation of the National Environmental Policy Act of 1969 (NEPA). Specifically, the MOA transferred to EPA the administrative aspects of the environmental impact statement (EIS) filing process. Within EPA, the Office of Federal Activities has been designated the official recipient in EPA of all EISs. These responsibilities have been codified in CEQ's NEPA Implementing Regulations (40 CFR Parts 1500-1508), and are totally separate from the substantive EPA reviews performed pursuant to both NEPA and Section 309 of the Clean Air Act.

Under 40 CFR 1506.9, EPA can issue guidelines to implement its EIS filing responsibilities. The purpose of the EPA Filing System Guidelines is to provide guidance to Federal agencies on filing EISs, including draft, final, and supplemental EISs. Information is provided on: (1) Where to file EISs; (2) the number of copies required; (3) the steps to follow when a Federal agency is adopting an EIS, or when an EIS is withdrawn, delayed or reopened; (4) public review periods; (5) issuance of notices of availability in the **Federal Register**; and (6) retention of filed EISs. EPA's current EIS filing guidelines were published in the **Federal Register** on March 7, 1989.

The guidelines published today update the previous guidelines, modify the number and format of the EISs to be filed, and provide specific guidelines for EIS filing during Continuity of Operations Plan (COOP) events. Additionally, we are soliciting input from federal agencies, other stakeholders, and the public on a series of questions that will be used to make further modifications to the EIS filing process in the future.

2. Purpose

Pursuant to 40 CFR 1506.9 and 1506.10, EPA is responsible for administering the EIS filing process, and can issue guidelines to implement those responsibilities. The process of EIS filing includes the following: (1) Receiving and recording of the EISs, so that information in them can be incorporated into EPA's computerized data base; (2) establishing the beginning and ending dates for comment and review periods for draft and final EISs, respectively; (3) publishing these dates in a weekly Notice of Availability (NOA) in the **Federal Register**; (4) retaining the EISs in a central repository; and (5) determining whether time periods can be lengthened or shortened for "compelling reasons of national policy."

Under 40 CFR 1506.9, lead agencies are responsible for distributing EISs, and for providing additional copies of already distributed EISs, to the interested public for review. However, EPA will assist the public and other Federal agencies by providing agency contacts on, and information about, EISs.

3. Filing Draft, Final, and Supplemental EISs

Federal agencies are required to prepare EISs in accordance with 40 CFR part 1502, and to file the EISs with EPA as specified in 40 CFR 1506.9. Federal agencies file an EIS by providing EPA with four copies of the complete EIS, including appendices. At least one copy of the entire EIS must be a paper copy; the remaining three (3) copies can be on appropriate electronic storage devices—e.g., compact discs (CDs), USB flash drives, or memory cards. Please note that if a Federal agency prepares an abbreviated Final EIS (as described in 40 CFR 1503.4(c)), it should include copies of the Draft EIS when filing the Final EIS.

To file an EIS by using the U.S. Postal Service (including USPS Express Mail), please use the following address:

U.S. Environmental Protection Agency,
Office of Federal Activities, EIS Filing
Section, Mail Code 2252A, Ariel Rios
Building (South Oval Lobby), 1200
Pennsylvania Avenue, NW.,
Washington, DC 20460.

To file an EIS in person or by commercial express service (including Federal Express or UPS), please use the following address:

(If the documents are to be hand-delivered, you will need to ask the security guards to phone our office at (202) 564-5400, so you can be escorted to the EIS Filing Section.)

U.S. Environmental Protection Agency,
Office of Federal Activities, EIS Filing
Section, Ariel Rios Building (South
Oval Lobby), Room 7220, 1200
Pennsylvania Avenue, NW.,
Washington, DC 20004.

Telephone inquiries can also be made to: (202) 564-1399 or (202) 564-7146.

EPA encourages Federal agencies to make their EISs available on the internet. Those that do should send EPA a copy of the Web address (*i.e.*, URL) for the document. The appropriate information should be e-mailed to: *EIS-Filing@epa.gov* concurrent with filing the EIS as required above.

