

## CHAPTER 8 – ENVIRONMENTAL REVIEW

### A. Introduction

Environmental Review is the examination of a project relative to the National Environmental Policy Act of 1969 (NEPA) and its related laws. NEPA was established to ensure environmental protection for federally funded projects.

Nebraska Affordable Housing Trust Fund (NAHTF) funded projects generally follow the provisions of NEPA [24 USC 432-14347] and the HUD regulations implementing NEPA [24 CFR Part 58] as the NAHTF funds are used as a match for federal funding. Recipients of NAHTF funds are required to complete an environmental review prior to receiving environmental clearance from the Nebraska Department of Economic Development (DED). The type of project a recipient is completing will determine the level of environmental review and the necessary documentation that will be required.

For every environmental review, three basic steps must be followed in order to correctly complete the review. These steps include:

- 1) Project Aggregation
- 2) Determination of Level of Review
- 3) Documentation

**Project Aggregation**—The recipient should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective.

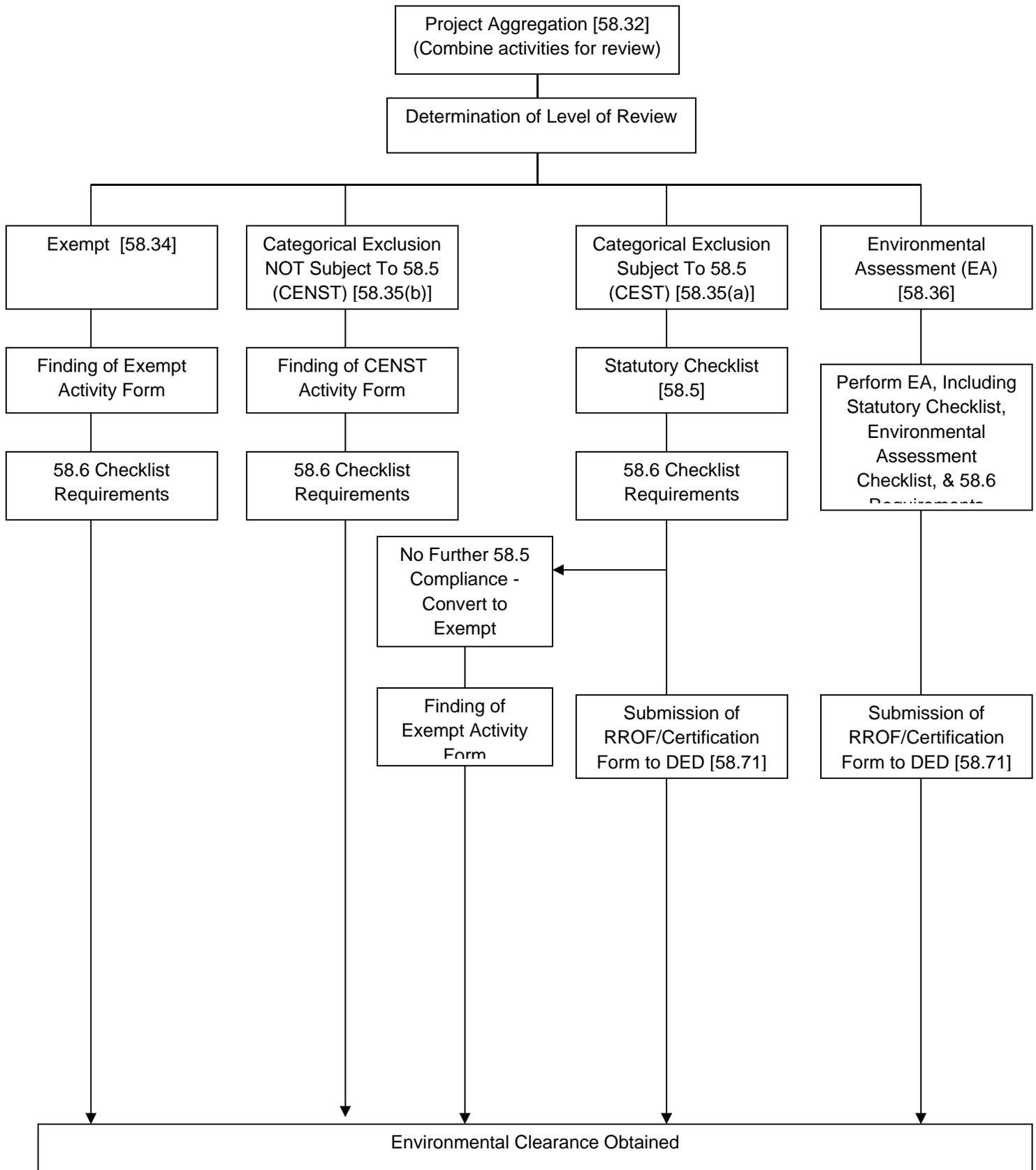
For housing projects this could include down payment and closing cost assistance, land acquisition, rehabilitation, new construction, infrastructure development, demolition, and any other appropriate activity that would be necessary to complete the NAHTF funded project.

**Determination of Level of Review**—The recipient must determine which level of environmental review is appropriate for the project in order to correctly complete the necessary documentation for the project. A Determination of Level of Review Form must be completed which provides a complete description of the project and the level of environmental review that will be completed.

**Documentation**—The recipient must complete the appropriate DED approved Environmental Review Packet and provide any other necessary information that is required to fully document the environmental review. This information is referred to as the Environmental Review Record (ERR). The ERR will vary in size. The project aggregation and the determination of level of review will help determine the appropriate ERR documentation.

Table 1 describes the environmental review process for NAHTF projects in which non-governmental entities are the grant recipients. A more detailed discussion of the complete environmental review steps will be discussed later in this chapter.

# ENVIRONMENTAL REVIEW PROCESS NAHTF PROJECTS



As Table 1 demonstrates, the environmental review process is comprehensive and detailed. The amount of information needed to complete the review depends on the type of project the recipient is completing.

There are a number of key terms that a recipient must familiarize themselves with in order to understand environmental review and the Table 1 Environmental Review Process Flow Chart. A few main terms are noted below.

**Project**—An activity or group of activities regardless of funding source.

**Environmental Review**—NEPA Review of a project.

**Recipient**—The entity receiving assistance from HUD. This includes an entity that receives CDBG, HOME, NAHTF, or other funds from DED and not directly from HUD.

**Environmental Review Record (ERR)**—A well organized written record of review, decision making, and action as required by 24 CFR 58.38. This includes the DED required forms and other required documentation.

**Responsible Entity (RE)**— Non-Profit or for profit recipient, Indian Tribe, or Unit of Local Government. The Department is not the RE for NAHTF funded projects.

**Certifying Officer**—The RE Agency official responsible for completing the ERR

**24 CFR 58**—The Code of Federal Regulations Section that details the HUD regulations for the environmental review process.

**Exempt**—A project that is defined under 24 CFR 58.34

**CENST**—Categorical Exclusion Not Subject to the requirements of 24 CFR 58.5 as defined under 24 CFR 58.35(b)

**CEST**—Categorical Exclusion Subject to the requirements of 24 CFR 58.5 as defined under 24 CFR 58.35(a)

**Statutory Checklist**—The DED form and other necessary documentation that must be completed for a project that requires a CEST level of environmental review.

**Environmental Assessment**—The DED form and other necessary documentation that must be completed for a project that is not considered Exempt, CENST, or CEST as noted on the Determination of Level of Review.

**58.6 Checklist**—The DED form that must be completed for all environmental review projects.

**RROF/Certification**—Request for Release of Funds/Certification Form that is completed for projects that require a CEST or EA review. Also referred to as HUD Form 7015.15.

**FONSI**—Finding of No Significant Impact is a determination that must be made by the Responsible Entity for projects that require an EA review.

## **B. The Process**

The basic environmental review process is described below and divided into steps. Follow the steps and refer to the Table 1 Environmental Review Process Flow Chart for further information.

Note that processes are different for projects where a non-governmental entity is the grant recipient of HOME funds or for those projects that are funded through the Community Development Block Grant (CDBG) Program. Refer to the HOME or CDBG Manuals for further information on projects that are not assisted with NAHTF funds.

### **Step 1—Project Aggregation**

The recipient should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective.

For housing projects this could include down payment and closing cost assistance, land acquisition, rehabilitation, new construction, infrastructure development, demolition, and any other appropriate activity that would be necessary to complete the NAHTF funded project.

It is necessary for the recipient to describe the project fully and include all aspects of the project, including but not limited to, any infrastructure being developed in conjunction with the project, regardless if that additional portion of the project is being funded with NAHTF funds.

### **Step 2—Identifying Environmental Review Responsibilities**

Entities eligible to receive NAHTF funds from the State are generally non-governmental entities and units of local government. These entities assume the role of Responsible Entity (RE) with respect to environmental reviews.

For NAHTF awards, the chief executive of the organization, or chief elected official of the unit of local government assumes the role of environmental “certifying officer” and accepts full responsibility for the completeness and accuracy of the reviews. The chief

elected official must sign all certifications and findings. This environmental duty may not be delegated, although local staff, consultants, and/or State resources may provide technical assistance to support project efforts. For further information on the process for units of local government that are receiving CDBG funds, and not NAHTF funds, see the CDBG Manual for the environmental process.

### **Step 3—Determination of Level of Review**

The recipient must determine which level of environmental review is appropriate for the project in order to correctly complete the necessary documentation for the project. The recipient must review the HUD regulations to determine which category of review the project should be classified under in order to determine which Environmental Review Packet must be completed.