The EISs must be filed no earlier than they are transmitted to commenting agencies and made available to the public (40 CFR 1506.9). This will assure that the EIS is received by all interested parties by the time EPA's NOA appears in the **Federal Register**, and, therefore, allows for the full minimum comment and review periods.

If EPA receives a request to file an EIS and transmittal of that EIS is not complete, it will not publish a NOA in the **Federal Register** until assurances have been given that the transmittal process is complete. Similarly, if EPA discovers that a filed EIS has not been transmitted, EPA will issue a notice with the weekly Notices of Availability retracting the EIS from public review of the EIS until the transmittal process is completed. Once the agency has fulfilled the requirements of 40 CFR 1506.9, and has completed the transmittal process, EPA will reestablish the filing date and the minimum time period, and will publish this information in the next NOA.

Requirements for circulation of EISs appear in 40 CFR 1502.19. Please note that the four EISs submitted to the Office of Federal Activities are only for filing purposes; agencies will need to send a copy(s) of the EIS directly to the appropriate EPA Regional Office for review and comment in accordance with EPA's responsibilities under Section 309 of the Clean Air Act.

EPA must be notified (by letter or email) when a Federal agency adopts an EIS in order to commence the appropriate comment or review period. If a Federal agency chooses to adopt an EIS written by another agency, and it was not a cooperating agency in the preparation of the original EIS, the EIS must be re-circulated and filed with EPA according to the requirements set forth in 40 CFR 1506.3(b). In turn, EPA will publish a NOA in the **Federal Register** announcing that the document will have an appropriate comment or review period. When an agency adopts

an EIS on which it served as a cooperating agency, the document does not need to be circulated for public comment or review; it is not necessary to file the EIS again with EPA. However, EPA should be notified in order to ensure that the official EIS record is accurate. EPA will publish an amended NOA in the **Federal Register** that states that an adoption has occurred. This will not establish a comment period, but will complete the public record.

EPA should also be notified of all situations where an agency has decided to withdraw, delay, or reopen a review period on an EIS. All such notices to EPA will be reflected in EPA's weekly Notices of Availability published in the **Federal Register**. In the case of reopening EIS review periods, the lead agency should notify EPA as to what measures will be taken to ensure that the EIS is available to all interested parties. This is especially important for EIS reviews that are being reopened after a substantial amount of time has passed since the original review period closed.

Once received by EPA, each EIS is stamped with an official filing date and checked for completeness and compliance with 40 CFR 1502.10. If the EIS is not "complete" (*i.e.*, if the documents do not contain the required components), EPA will contact the lead agency to obtain the omitted information or to resolve any questions prior to publishing the NOA in the **Federal Register**.

Agencies often publish (either in their EISs or individual notices to the public) a date by which all comments on an EIS are to be received; such actions are encouraged. However, agencies should ensure that the date they use is based on the date of publication of the NOA in the **Federal Register**. If the published date gives reviewers less than the minimum review time computed by EPA, EPA will send the agency contact a letter explaining how the review period is calculated and the correct date by which comments are due back to the lead agency. This letter also encourages agencies to notify all reviewers and interested parties of the corrected review periods.

4. EIS Filing Procedure for COOP Events

In order to ensure official filing of EISs in the event of a COOP event, when EISs cannot be physically delivered to EPA, Federal agencies will need to send EPA a copy of the EIS cover sheet to the email address identified above. In turn, EPA will use the cover sheet information to publish the weekly EIS NOA in the **Federal Register**.

During the COOP event, filing agencies should not submit the four copies of the EIS to the EPA. However, once the COOP event is over, filing agencies will have 14 days to submit the four copies of all EISs filed during the event to the EPA's Filing Section. If EPA does not receive the four copies of the EIS filed during the COOP event within 14 days, it will publish a notice in the **Federal Register** retracting the NOA for that EIS.