Each level of environmental review is defined within the HUD regulations found at 24 CFR 58. The four main levels of review that HOME recipients will need to consider include:

- Exempt [Those projects classified under 24 CFR 58.34],
- CENST [Those projects classified under 24 CFR 58.35(b)],
- CEST [Those projects classified under 24 CFR 58.35(a)], or
- EA [All other projects that are not classified under 24 CFR 58.34, 58.35(b), or 58.35(a) and that do not require an Environmental Impact Statement (EIS)].

In addition to the four classifications, there is also an Environmental Impact Statement (EIS). This comprehensive review is for those projects that are larger in scope and will have a significant environmental impact. These projects are beyond the scope of those completed by recipients working in conjunction with DED.

Overall, review the HUD regulations to determine the most appropriate level of environmental review for a project. Every NAHTF project will be classified under one of the four levels of review. If a project cannot be classified as Exempt, CENST, or CEST, then recipient will be required to complete an EA.

See the attached Code of Federal Regulations (Attachment 9) to make this determination.

### **Step 4—Environmental Review Packet Completion**

Once a recipient has determined the scope of a project through project aggregation and determined the appropriate level of review, the recipient must complete the appropriate Environmental Review Packet for every project. The Packet that is completed will be a portion of the ERR for a project. There are four separate Environmental Review Packets and one for each different level of review.

These include:

- Exempt Project Packet
- CENST Project Packet
- CEST Project Packet
- EA Project Packet

**Exempt Project Packet**—Projects that have been categorized under 24 CFR 58.34 must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Finding of Exempt Activity Form, and a 58.6 Checklist.

**CENST Project Packet**—Projects that have been categorized under 24 CFR 58.35(b) must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Finding of Categorical Exclusion Not Subject To Form, and a 58.6 Checklist.

**CEST Project Packet**—Projects that have been categorized under 24 CFR 58.35(a) must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Statutory Checklist Form, and a 58.6 Checklist. In addition, appropriate source documentation must be included in the Packet which provides maps, shows that the appropriate websites have been reviewed, and that the appropriate agencies have been consulted including letters to and from agencies.

**EA Project Packet**—Projects that cannot be categorized as Exempt, CENST, or CEST must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, and an Environmental Assessment Form. In addition, appropriate source documentation must be included in the Packet which provides maps, shows that the appropriate websites have been reviewed, and that the appropriate agencies have been consulted including letters to and from agencies.

See also Attachment 1 an outline of the environmental review record items needed for each Environmental Review Packet.

### **Step 5—Completion of RROF/Certification Form**

Only those projects that require a CEST or EA review will be required to complete a RROF/Certification Form. The most current HUD 7015.15 Form must be used.

The Form is available on the HUD website at:

<http://www.hud.gov/offices/adm/hudclips/forms/files/7015-15.pdf>

The RROF/Certification must be completed and sent to DED after the ERR is completed and signed by the chief executive of the organization or the chief elected official of the unit of local government.

A failure to complete RROF/Certification Form correctly will result in DED requesting that the Form be revised and resubmitted. Release of Funds for the project will not be

provided until the RROF/Certification Form is accurate and other environmental review documentation has been provided.

See also Attachment 4 for instructions and a copy of the RROF/Certification Form.

### **Step 6—Obtaining Environmental Clearance**

After the RROF/Certification form is received and the entire ERR is determined to be complete and accurate by the Department, the project will have environmental clearance. DED will provide a Release of Funds letter to the recipient which will notify the recipient of the environmental clearance and clearance to use grant funds after DED receives all of the special conditions required by recipient's NAHTF contract.

## **C. Comprehensive Overview of Environmental Projects**

### **Exempt Projects**

A project that has been classified under 24 CFR 58.34 is considered Exempt and requires a limited environmental review.

An Exempt project is a project that can be classified under one of the following categories:

- (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. [CEST Projects that converts to Exempt]

If a project cannot be classified under any of the above mentioned categories, then the project is not Exempt and a higher level of environmental review will need to be completed.

The ERR for an Exempt project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Finding of Exempt Activity Form
- 58.6 Checklist

A Recipient does not have to submit an RROF/Certification Form for Exempt Projects.

### **CENST Projects**

A project that has been classified under 24 CFR 58.35(b) is considered a Categorical Exclusion Not Subject to the requirements of 24 CFR 58.5 and requires a limited environmental review.

A CENST project is a project that can be classified under one of the following categories:

(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.

If a project cannot be classified under any of the above mentioned categories, then the project is not CENST and a higher level of environmental review will need to be completed.

The ERR for a CENST project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Finding of Categorical Exclusion Not Subject To Form
- 58.6 Checklist

A Recipient does not have to submit an RROF/Certification Form for CENST Projects.

### **CEST Projects**

A project that has been classified under 24 CFR 58.35(a) is considered a Categorical Exclusion Subject to the requirements of 24 CFR 58.5 and requires the completion of a Statutory Checklist which evaluates 14 separate environmental laws.

A CEST project is a project that can be classified under one of the following categories:

(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, 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 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.

If a project cannot be classified under any of the above mentioned categories, then the project is not CEST and an EA will need to be completed.

The ERR for a CEST project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Statutory Checklist
- 58.6 Checklist
- Source Documentation [including, but not limited to, a FIRM Map, an aerial map, letters sent to any agencies, agency websites consulted, agency responses, and any other relevant information that provides support for your findings within the Statutory Checklist]
- RROF/Certification Form

A Recipient does have to submit an RROF/Certification Form to DED after completion of the ERR unless the project converts to Exempt. . NAHTF projects do not generally require any publication or public comment period. If it is determined that there are extraordinary circumstances in which the scope or activities within the project necessitate a publication period, the recipient will be notified of this requirement by DED.

### **CEST Project Converting to Exempt**

In some instances a CEST Project may convert to an Exempt Project. This may occur if the recipient has completed the Statutory Checklist and has marked all authorities as Status “A”.

If Box “A” has been selected within the Determination Section of the Statutory Checklist, the recipient would be confirming that the project does not require any further compliance measure (e.g. consultation, mitigation, permit, approval, or any other additional measure) with respect to any law or authority cited at 24 CFR 58.5.

When a project converts to Exempt, it will be necessary for the recipient to have completed the Determination of Level of Review, the Statutory Checklist, and the 58.6 Checklist, and provided the necessary source documentation for the project. After this information has been included in the ERR, the recipient then must complete a Finding of Exempt Activity Form and note that the project is converting to Exempt according to 24

CFR 58.34(a)(12). The Finding of Exempt Activity Form should be incorporated into the ERR and sent to DED.

A RROF/Certification is not required for CEST projects that have converted to Exempt.

## **EA Projects**

A project that cannot be classified as Exempt, CENST, CEST, but is classified under 24 CFR 58.36 requires the completion of an Environmental Assessment (EA). An EA includes a FONSI Determination, a Statutory Checklist, an Environmental Assessment Checklist, a 58.6 Checklist, and all other required information as noted in the EA Project Packet.

The ERR for an EA project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Environmental Assessment (EA) Form
- Source Documentation [including, but not limited to, a FIRM Map, an aerial map, letters sent to any agencies, agency websites consulted, agency responses, and any other relevant information that provides support for your findings within the Statutory Checklist]
- RROF/Certification Form

See also information below titled Completing the Statutory Checklist, Completing the Environmental Assessment Checklist, Completing the 58.6 Checklist, and the HUD Guide for further information.

See also the Source Documentation Section for further information.

A Recipient does have to submit an RROF/Certification Form to DED after completion of the ERR. . NAHTF projects do not generally require any publication or public comment period. If it is determined that there are extraordinary circumstances in which the scope or activities within the project necessitate a publication period, the recipient will be notified of this requirement by DED.

## **D. RROF/Certification Form**

The RROF/Certification form is completed for CEST or EA Projects and has to be signed by the RE Certifying Officer after completion the ERR.

The most current HUD 7015.15 Form must be used. The Form is available on the HUD website at:

<http://www.hud.gov/offices/adm/hudclips/forms/files/7015-15.pdf>

The RE must sign the Determination of Level of Review, and other necessary forms within the ERR prior to signing the RROF/Certification Form.

## **E. Source Documentation**

Source Documentation is used to supplement the ERR and provide justification for the information that has been detailed in the Compliance Documentation Section of the Statutory Checklist, the Environmental Assessment Checklist, and any other section of the ERR. The ERR must be a stand alone document that will provide a complete picture of the environmental impacts of the project for a reviewer.

Some examples of Source Documentation that must be included in CEST and EA Project reviews include:

- Aerial map of site (when sites have been identified)
- FIRM map (when sites have been identified and mapped)
- Agency websites reviewed
- Letters to Agencies
- Responses from Agencies

The RE may use an environmental review from another agency to help supplement the ERR for DED. A copy of the review should be incorporated into the ERR and referenced in the Compliance Documentation Section of the Statutory Checklist or the Source Documentation Section of the Environmental Assessment Checklist.

In addition, any Engineering Reports, Phase I Reports, Phase II Reports, and any other relevant information should be included in the ERR.

## **F. Completing the Statutory Checklist**

### **Introduction**

The Statutory Checklist must be completed for CEST and EA Projects. The Statutory Checklist is a separate form for CEST projects and is part of the Environmental Review Packet completion. For EA projects the Statutory Checklist is incorporated into the Environmental Assessment and must be completed.

The Statutory Checklist evaluates 14 separate environmental issues and impacts. Each of these 14 items must be evaluated for every project. Within the Statutory Checklist, the recipient must follow instructions detailed in the Checklist and select either Status A or Status B for each and every of the 14 items.

By selecting Status A, the recipient is documenting that the project is in compliance either because 1) the nature of the project does not implicate the authority under consideration or 2) supporting information documents that the project compliance has been achieved. If Status A is marked, the recipient is noting that no further compliance is needed, and no further consultation, permitting, or additional evaluation are needed in regard to the Item evaluated.