5. Notice in the **Federal Register**

EPA will prepare a weekly report of all EISs filed during the preceding week for publication each Friday under a NOA in the **Federal Register**. If the Friday is a Federal holiday the publication will be on Thursday. At the time EPA sends its weekly report for publication in the **Federal Register**, the report will also be sent to the CEQ. Amended notices may be added to the NOA to include corrections, changes in time periods of previously filed EISs, withdrawals of EISs by lead agencies, and retraction of EISs by EPA.

6. Time Periods

The minimum time periods set forth in 40 CFR 1506.10 (b), (c), and (d) are calculated from the date EPA publishes the NOA in the **Federal Register**. Comment periods for draft EISs, draft supplements, and revised draft EISs will end 45 calendar days after publication of the NOA in the **Federal Register**; review periods for final EISs and final supplements will end 30 calendar days after publication of the NOA in the **Federal Register**. If a calculated time period would end on a non-working day, the assigned time period will be the next working day (*i.e.*, time periods will not end on weekends or Federal holidays). While these time periods are minimum time periods, a lead agency may establish longer time periods. If the lead agency employs a longer time period, it must notify EPA of the extended time period when either filing the EIS or when the lead agency extends the time period.

It should be noted that 40 CFR 1506.10(b) allows for an exception to the rules of timing. An exception may be made in the case of an agency decision which is subject to a formal internal appeal. Agencies should assure that EPA is informed so that the situation is accurately reflected in the NOA.

Moreover, under 40 CFR 1506.10(d), EPA has the authority to both extend and reduce the time periods on draft and final EISs based on a demonstration of "compelling reasons of national policy." A lead agency request to EPA to

reduce time periods or another Federal agency (not the lead agency) request to formally extend a time period should be submitted in writing to the Director, Office of Federal Activities, and outline the reasons for the request. EPA will accept telephone requests; however, agencies should follow up such requests in writing so that the documentation supporting the decision is complete. A meeting to discuss the consequences for the project and any decision to change time periods may be necessary. For this reason, EPA asks that it be made aware of any intent to submit requests of this type as early as possible in the NEPA process. This is to prevent the possibility of the time frame for the decision on the time period modification from interfering with the lead agency's schedule for the EIS. EPA will notify CEQ of any reduction or extension granted.

7. Retention

Filed EISs are retained in the EPA Office of Federal Activities for a period of two years and are made available to office staff only. After two years the EISs are sent to the National Records Center. After a total of twenty (20) years the EISs are transferred to the National Archives Records Administration (NARA).

8. Soliciting Comments on Future Updates of the EIS Filing Guidelines

In addition to the modifications to the filing guidelines outlined herein, EPA is considering additional modifications that may lead to the implementation of an electronic EIS filing process. With that in mind, EPA is soliciting comments from Federal agencies, other stakeholders and the public on the following questions.

For Federal Agencies

1. Does your agency make its Draft, Final, and Supplemental EISs available for public review on the Internet?
2. If so, how long do the Draft, Final, and Supplemental EISs remain available for review on the Internet?
3. In a related matter, does your agency mandate how long EISs must be available for public review?
4. If so, how long is that period?
5. Also, does your agency mandate how long its EISs must be retained as official agency records?
6. If so, how long is that period?

For Stakeholders and the Public

1. At some point in the future, CEQ and EPA may eliminate the publication of weekly Notices of Availability for EISs in the **Federal Register** in favor of a central repository on the Internet

(possibly on EPA's Web site). Would you find this approach more or less useful than the current process?

2. Do you foresee any problems/issues with reviewing EISs that are made available only on the Internet?

3. In your opinion, how long should EISs remain accessible to the public?

Please submit your responses to the above questions to: Robert Hargrove, Director, NEPA Compliance Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW. (2252A), Washington, DC 20460; or hargrove.robert@epa.gov, by COB February 28, 2011.

Dated: January 11, 2011.