By selecting Status B, the recipient is documenting that the project requires additional compliance. This includes an additional compliance step or action, including but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measures, or obtaining a license or permit.

Selecting Status B is also appropriate when a project site has not been identified as a tiered review will be required and further compliance is necessary.

Note that leaving any Compliance Documentation Section blank or providing a “not applicable” response to any of the 14 items is not acceptable. A failure to review all 14 items will result in the recipient having to correct the Statutory Checklist and resubmit the information to DED.

### **Statutory Checklist Process**

A recipient should consult the appropriate statutes, authorities, executive orders, regulations, or policies as noted in each of the 14 items. 24 CFR 58.5 provides more information on the Related Federal laws and authorities that must be reviewed.

In addition, utilizing the HUD Guide to Environmental Compliance (HUD Guide) can also be used as a tool to assist the recipient with the completion of the Statutory Checklist. If used correctly the HUD Guide can provide guidance on how to appropriately provide Compliance Documentation. Review the Applicable Activities, Threshold for Action, Source Documentation, and Action Required Sections as a whole in order to assist the recipient.

For example, in providing a proper evaluation for Item 3 Coastal Zone Management, the recipient could note within the Compliance Documentation Section of the Statutory Checklist, that a project in Nebraska is not located in a state having a Coastal Zone Management (CZM) Program as provided by the National Oceanic & Atmospheric Administration at web site: <http://coastalmanagement.noaa.gov/mystate/welcome.html>. Providing this information, along with a copy of the website would provide sufficient source documentation for this item.

The goal of the evaluation is to obtain environmental compliance with each of the 14 items. Compliance can be obtained in some instances by the Recipient providing an appropriate narrative and source documentation within the Compliance Documentation

section of the Statutory Checklist. In other instances it is necessary to provide additional source documentation, including referencing agency website information, letters sent to agencies, agency responses, and any other relevant information.

The RE must retain all documentation (letters, maps, notes on comments of authorities contacted, etc.) to support the Compliance Documentation in the ERR. The recipient should use the best available information in order to achieve compliance.

Federal or State Agency consultation may be necessary to provide a proper environmental evaluation. Agency responses may concur with a recipient's findings and result in no need for further action, may place conditions on the project prior to environmental clearance, or may halt the project until mitigating measures are identified and steps have been taken to achieve compliance.

If permits are required, a listing of the specific permits needed and the procedures by which they will be obtained should be attached to the ERR. If mitigating actions are required, the RE should fully describe the actions the recipient will take to assure compliance.

The Statutory Checklist must be prepared and signed by the Preparer prior to being signed by the RE Certifying Officer. A failure to have the Preparer sign the Statutory Checklist before the RE Certifying Officer will result in the recipient having to correct the Statutory Checklist and resubmit the information to DED.

For more information review 24 CFR 58.5 (Attachment 9) and the HUD Guide (Attachment 8).

For more information see also list of Agency Contacts (Attachment 7).

## **G. Completing the Environmental Assessment Checklist**

The Environmental Assessment Checklist must be completed for EA Projects. This Checklist is incorporated into the Environmental Assessment and must be completed.

The Environmental Checklist evaluates several impact categories to evaluate the significance of the effects of the proposal on the character, features, and resources of the project area. This evaluation includes the area surrounding the project site and the reference of the site to other resources in the community. Each of the impact categories must be evaluated for every project.

Note that leaving any Compliance Documentation Section blank or providing a "not applicable" response to any of the items is not acceptable. A failure to review all items will result in the recipient having to correct the Environmental Assessment Checklist and resubmit the information to DED.

An example for providing a proper evaluation for the impact category Community Facilities and Services in relation to Public Safety and Fire, a recipient may provide information on the location and distance of the nearest fire station in relation to the project site. If the station is near the site then it may be appropriate to note that the anticipated or potential impact was Beneficial to the project.

For further information see the Source Documentation section.

## **H. Completing the 58.6 Checklist**

The 58.6 Checklist must be completed for every project. For Exempt, CENST, or CEST projects the 58.6 Checklist is a separate form that must be completed. For EA projects the 58.6 Checklist is incorporated into the Environmental Assessment and must be completed.

There are three main sections of the 58.6 Checklist that have to be reviewed. These include:

**1. Airport Runway Clear Zones and Clear Zone Notification** [24 CFR Part 51.303(a)(3)]

**2. Coastal Barrier Resources Act** [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]

**3. Flood Disaster Protection Act** [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]

The 58.6 Checklist provides a set of “yes” or “no” questions that have to be answered and must be supplemented with proper source documentation.

Source Documentation may include an aerial map, FIRM map, Agency website information, and any other relevant information that would substantiate the information provided in the 58.6 Checklist.

For the Flood Disaster Section, if “No” is answered for the first question, then it is not appropriate to answer the remaining questions.

In addition, for Section 3 pertaining to the Flood Disaster Protection Act it may be necessary to attach an applicable FIRM Map when it is necessary to provide evidence that a project is not being located within a Special Flood Hazard Area (SFHA). If a FIRM map is attached then it would be necessary to cite the appropriate year and panel number of the FIRM map. (See FEMA.gov for more information on FIRM maps).

If a project site is not mapped, then the best available information should be used to ascertain whether or not a project is located within a SFHA. In this instance it may be necessary to contact the Department of Natural Resources for this information.

## **I. 8 Step Process for Flood Plains/Wetlands**

If a project has been determined to be located within a Special Flood Hazard Area (SFHA) as indicated on a Flood Insurance Rate Map (FIRM) or located in a wetland as determined by consultation with the Natural Resources Conservation Service and/or U. S. Army Corps of Engineers, then it may be necessary for the recipient to complete the 8 Step Process as required by 24 CFR 55.20.

Contact DED to determine whether the recipient will be required to complete the 8-Step Process for a NAHTF project. If required, this process must be completed prior to finalizing the Statutory Checklist for CEST projects and prior to a FONSI for EA projects.

For further information on the requirements of the 8 Step Process review 24 CFR 55.20 at the Electronic Code of Federal Regulations website [<http://ecfr.gpoaccess.gov>].

The 8 Step Process Form and instructions are found at Attachment 5.

See also Sample Floodplain/Wetland notices at Attachment 5. Use the language as provided in the notices if the recipient is required to complete the 8 Step Process.

## **J. Tiered Review**

A tiered review is a process in which the recipient completes a CEST or EA Project review, but has not identified any or all the sites where the project activities will be completed.

Within this two step process the recipient first completes their CEST or EA Project Packet by identifying and evaluating those issues that can be reviewed without having sites identified. For those issues that cannot be evaluated without having a site identified, then it would be proper to note that a Tier II evaluation will be conducted as sites are identified.

The second step would be for the recipient to complete a Site-Specific Tier II environmental review once sites are identified. The recipient would identify and evaluate those issues that were noted in the Statutory Checklist, the Environmental Assessment Checklist, and 58.6 Checklist that required further evaluation once a site had been identified.

For housing projects, this may include, but is not limited to, Air Quality, Contamination and Toxic Substances, Floodplain Management, Historic Preservation, Noise Control, and Flood Disaster Protection.

The Tier II review should follow the recommended format and will be part of the ERR that is retained in the recipient's project files at a recipient's office. This Tier II review must reference the CEST or EA Project packet that was completed previously and the ERR that was completed and received environmental clearance should be retained in a separate, master file, for the project.

The Tier II review should supplement the previous review.

Discussing the tiered review is most appropriate in the description of the project in the Determination of Level of Review Form, the Statutory Checklist, the Environmental Assessment Checklist, and 58.6 Checklist.

Many housing activities require the completion of a tiered review including purchase, rehabilitation, resale and owner occupied rehabilitation. In addition, if down payment assistance is provided, and the project also provides rehabilitation for homes that are assisted, then it would also be appropriate to complete a tiered review as the project would be considered CEST.

Completion of an additional RROF/Certification is not required for a site specific review after the recipient has already received environmental clearance.

For a Tier II review format example see Attachment 2.

For more information refer to 24 CFR 58.15 (Attachment 9).

#### **K. Changes to the Original Project or Additional Funding (24 CFR 58.47)**

In some instances the recipient may make changes to the activities in a project, change the project area, or receive additional funds for a project that has previously received environmental clearance.

In these instances it is necessary for the RE to re-evaluate its environmental findings.

The RE should re-evaluate its environmental findings when:

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; or,

There are new circumstances and environmental conditions that may affect the project or the environment, such as concealed or unexpected conditions discovered during implementation.

The purpose of the re-evaluation is to determine if the new circumstances still justify and support the environmental finding originally issued. If the original finding is still valid,

the RE must affirm the original findings by completing the Certification of Continued Environmental Compliance Form and update its ERR.

However, if the re-evaluation is the result of a change in the scope, scale, nature, magnitude and/or location of a project, or additional funds are being added to a project with previous environmental clearance, then the RE must submit a Certification of Continued Environmental Compliance (Attachment 6) with its request to the Department for amendment approval.

If the RE determines that the original finding is no longer valid, it must re-initiate an additional CEST or EA review process if its evaluation indicates potentially significant impacts.

Provide a description of all project activities including those activities funded by all sources.: In addition, if additional funds are being received for a project that has previously received HUD funding and environmental clearance, describe why the project can be classified as supplemental assistance as defined at 24 CFR 58.35(b)(7). In this instance, the recipient would complete an environmental review packet for CENST projects and include a Certification of Continued Environmental Compliance.

When a recipient is only completing a contract amendment in which no new activities are anticipated or no additional funds are being added to total amount of grant funds received, it is not necessary to complete the Certification of Continued Environmental Compliance.

See Attachment 6 to obtain an example of the Certification of Continued Environmental Compliance Form. Use the DED website to access the most current form.

## Outline of Environmental Review Record (ERR) Items

The following items will be needed in a recipient's ERR depending on the type of project the recipient is completing. Complete the appropriate Environmental Review Project Packet using one of the four packets contained in this Attachment.

### Exempt Activities [24 CFR 58.34]

- Cover Sheet
- Determination of Level of Review
- Finding of Exempt Activity
- 58.6 Checklist

### Categorical Exclusion Not Subject To (CENST) Activities [24 CFR 58.35(b)]

- Cover Sheet
- Determination of Level of Review
- Finding of CENST Activity
- 58.6 Checklist
- Supporting Documentation (if necessary)

### Categorical Exclusion Subject To (CEST) Activities [24 CFR 58.35(a)]

- Cover Sheet
- Determination of Level of Review
- Statutory Checklist
- 58.6 Checklist
- Supporting Documentation
- RROF/Certification
- 8 Step Process (if necessary)

### Environmental Assessment [24 CFR 58.36]

- Cover Sheet
- Determination of Level of Review
- HUD Environmental Assessment
- Supporting Documentation
- RROF/Certification
- Supporting Documentation
- Phase I (if necessary)
- Phase II (if necessary)
- 8 Step Process (if necessary)

**EXEMPT  
PROJECT  
PACKET  
[24 CFR 58.34]**

# ENVIRONMENTAL REVIEW RECORD

GRANT NUMBER: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

## DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# \_\_\_\_\_

Project Name: \_\_\_\_\_ Program Year: \_\_\_\_\_

Project Location: \_\_\_\_\_

Project Description (*Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:*

- Exempt** from NEPA review requirements per 24 CFR 58.34(a)(\_\_\_\_)
- Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)(\_\_\_\_)
- Categorically Excluded SUBJECT** to §58.5 authorities per 24 CFR 58.35(a)(\_\_\_\_)  
(A Statutory Checklist for the §58.5 authorities is attached.)
- An **Environmental Assessment** (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)
- An **Environmental Impact Statement** (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

_____ <b>Preparer Name</b>	_____ <b>Signature</b>
_____ <b>Title</b>	_____ <b>Date</b>

_____ <b>Responsible Entity Certifying Officer</b>	_____ <b>Signature</b>
_____ <b>Title</b>	_____ <b>Date</b>

## FINDING OF EXEMPT ACTIVITY [24 CFR 58.34(a)]

GRANTEE: \_\_\_\_\_

GRANT # \_\_\_\_\_

**DIRECTIONS:** Certain CDBG, HOME, and NAHTF funded activities, which do not have a physical impact, require a grantee, as defined at 24 CFR Part 58.2, to determine whether the proposed activity is Exempt from the National Environmental Policy Act of 1969 (NEPA), as amended, and not subject to the environmentally-related statutory authorities listed at 24 CFR Parts 58.5.

This form provides a grantee with a format to make this determination. A description of the activity (or project) should be attached to this form and the documentation maintained in the Environmental Review Record (24 CFR Part 58.38). Note that the 24 CFR 58.6 requirements will also need to be completed. Consult HUD's environmental regulation (24 CFR Part 58) as necessary.

**Check a single box** that best describes or fits the proposed activity. Submit the completed form to your Responsible Entity Certifying Officer for review.

- Environmental and other studies, resource identification and the development of plans and strategies [58.34(a)(1)].
- Information and financial services [58.34(a)(2)].
- Administrative and management activities [58.34(a)(3)].
- 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 [58.34(a)(4)].
- Inspections and testing of properties for hazards or defects [58.34(a)(5)].
- Purchase of insurance [58.34(a)(6)].
- Purchase of tools [58.34(a)(7)].
- Engineering or design costs [58.34(a)(8)].
- Technical assistance and training [58.34(a)(9)].
- 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 [58.34(a)(10)].
- Payment of principal or interest on loans made or obligations guaranteed by HUD [58.34(a)(11)].
- Any of the categorical exclusions listed in §58.35(a) provided there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5 [58.34(a)(12)].

**PROJECT DESCRIPTION:** Provide a description of all project activities including those activities funded by sources other than CDBG, HOME, or NAHTF: (Attach additional pages as necessary.)

In accordance with the provisions of 24 CFR 58.34(a), the grantee has determined that the subject CDBG, HOME, or NAHTF-assisted activity (or program) explained above is Exempt from the National Environmental Policy Act of 1969 (NEPA), as amended.

### DETERMINATION BY (PREPARER)

PRINT NAME	SIGNATURE	DATE
------------	-----------	------

### RESPONSIBLE ENTITY CERTIFYING OFFICER

PRINT NAME	SIGNATURE	DATE
------------	-----------	------

GRANTEE: \_\_\_\_\_

GRANT# \_\_\_\_\_

## 24 CFR §58.6 – OTHER REQUIREMENTS

**Use this worksheet for projects that are EXEMPT, CATEGORICALLY EXCLUDED SUBJECT TO (CEST), and CATEGORICALLY EXCLUDED NOT SUBJECT TO (CENST) Related Federal Statutes and Authorities.**

This 58.6 Form is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

### 1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
 \_\_\_\_\_ [Project complies with 24 CFR 51.303(a)(3).]

**Yes.** Notice must be provided to the buyer. The notice must 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, and a copy of the signed notice must be maintained in the ERR.

### 2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]

Is the project located in a coastal barrier resource area?

**No.** Cite or attach Source Documentation: No CBRA's in Nebraska according to  
<http://www.fema.gov/nfip/cobra.shtm> [Proceed with project.]

**Yes.** Federal assistance may not be used in such an area.

### 3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
 \_\_\_\_\_ [Proceed with project.]

**Yes.** Cite or attach Source Documentation: \_\_\_\_\_  
 Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

**Yes. Flood Insurance under the National Flood Insurance Program must be obtained.** If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

**No. Federal assistance may not be used in the Special Flood Hazard Area.**

\_\_\_\_\_  
 Preparer Name

\_\_\_\_\_  
 Preparer Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 RE Certifying Officer Name

\_\_\_\_\_  
 RE Certifying Officer Signature

\_\_\_\_\_  
 Date

**CENST**  
**PROJECT**  
**PACKET**  
**[24 CFR 58.35(b)]**

# ENVIRONMENTAL REVIEW RECORD

GRANT NUMBER: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

## DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# \_\_\_\_\_

Project Name: \_\_\_\_\_ Program Year: \_\_\_\_\_

Project Location: \_\_\_\_\_

Project Description (*Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:*

- Exempt** from NEPA review requirements per 24 CFR 58.34(a)(\_\_\_\_)
- Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)(\_\_\_\_)
- Categorically Excluded SUBJECT** to §58.5 authorities per 24 CFR 58.35(a)(\_\_\_\_)  
(A Statutory Checklist for the §58.5 authorities is attached.)
- An **Environmental Assessment** (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)
- An **Environmental Impact Statement** (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

_____ <b>Preparer Name</b>	_____ <b>Signature</b>
_____ <b>Title</b>	_____ <b>Date</b>

_____ <b>Responsible Entity Certifying Officer</b>	_____ <b>Signature</b>
_____ <b>Title</b>	_____ <b>Date</b>

**FINDING OF CATEGORICAL EXCLUSION, NOT SUBJECT TO RELATED Federal Statutes and AUTHORITIES [24 CFR 58.35(B)]**

GRANTEE: \_\_\_\_\_

GRANT # \_\_\_\_\_

**DIRECTIONS:** Certain CDBG, HOME, and NAHTF funded activities, which do not have a physical impact, require a grantee, as defined at 24 CFR Part 58.2, to determine whether the proposed activity is Categorically Excluded from the National Environmental Policy Act of 1969 (NEPA), as amended, and not subject to the environmentally-related statutory authorities listed at 24 CFR Parts 58.5.

This form provides a grantee with a format to make this determination. A description of the activity (or project) should be attached to this form and the documentation maintained in the Environmental Review Record (24 CFR Part 58.38). Note that the 24 CFR 58.6 requirements will also need to be completed. Consult HUD's environmental regulation (24 CFR Part 58) as necessary.

**Check a single box** that best describes or fits the proposed activity. Submit the completed form to your Responsible Entity Certifying Officer for review.

- Tenant-based rental assistance **[58.35(b)(1)]**.
- Supportive services **[58.35(b)(2)]**, including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, and short-term payments for rent/mortgage/utility costs.
- Operating costs **[58.35(b)(3)]**, including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs.
- Economic development activities **[58.35(b)(4)]**, 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.
- Activities to assist homeownership of existing or new dwelling units not assisted with Federal funds **[58.35(b)(5)]**, 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.
- Affordable housing predevelopment costs **[58.35(b)(6)]**, 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.

- Approval of supplemental assistance **[58.35(b)(7)]**, (including insurance or guarantee) to a project previously approved 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.

**PROJECT DESCRIPTION:** Provide a description of all project activities including those activities funded by sources other than CDBG, HOME, or NAHTF. (Attach additional pages as necessary.)

In accordance with the provisions of 24 CFR 58.35(b), the grantee has determined that the subject CDBG, HOME, or NAHTF-assisted activity (or program) explained above is Categorically Excluded from the National Environmental Policy Act of 1969 (NEPA), as amended, and Not Subject to the Related Part 58.5 Statutory Authorities.