Susan E. Bromm,

Director, Office of Federal Activities.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9252-9]

Notice of a Project Waiver of Section 1605: (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Inland Empire Utilities Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605(a) under the authority of Section 1605(b)(2) (manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality) to the Inland Empire Utilities Agency (IEUA), a Clean Water State Revolving Fund (CWSRF)/ARRA loan recipient, for the purchase of Air Release Vacuum (ARV) Valves manufactured by A.R.I. in Israel, for Project #5176-140 funded by the California CWSRF/ARRA Loan #08-851. This is a different project than Project #5176-110/5176-130 which was previously issued a waiver for this same product. The IEUA indicates that the design for the Church Street lateral project includes A.R.I. valves, which are the standard air relief structures used within the regional pipeline system, and that currently there is not a comparable domestic equivalent that meets the IEUA specifications. This is a project-specific waiver and only applies to the use of the specified product for the ARRA funded project being proposed. Any other ARRA project that may wish to use the same product must apply for

a separate waiver based on project-specific circumstances. The Assistant Administrator of the Office of Administration and Resources Management has concurred with this decision to make an exception under section 1605(b)(2) of ARRA.

DATES: *Effective Date:* November 30, 2010.

FOR FURTHER INFORMATION CONTACT: Abimbola Odusoga, Environmental Engineer, Water Division, Infrastructure Office (WTR-4), (415) 972-3437, U.S. EPA Region 9.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Sections 1605(c) and 1605(b)(2), EPA hereby provides notice it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111-5, Buy American requirements, to the IEUA for the acquisition of the ARV valves manufactured in Israel by A.R.I. The head of each federal agency is authorized to issue project waivers pursuant to Section 1605(b) of ARRA. Section 1605(a) of the ARRA requires that none of the funds appropriated or otherwise made available by the ARRA may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Pursuant to Section 1605(b), a waiver from this requirement may be provided if EPA determines: (1) Applying these requirements would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

A Delegation of Authority Memorandum was issued by the EPA Administrator on March 31, 2009 which provided EPA Regional Administrators with the authority to issue waivers to Section 1605(a) of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual recipients of ARRA financial assistance.

The IEUA provides drinking water and waste water treatment services to municipalities in the Chino Basin. The Church Street lateral project consists of approximately 4,200 linear feet of 12-inch diameter recycled water pipeline that will convey recycled water to serve customers in the 1430 and 1630 pressure zones. Project specifications

provided by the applicant state that acceptable products are A.R.I. Flow Control Accessories, Ltd. (Model D-060) or an approved equal.

The functional justification for these specifications advanced by the IEUA was that the IEUA had, in years prior to the enactment of ARRA, made the ARI valves their standard air relief structures used within the regional pipeline system based on the IEUA's determination that these valves had a superior design, functionality, and ease of maintenance. Specifically:

- ARI combination valves (D-060's) have the air release on the top of the valve, whereas alternative valves have the air release on the side. A side release creates an internal air pocket on the valve, which allows the rubber seal for the vacuum component to dry out and leak over time.
- The 316SS float for the ARI vacuum component stops against a 316SS ring. The alternative valves have a float that stops against a flat rubber seal on the top of the valve, and constant pounding during closure tends to crack the seal and cause leaks.

- The ARI valves are half the weight and size of the alternative valves, which makes installation and maintenance easier. Also, as the valves are smaller, the enclosures for the valves are less expensive.

The consequences of finding the IEUA's specifications not justified would include the following:

- Additional design costs would be incurred to change all ARV valves, including re-calculating the size of the valves based on the competitors design criteria, modifying valve and enclosure details, and modifying the pipeline profiles to accommodate larger valves. Alternative ARV valves that must be buried would require lowering the pipeline depth several feet on each side of the valves to accommodate a deeper valve vault.

- Construction costs would be higher due to the increase in valve sizes, larger enclosures, and a deeper pipeline. The pricing through the change order process would be significantly higher than prices for a competitive bid. The cost for the material and installation of the valves is approximately \$198,708. If the ARI valves are replaced with alternative valves, the estimated cost for the material and installation would be approximately \$100,000 more.

- IEUA staff would have to be trained on the different types of valves installed and additional spare parts would need to be ordered and stocked. Since the IEUA has moved forward with implementing the ARI valves as the