**DETERMINATION BY (PREPARER)**

PRINT NAME	SIGNATURE	DATE

**RESPONSIBLE ENTITY CERTIFYING OFFICER**

PRINT NAME	SIGNATURE	DATE

GRANTEE: \_\_\_\_\_

GRANT# \_\_\_\_\_

**24 CFR §58.6 – OTHER REQUIREMENTS**

**Use this worksheet for projects that are EXEMPT, CATEGORICALLY EXCLUDED SUBJECT TO (CEST), and CATEGORICALLY EXCLUDED NOT SUBJECT TO (CENST) Related Federal Statutes and Authorities.**

This 58.6 Form is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

**1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]**

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
 \_\_\_\_\_ [Project complies with 24 CFR 51.303(a)(3).]

**Yes.** Notice must be provided to the buyer. The notice must 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, and a copy of the signed notice must be maintained in the ERR.

**2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]**

Is the project located in a coastal barrier resource area?

**No.** Cite or attach Source Documentation: No CBRA's in Nebraska according to  
<http://www.fema.gov/nfip/cobra.shtm> [Proceed with project.]

**Yes.** Federal assistance may not be used in such an area.

**3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]**

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
 \_\_\_\_\_ [Proceed with project.]

**Yes.** Cite or attach Source Documentation: \_\_\_\_\_  
 Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

**Yes. Flood Insurance under the National Flood Insurance Program must be obtained.** If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

**No. Federal assistance may not be used in the Special Flood Hazard Area.**

\_\_\_\_\_  
 Preparer Name

\_\_\_\_\_  
 Preparer Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 RE Certifying Officer Name

\_\_\_\_\_  
 RE Certifying Officer Signature

\_\_\_\_\_  
 Date

**CEST**  
**PROJECT**  
**PACKET**  
**[24 CFR 58.35(a)]**

# ENVIRONMENTAL REVIEW RECORD

GRANT NUMBER: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

## DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# \_\_\_\_\_

Project Name: \_\_\_\_\_ Program Year: \_\_\_\_\_

Project Location: \_\_\_\_\_

Project Description (*Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.*):

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*The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:*

- Exempt** from NEPA review requirements per 24 CFR 58.34(a)(\_\_\_\_)
- Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)(\_\_\_\_)
- Categorically Excluded SUBJECT** to §58.5 authorities per 24 CFR 58.35(a)(\_\_\_\_)  
(A Statutory Checklist for the §58.5 authorities is attached.)
- An **Environmental Assessment** (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)
- An **Environmental Impact Statement** (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

_____ <b>Preparer Name</b>	_____ <b>Signature</b>
_____ <b>Title</b>	_____ <b>Date</b>

_____ <b>Responsible Entity Certifying Officer</b>	_____ <b>Signature</b>
_____ <b>Title</b>	_____ <b>Date</b>

## STATUTORY CHECKLIST

**Use this worksheet only for projects that are CATEGORICALLY EXCLUDED SUBJECT TO (CEST) Related Federal Statutes and Authorities [24 CFR §58.35(a)]**

**GRANTEE:** \_\_\_\_\_ **GRANT#** \_\_\_\_\_

A "Determination of Level of Review" form should be provided as a cover to this checklist.

This checklist is a component of the Environmental Review Record (ERR) [§58.38]. In addition the "Requirements listed at 24 CFR §58.6" form must also be completed. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

### 24 CFR §58.5 – NEPA-Related Federal Statutes and Authorities

**DIRECTIONS – For each authority, check either Box "A" or "B" under "Status."**

**"A box"** The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to WHY the authority is not implicated, or HOW compliance is met; OR

**"B box"** The project requires an additional compliance step or action, including, but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

**IMPORTANT:** Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. 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 studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order, Regulation, or Policy cited at 24 CFR §58.5	STATUS		Compliance Documentation
	A	B	
<b>1. Air Quality</b> [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>2. Airport Hazards</b> (Clear Zones and Accident Potential Zones) [24 CFR 51D]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3. Coastal Zone Management</b> [Coastal Zone Management Act sections 307(c) & (d)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The project in Nebraska is not located in a state having a Coastal Zone Management (CZM) Program as provided by the National Oceanic & Atmospheric Administration.  ( <a href="http://coastalmanagement.noaa.gov/mystate/welcome.html">http://coastalmanagement.noaa.gov/mystate/welcome.html</a> .)
<b>4. Contamination and Toxic Substances</b> [24 CFR 58.5(i)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	

<b>5. Endangered Species</b> [50 CFR 402]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>6. Environmental Justice</b> [Executive Order 12898]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>7. Explosive and Flammable Operations</b> [24 CFR 51C]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>8. Farmland Protection</b> [7 CFR 658]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>9. Floodplain Management</b> [24 CFR 55, Executive Order 11988]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>10. Historic Preservation</b> [36 CFR 800]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>11. Noise Control</b> [24 CFR 51B]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>12. Water Quality (Sole Source Aquifers)</b> [40 CFR 149]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>13. Wetland Protection</b> [24 CFR 55, Executive Order 11990]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>14. Wild and Scenic Rivers</b> [36 CFR 297]	<input type="checkbox"/>	<input type="checkbox"/>	

**DETERMINATION:**

**Box "A" has been checked for all authorities.** The project can convert to Exempt, per §58.34(a)(12), since the project does not require any further compliance measure (e.g. consultation, mitigation, permit, or approval) with respect to any law or authority cited at §58.5. Complete Finding of Exempt Activity and document in writing per §58.34(a)(12) & (b); OR

**Box "B" has been checked for one or more authorities.** The project cannot convert to Exempt since one or more authorities require compliance, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit. Complete pertinent compliance requirement(s), publish NOI/RROF, request release of funds (HUD-7015.15), and obtain HUD's Authority to Use Grant Funds (HUD-7015.16) per §§58.70 & 58.71 before committing funds: OR

The unusual circumstances of this project may result in a significant environmental impact. The project requires preparation of an Environmental Assessment (EA). Prepare the EA according to 24 CFR Part 58 Subpart E.

\_\_\_\_\_  
Preparer Name

\_\_\_\_\_  
Preparer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
RE Certifying Officer Name

\_\_\_\_\_  
RE Certifying Officer Signature

\_\_\_\_\_  
Date

**GRANTEE:** \_\_\_\_\_

**GRANT#** \_\_\_\_\_

<b>24 CFR §58.6 – OTHER REQUIREMENTS</b>
--

**Use this worksheet for projects that are EXEMPT, CATEGORICALLY EXCLUDED SUBJECT TO (CEST), and CATEGORICALLY EXCLUDED NOT SUBJECT TO (CENST) Related Federal Statutes and Authorities.**

This 58.6 Form is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

**1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]**

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
 \_\_\_\_\_ [Project complies with 24 CFR 51.303(a)(3).]

**Yes.** Notice must be provided to the buyer. The notice must 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, and a copy of the signed notice must be maintained in the ERR.

**2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]**

Is the project located in a coastal barrier resource area?

**No.** Cite or attach Source Documentation: No CBRA's in Nebraska according to  
<http://www.fema.gov/nfip/cobra.shtm> [Proceed with project.]

**Yes.** Federal assistance may not be used in such an area.

**3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]**

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
 \_\_\_\_\_ [Proceed with project.]

**Yes.** Cite or attach Source Documentation: \_\_\_\_\_

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

**Yes. Flood Insurance under the National Flood Insurance Program must be obtained.** If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

**No. Federal assistance may not be used in the Special Flood Hazard Area.**

\_\_\_\_\_  
 Preparer Name

\_\_\_\_\_  
 Preparer Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 RE Certifying Officer Name

\_\_\_\_\_  
 RE Certifying Officer Signature

\_\_\_\_\_  
 Date

**ENVIRONMENTAL ASSESSMENT  
(EA)**

**PROJECT**

**PACKET**

**[24 CFR 58.36]**

# ENVIRONMENTAL REVIEW RECORD

GRANT NUMBER: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

## DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# \_\_\_\_\_

Project Name: \_\_\_\_\_ Program Year: \_\_\_\_\_

Project Location: \_\_\_\_\_

Project Description (*Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:*

- Exempt** from NEPA review requirements per 24 CFR 58.34(a)(\_\_\_\_)
- Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)(\_\_\_\_)
- Categorically Excluded SUBJECT** to §58.5 authorities per 24 CFR 58.35(a)(\_\_\_\_)  
(A Statutory Checklist for the §58.5 authorities is attached.)
- An **Environmental Assessment** (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)
- An **Environmental Impact Statement** (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

_____ <b>Preparer Name</b>	_____ <b>Signature</b>
_____ <b>Title</b>	_____ <b>Date</b>

_____ <b>Responsible Entity Certifying Officer</b>	_____ <b>Signature</b>
_____ <b>Title</b>	_____ <b>Date</b>

## **ENVIRONMENTAL ASSESSMENT for HUD-funded Projects**

[HUD recommended format per 24 CFR 58.40]

Project Name: \_\_\_\_\_

Responsible Entity: \_\_\_\_\_

Certifying Officer Name & Title: \_\_\_\_\_

Environmental Review Record (ERR) File # \_\_\_\_\_

## **ENVIRONMENTAL ASSESSMENT**

**Project Location:** \_\_\_\_\_

**Estimated Total Project Cost (all sources):** \_\_\_\_\_

**Amount of HUD Assistance:** \_\_\_\_\_ **HUD Grant Program:** \_\_\_\_\_

**Grant Recipient (if different from Responsible Entity):** \_\_\_\_\_

[24 CFR 58.2(a)(5)]

**Recipient Address & Phone:** \_\_\_\_\_

**RE Project Contact Name & Phone:** \_\_\_\_\_

**Conditions for Approval:** (List all mitigation and project modification measures adopted by the Responsible Entity to eliminate or minimize adverse environmental impacts. These conditions must be included in project contracts and other relevant documents as required.) [24 CFR 58.40(d), 40 CFR 1505.2(c)]

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**FINDING:** [24 CFR 58.40(g)]

**Finding of No Significant Impact (FONSI)**  
(The project will not result in a significant impact on the quality of the human environment.)

**Finding of Significant impact**  
(The project may significantly affect the quality of the human environment.)

---

PREPARER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PREPARER NAME & TITLE: \_\_\_\_\_

PREPARER'S AGENCY (If Different from RE): \_\_\_\_\_

RE CERTIFYING OFFICER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

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

**Description of the Project:** Include all contemplated actions that are logically either geographically or functionally a composite part of the project, regardless of the source of funding. [24 CFR 58.32, 40 CFR 1508.25] As appropriate, attach maps, site plans, renderings, photographs, budgets, and other descriptive information.

**Existing Conditions and Trends:** Describe the existing conditions of the project area and its surroundings, and the trends likely to continue in the absence of the project. [24 CFR 58.40(a)]

## **PART I: STATUTORY CHECKLIST** [24 CFR 58.5]

**DIRECTIONS – For each authority, check either Box “A” or “B” under “Status.”**

**“A box”** The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to WHY the authority is not implicated, or HOW compliance is met; OR

**“B box”** The project requires an additional compliance step or action, including, but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

**IMPORTANT:** Compliance documentation consists of verifiable source documents and/or relevant base data.

Appropriate documentation must be provided for each law or authority. 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 studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order, Regulation, or Policy cited at 24 CFR §58.5	STATUS		Compliance Documentation
	A	B	
<b>1. Air Quality</b> [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>2. Airport Hazards</b> (Clear Zones and Accident Potential Zones) [24 CFR 51D]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3. Coastal Zone Management</b> [Coastal Zone Management Act sections 307(c) & (d)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No coastal zone management programs exist in the States of HUD Region VII, as established by Nat’l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management. ( <a href="http://www.ocrm.nos.noaa.gov/czm/czmsitelist.html">http://www.ocrm.nos.noaa.gov/czm/czmsitelist.html</a> )

<b>4. Contamination and Toxic Substances</b> [24 CFR 58.5(i)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>5. Endangered Species</b> [50 CFR 402]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>6. Environmental Justice</b> [Executive Order 12898]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>7. Explosive and Flammable Operations</b> [24 CFR 51C]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>8. Farmland Protection</b> [7 CFR 658]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>9. Floodplain Management</b> [24 CFR 55, Executive Order 11988]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>10. Historic Preservation</b> [36 CFR 800]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>11. Noise Control</b> [24 CFR 51B]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>12. Water Quality (Sole Source Aquifers)</b> [40 CFR 149]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>13. Wetland Protection</b> [24 CFR 55, Executive Order 11990]	<input type="checkbox"/>	<input type="checkbox"/>	
<b>14. Wild and Scenic Rivers</b> [36 CFR 297]	<input type="checkbox"/>	<input type="checkbox"/>	

**PART II: ENVIRONMENTAL ASSESSMENT CHECKLIST**

[Environmental Review Guide HUD CPD-782, 24 CFR 58.40; 40 CFR 1508.8 &amp; 1508.27]

For each impact category, evaluate the significance of the effects of the proposal on the character, features, and resources of the project area. Enter relevant base data and credible, verifiable source documentation to support the finding. Note names, dates of contact, telephone numbers, and page references. Then enter the appropriate determination of impact: None Anticipated, Potentially Adverse, or Potentially Beneficial. Attach additional material as appropriate. Note conditions or mitigation measures required.

<b>Impact Categories</b>	<b>Anticipated or Potential Impact</b> <ul style="list-style-type: none"> <li>• Adverse</li> <li>• Beneficial</li> <li>• No Impact</li> </ul>	<b>Source Documentation and Mitigation or Modification Required</b>
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**Land Development**

Conformance with Comprehensive and Neighborhood Plans		
Land Use Compatibility and Conformance with Zoning		
Urban Design-Visual Quality and Scale		
Slope		
Erosion		
Soil Suitability		
Hazards and Nuisances, Including Site Safety		
Noise-Effects of Ambient Noise on Project & Contribution to Community Noise Levels		
Air Quality-Effects of Ambient Air Quality on Project & Contribution to Community Pollution Levels		

Energy Conservation		
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**Socioeconomic Factors**

Demographic Character Changes		
Displacement		
Employment and Income Patterns		

**Community Facilities and Services**

Educational Facilities		
Commercial Facilities		
Health Care		
Social Services		
Solid Waste		
Waste Water		
Storm Water		
Water Supply		
Public Safety <ul style="list-style-type: none"> <li>• Police</li> </ul>		
<ul style="list-style-type: none"> <li>• Fire</li> </ul>		

• Emergency Medical		
Open Space & Recreation • Open Space		
• Recreation		
• Cultural Facilities		
Transportation		

**Natural Features**

Water Resources		
Surface Water		
Unique Natural Features & Agricultural Lands		
Vegetation and Wildlife		

## **PART III: 58.6 CHECKLIST**

### **1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]**

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
 \_\_\_\_\_ [Project complies with 24 CFR 51.303(a)(3).]

**Yes.** Notice must be provided to the buyer. The notice must 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, and a copy of the signed notice must be maintained in the ERR.

### **2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]**

Is the project located in a coastal barrier resource area?

**No.** Cite or attach Source Documentation: No CBRA's in Nebraska according to  
<http://www.fema.gov/nfip/cobra.shtm> [Proceed with project.]

**Yes.** Federal assistance may not be used in such an area.

### **3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]**

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
 \_\_\_\_\_ [Proceed with project.]

**Yes.** Cite or attach Source Documentation: \_\_\_\_\_  
 Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

**Yes. Flood Insurance under the National Flood Insurance Program must be obtained.** If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

**No. Federal assistance may not be used in the Special Flood Hazard Area.**

## **Summary of Findings and Conclusions**

**Project Alternatives Considered:** [24 CFR 58.40(e), 40 CFR 1508.9] (As appropriate, identify other reasonable courses of action that were considered and not selected, such as other sites, design modifications, or other uses of the subject site. Describe the benefits and adverse impacts to the human environment for each alternative and the reasons for rejecting it. Include consideration of the No Action Alternative, that is, not implementing the preferred alternative.)

**Mitigation and Project Modification Measures Recommended:** [24 CFR 58.40(d), 40 CFR 1508.20]

(Recommend feasible ways in which the proposal or its external factors should be modified in order to minimize adverse environmental impacts and restore or enhance environmental quality.)

**Additional Studies Performed:** (List the reports, studies, or analyses performed for this assessment, and attach studies or summaries.)

**List of Agencies and Persons Consulted:** [40 CFR 1508.9(b)] (List agencies and persons consulted for this assessment.)

## Tier II Review

The following information is an example of the recommended format that should be used for a project that requires a tiered review. A tiered review is appropriate for CEST or EA projects where the location of all activities being completed in the project have not been identified.

The Tier II review serves to supplement an ERR for a CEST or EA environmental review that has been previously completed. A separate Tier II review should be completed for each newly identified project site and must be retained by the recipient in separate site-specific project files for the purposes of future monitoring by DED.

Only the items that have been previously identified in the Statutory Checklist, Environmental Review Checklist, or 58.6 Checklist that were noted to require further evaluation or consultation should be discussed in the Tier II review.

### TIER II Format Example

The following is an example of a Tier II review for an owner occupied housing rehabilitation project. Projects that are not owner occupied housing rehabilitation may require the evaluation of different items than those discussed in the example. The recipient should review the ERR for the project to determine which items need to be evaluated in the Tier II review.

#### Site Specific Environmental Review (Tier II)

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**DIRECTIONS – Evaluate each authority that was marked as Status “B” on the Statutory Checklist, marked as requiring further evaluation on the Environmental Checklist of an EA, or requiring further consultation as noted in the 58.6 Checklist.**

The following items require an additional compliance step or action, including, but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

**IMPORTANT:** Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documentation should include aerial maps, FIRM maps, letters sent to agencies, responses to agencies, agency websites referenced, and any other appropriate documentation.

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 studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

<b>Grant Number:</b> _____
<b>Property Address:</b> _____ _____ _____
<b>Description of Activities:</b>  The project is rehabilitation of a _____. Scope of work includes: _____. The total estimated rehab cost is projected at \$ _____. An aerial map is attached showing the property’s parcel, building footprint, and surrounding land uses and features.

<b>Compliance Documentation—Part 58.5 Laws and Authorities</b>	<b>Compliance Documentation</b>
<b>Historic Preservation [36 CFR 800]</b>	The house was built in _____. A photo of the house along with an aerial map of the residence was sent to the SHPO. SHPO noted _____.
<b>Floodplain Management [24 CFR 55]</b>	Rehab work does not exceed 50% of the pre-rehab value of the house, therefore, the floodplain management regulation does not apply.  Or  Rehabilitation work exceeds 50% of the pre-rehab value of the house, therefore the floodplain management regulation applies. However, as evidenced by FEMA FIRM map _____ [Map #, Panel #] or other source documentation, site is not located in a Special Flood Hazard Area (SFHA). A FIRM is attached showing project site marked on the map.
<b>Asbestos [40 CFR 61, Subpart M, Section 61.145]</b>	The house is a single family residential with four or fewer dwelling units and is therefore excluded from the requirements of 40 CFR 61.145. However, because it is anticipated that asbestos containing material could be present, the following actions will be taken to mitigate any impact of the rehabilitation. These include: _____
<b>Lead Based Paint</b>	The lead based paint activities that will be completed include: _____. The appropriate attenuation or mitigation found applicable to this project will be applied.
<b>Contamination and Toxic Substances [24 CFR 58.5(i)]</b>	Site review and review of surroundings conducted on _____. Reviewer found _____. Site photographs attached and letter to and from [appropriate authority] is attached. Property is located within an established residential neighborhood, well away from commercial or industrial properties. [Appropriate Authority] was contacted on _____ and there findings included: _____.
<b>Noise Control [24 CFR 51]</b>	The house is located within _____ of a major roadway, _____ feet of a railway, and _____ feet of an airport. The rehab project will provide a comprehensive scope of weatherization improvements including: _____.
<b>Compliance Documentation—Part 58.6 Checklist Requirements</b>	<b>Compliance Documentation</b>
<b>Flood Insurance [24 CFR 58.6]</b>	As noted above under the Floodplain Management section, the project is not located in a SFHA, per [FIRM Map or other source documentation], therefore flood insurance is not required.
<p>A site specific environmental review has been performed at the above location in compliance with HUD environmental review regulations (24 CFR 58) and related laws, authorities, and requirements. The review has been performed prior to the commitment of HUD or non-HUD funds, as required by 24 CFR 58.22(a) and (c).</p> <p>This review shall be retained as a component of the project's ERR. Consult the Tier I Review listed above for further information as to compliance with other laws and authorities for this HUD-assisted or NAHTF-assisted project or program.</p>	
Preparer's Signature _____	Date _____
Preparer's Name/Title _____	

### **NAHTF Publication Process**

NAHTF Projects do not generally require any publication or public comment period. Other HUD funded projects do require the completion of a Notice of Intent to Request Release of funds (NOI-RROF) publication, and require a HUD 15-day objection period. For more information on the publication processes for other HUD funded projects see the HOME or CDBG Manuals on the DED website.

## Completing the RROF/Certification Form (HUD 7015.15)

The RROF/Certification Form that must be completed for CEST or EA projects no earlier than the day after the environmental record is completed and signed by the RE Certifying Officer.

The most current, official HUD Form must be used. Use the following link to obtain the most current HUD 7015.15 Form at:

<http://www.hud.gov/offices/adm/hudclips/forms/files/7015-15.pdf>

### Instructions for NAHTF Projects

#### Part I:

1. **Program Title:** Enter “NAHTF Program”
2. **HUD/State Identification Number:** Enter the DED grant number designated for your project.
3. **Recipient Identification Number:** Leave this section blank.
4. **OMB Catalog Number:** Leave this section blank.
5. **Name and address of Responsible Entity:** Enter the address of the Responsible Entity (RE).
6. **For Information about this request:** Enter the name and telephone number of the person to contact concerning this form and the environmental review for the activities/project listed on this form if further information or clarification is needed.
7. **Name and Address of Recipient (if different than responsible entity):** Leave this section blank.
8. **HUD or State Agency to receive request:** Enter “Nebraska Department of Economic Development, P O Box 94666, Lincoln, NE 68509”.
9. **Program Activity/Project Name:** Enter the activity(ies)/project name(s) for which this form is submitted.
10. **Location:** Enter the location(s) of the activity/project. Include the Street address, City, County, and State.
11. **Program Activity/Project Description:** Provide a complete description of the project similar to the one provided in the Determination of Level of Review. Include all activities within the project, regardless of funding source. This could include any infrastructure that is being developed in conjunction with a DED funded activity.

**Part 2: Environmental Certification, Item 3:** Check either “did” or “did not” require an EIS.

**Signature of Certifying Officer:** For NAHTF projects, have the RE Certifying Officer sign the document, provide the RE’s Title and address.

**Part 3:** Do not complete this section.

**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. 3/31/2011)

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 a collection of information unless it displays a valid OMB control number. Send comments regarding this burden estimate or any aspect of this collection of information, including suggestions for reducing the burden, to Washington Headquarters Service, Paperwork Project (0142-0047), Washington, DC 20503.

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

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request		
7. Name and address of recipient (if different than responsible entity)		
<p><b>The recipient(s) of assistance under the program(s) listed requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following</b></p>		
9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)	
11. Program Activity/Project Description		

<http://www.hud.gov/offices/epl/environmentalreviewguidance/index.cfm>  
 Download Official Form From

**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. 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.
4. 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.
5. 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.
6. 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:

7. 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 laws insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assigned to the responsible entity.
8. I am authorized to and do accept, on behalf of the recipient person, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying official 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 the HUD funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements for environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in special 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)

**8 STEP PROCESS  
FOR COMPLIANCE WITH FLOODPLAIN MANAGEMENT  
[24 CFR 55, Executive Order 11988]**

1. Floodplain Management applies to projects involving ANY of the following—Check all that apply:

- Acquisition of land or buildings
- New Construction
- Substantial Rehabilitation (i.e. modifications and improvements to buildings where rehabilitation costs exceed 50% of the pre-rehab value of the building or where residential density increases more than 20%)
- Expanding the footprint of buildings or structures
- Infrastructure Improvements—Water, Sewer, Drainage, Roads, and Ditches
- Other activities affecting land use \_\_\_\_\_

2. Is the project located in a 100-year floodplain, designated floodway, or wetland?  Yes  No  
[Note: Review the FIRM (Flood Insurance Rate Map) for your project area, or when the project area is not mapped, use other best available information (i.e. Dept. of Natural Resources response letter).]

If YES, skip to #4

If NO, go on to #3

3. You have determined that the project is NOT located in a floodplain or wetland. Document the determination by completing the following:

Source Documentation: Attach a FEMA Flood Insurance Rate Map (FIRM) and identify the site and project location on the map. Community Name/Number: \_\_\_\_\_

FIRM Map Panel and Date of Map Panel: \_\_\_\_\_

If the area has not been mapped, obtain the best available information from one or more of the following qualified resources: (Check all sources used and attach all documentation received.)

- Nebraska Department of Natural Resources
- Natural Resources Conservation Service (Wetlands Determination Only)
- US Army Corps of Engineers (Wetlands Determination Only)
- Other \_\_\_\_\_

4. You have determined that your project is located in a floodplain/wetland. The HUD 8 Step Process is required. Complete and attach the following 8-Step Decision Making Form and all supporting documentation.

(Refer to the Preliminary Engineering/Architectural Report and/or consult with the engineer/architect for assistance. Consultation with environmental professionals may be appropriate.)

**HUD 8 STEP PROCESS  
DECISION MAKING PROCESS UNDER 24 CFR 55.20 AND EXECUTIVE ORDER 11988**

**STEP 1—Determine if the proposed action/project is located in a 100-year floodplain/wetland.**

Attach the FEMA Flood Insurance Rate Map (FIRM) and complete the following:

Community Name/Number: \_\_\_\_\_

Map Panel and Date of Map Panel: \_\_\_\_\_

Flood Zone for Proposed Project Site: \_\_\_\_\_

Executive Order 11988 requires the project sponsor to evaluate all available options prior to deciding to put federally funded assets into an at-risk flood zone. If the proposed project is located in a regulated floodplain area, provide the necessary documentation which shows that development in a floodplain is the only viable option.

(Continue to Step 2 if the area has been mapped and the information above has been provided)

If the area has not been mapped, obtain the best available information from one or more of the following qualified resources: (Check all sources used and attach all documentation received.)

- Nebraska Department of Natural Resources
- Natural Resources Conservation Service (Wetlands Determination Only)
- US Army Corps of Engineers (Wetlands Determination Only)
- Other \_\_\_\_\_

If the area not been mapped, but is participating in the National Flood Insurance Program, the local floodplain coordinator should request a base flood elevation (BFE) request for the site from a community on-staff or on-retainer professional engineer and submit a letter with the request to the Nebraska Department of Natural Resources (NDNR). All correspondence from the NDNR is required to be with the local floodplain administrator. Attach all documentation received.

If the area has not been mapped, and not participating in the National Flood Insurance Program, a community on-staff or on-retainer professional engineer must include a letter, with the additional 8 Step Review documentation, stating that in his/her professional opinion, the project site is or is not flood prone. If the project site is flood prone, then the engineer must state how the flood risk will be mitigated to the project (Attach all documentation received).

## **STEP 2—Involve the public in the decision-making process.**

Publish the Early Public Notice

The Early Public Notice is a notice of the proposal to consider an action in a floodplain/wetland. The notice must be published in a newspaper of widest circulation. A required minimum 15-day comment period begins the day after publication. Indicate if any comments were received. If the RE receives any written comments, the RE must respond in writing, resolve any issues, and provide copies to DED.

Attach a copy of the notice and affidavit of publication to this form.

Name of Newspaper: \_\_\_\_\_

Date of Publication: \_\_\_\_\_

Were any comments received in writing?  Yes  No

(If Yes, attach all correspondence.)

**STEP 3—Evaluate alternatives to locating the proposed action in a floodplain.**

**Explain in detail each of the following to determine if the floodplain and/or wetland can be avoided:**

(Attach additional pages as necessary.)

a. Identify and explain if alternative sites suitable for the project exist outside the floodplain/wetland:

(Refer to the engineer/architect, or engineering/architectural report for alternatives. Include other sites and/or buildings and the No Action Alternative.)

b. Identify and explain if feasible alternative actions/methods may be used to fulfill the identical project objective:

Can different or modified actions with less chance for impact be used to fulfill the same project?

c. Identify and explain if threats to lives and property and/or adverse impacts to the floodplain/wetland outweigh the benefits of the proposed project:

(Explain if impacts are too severe to human and natural environments to complete the project.)

**STEP 4—Identify indirect and direct impacts associated with occupying or modifying the floodplain/wetland.**

If the RE determines the practicable alternative for the project/action is occupying or modifying the floodplain/wetland, then impacts to lives and properties and impacts to floodplains and/or wetlands must be identified.

If the RE determines an alternative site for the project exists out of the floodplain/wetland, project activities may still have an impact on the nearby floodplain/wetland and must also be identified to determine ways to minimize harm.

**Explain in detail how the project/activity will affect the floodplain/wetland regarding the following types of impacts:**

**a. Positive or beneficial impacts to the floodplain/wetland, both direct and indirect:**

(List and describe)

**b. Negative or harmful impacts to the floodplain/wetland, both direct and indirect:**

(List and describe)

**c. Concentrated impacts at or near the floodplain/wetland:**

(List and describe)

**d. Dispersed or remote impacts occurring distant from the floodplain/wetland:**

(List and describe)

**e. Short-term impacts to the floodplain/wetland (temporary impacts occurring immediately after an action lasting a short while):**

(List and describe)

**f. Long-term impacts to the floodplain/wetland (impacts occurring during or after an action that persist for considerable time or indefinitely):**

(List and describe)

**g. Explain if the project encourages development in the floodplain wetland:**

(Describe)

**STEP 5—Identify mitigation measures to minimize impacts to and preserve benefits of the floodplain/wetland.**

(Consult with the project engineer/architect and/or engineering/architectural report.)

**a. Explain how actions will be designed and/or modified to minimize harm to, or within, the floodplain/wetland:**

**b. Explain how actions will be designed and/or modified to restore and/or preserve as much of the natural and beneficial floodplain/wetland values as possible:**

**STEP 6—Re-evaluate alternatives identified in Step 3. Take into account all identified impacts and mitigation measures.**

a. Explain whether it is possible to modify or relocate the project activity and why:

b. If there are no alternatives, explain why the project/activity should occur. Consider impacts determined in Step 4 and minimization efforts identified in Step 5.

**STEP 7—If re-evaluation results in no practicable alternative to relocate the project out of the floodplain/wetland, the decision must be made public.**

Publish the Notice of Explanation

The Notice of Explanation must include the reasons for locating the project/activity in the floodplain/wetland, all alternatives considered (including the no action alternative), and all mitigation measures planned.

The notice must be published in a newspaper of widest circulation. A required minimum 7-day comment period begins the day after publication. Indicate if any comments were received. If the RE receives any written comments, the RE must respond in writing, resolve any issues, and provide copies to DED.

This notice must not be published concurrently with the Combined Notice.

Attach a copy of the notice and affidavit of publication to this form.

Name of Newspaper: \_\_\_\_\_

Date of Publication: \_\_\_\_\_

Were any comments received in writing?  Yes  No

(If Yes, attach all correspondence.)

**STEP 8—Implement the Project.**

Project implementation can only proceed provided compliance has been demonstrated with respect to all of the prior steps and provided the project has been approved by the State in accordance with HUD regulation 24 CFR 58.

The RE has a continuing responsibility to ensure that the mitigating measures identified in Step 7 are implemented. Mitigation measures must be incorporated, as appropriate, in project contracts and all related agreement documents.

Additional Information/Explanations:

Attachments:

## **Notice for Early Public Review of a Proposal to Support Activity in the 100-Year Floodplain or Wetland**

To: All Interested Agencies, Groups, and Individuals

This is to give notice that (*Name of Grantee*) is proposing to expend federal funds in a 100-Year Floodplain (*or wetland, if applicable*). The subject funds are (*Community Development Block Grant or HOME Investment Partnership administered by the Nebraska Department of Economic Development*) [*mention other federal funds involved, if applicable*].

This notice is required by Section 2(a)(4) of Executive Order 11988 for Floodplain Management, and by Section 2(b) of Executive Order 11990 for the Protection of Wetlands, and is implemented by HUD Regulations found at 24 CFR 55.20(b) for the HUD action that is within and/or affects a floodplain or wetland.

The (*Name of Grantee*) is proposing to undertake the following activities in the area.

*Describe the project, being specific as to location of proposed activities, and  
total number of acres of floodplain/wetland involved.*

The purpose of this notice is to give an early opportunity for interested agencies, persons or groups to comment on the proposed action(s). The (*Name of Grantee*) will consider any feasible alternatives or adjustments to the anticipated project which might minimize any potential adverse effects upon the floodplain/wetland as a result of the project.

This notice with a request for comment was mailed to: (*Name of agencies, and other organizations notice sent to*)

Additional information concerning this project is available for public review and copying, upon request, at: (*location*). Any comments relative to this proposed expenditure of federal funds in an area identified as a flood hazard/wetland area should be submitted in writing to (*name and address*) on or before (*month, day, year*) [*allow minimum of 15 calendar days after publication date, not counting day of publication as required by 24 CFR 55.20(b)(2)*].

## **Notice and Public Explanation of a Proposed Activity in the 100-Year Floodplain and Wetland**

To: All interested Agencies, Groups and Individuals

This is to give notice that the *(Name of Grantee)* has conducted an evaluation as required by Executive Order *(11988 or 11990)* in accordance with HUD regulations at 24 CFR 55.20 to determine the potential affect that its activity in the *(floodplain or wetland)* will have on the environment. The proposed project *(Description of project and project activities)*.

The *(Name of Grantee)* has determined that it has no practicable alternative other than locating the proposed (Community Development Block Grant or HOME Investment Partnership) project in a (floodplain/wetland). This activity will have no significant impact on the environment for the following reasons:

*(List and describe the reasons why the activity will have no significant impact and state reason(s) why the project must be located in the floodplain; including other alternatives that were considered and mitigation measures to be taken to minimize adverse effects)*

Written comments must be received by *(Name of Grantee)* at the following address on or before *(month, day, year)* [§ 55.20(g)(2) allows 7 days at a minimum]: *(Address of Grantee)*

Directions: Complete the current version of the Certification from the DED website.

**CERTIFICATION OF CONTINUED ENVIRONMENTAL COMPLIANCE**

Nebraska Department of Economic Development  
CDBG, HOME, & NAHTF Projects

Grantee Name:

Grant Number:

Original Level of Finding:

Date of Determination:

Date Notice of Intent (NOI-RROF) Published:

Date Request for Release Funds Submitted to DED:

Date of Environmental Clearance:

Description of Project:

In accordance with the provisions of 24 C.F.R. Part 58.47, it is the finding of the Certifying Officer of the above referenced grantee that [check one of the following]:

1.  The scope, scale, nature, magnitude and location of the project are substantially unchanged from that as originally reviewed and approved; further, no new circumstances or environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions, have been discovered; and the selection of an alternative not in the original finding is not proposed. Re-evaluation of the project under §58.47 is therefore not required. The same conditions that previously applied to the project remain unchanged and are summarized on the next page.

**OR**

2.  The scope, scale, nature, magnitude and/or location of the project have substantially changed from that as originally reviewed and approved; or, new circumstances or environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions, have been discovered; or, the selection of an alternative not in the original finding is now proposed. Re-evaluation of the project under §58.47 is required; the findings in the ERR have been updated per §58.47(b) and are described on the next page.

I certify that the above statements accurately reflect the revisions to the project scope of work and that such revisions do not alter the basis under which the project received its original environmental status determination.

Signature of RE Certifying Officer:

Address:

\_\_\_\_\_

\_\_\_\_\_

Title:

\_\_\_\_\_

\_\_\_\_\_

Date:

## Potential Agency Contact and Distribution List

### Regulatory Agencies

### Potential Assistance on:

Nebraska Department of Aeronautics  
 Planning & Engineering Division  
 P. O. Box 82088  
 Lincoln, NE 68501-2088

Airport Hazards

Nebraska Department of Environmental Quality  
 Small Business & Public Assistance Coordinator  
 P O Box 98922  
 Lincoln, NE 68509-8922

Air Quality, Hazardous Sites,  
 Solid and Hazardous Waste,  
 Water Quality (Surface  
 Water, Ground Water &  
 Effluent Discharge)

Nebraska Game and Parks Commission  
 Realty & Environmental Services Division  
 2200 N 33<sup>rd</sup> Street  
 P. O. Box 30370  
 Lincoln, NE 68503-0370

State Parks & Recreation  
 Areas, Fisheries & Wildlife  
 Management Areas

Nebraska Game and Parks Commission  
 Heritage Division  
 2200 N 33<sup>rd</sup> Street  
 P. O. Box 30370  
 Lincoln, NE 68503-0370

Threatened & Endangered  
 Species

Nebraska Health and Human Services System  
 Regulation and Licensure  
 P O Box 95007  
 Lincoln, NE 68509-5007

Water Quality

Nebraska State Fire Marshall  
 246 South 14<sup>th</sup> Street  
 Lincoln, NE 68508

Thermal/Explosive Hazards,  
 Storage Tanks

Nebraska State Historical Society  
 State Historic Preservation Officer  
 1500 R Street  
 Lincoln, NE 68501-2554

Historic Preservation

Nebraska Department of Natural Resources  
 P O Box 94676  
 Lincoln, NE 68509-4676

Livestock Waste Lagoons,  
 New Well Construction,  
 Ground Water Transfers,  
 Floodplain Management

U. S. Fish and Wildlife Service  
 Ecological Service Office  
 203 West Second Street  
 Grand Island, NE 68801-5907

Endangered & Migrant  
 Species, Fish & Wildlife

National Park Service  
Midwest Regional Office  
1709 Jackson Street  
Omaha, NE 68102

Or

510 W. Wisconsin Ave., Room 100E  
Milwaukee, WI 53205

Or

[www.nps.gov/rivers/wildriverslist.html](http://www.nps.gov/rivers/wildriverslist.html)

Wild & Scenic Rivers,  
National Landmarks

Natural Resources Conservation Service  
State Conservationist  
Federal Building, Room 152  
100 Centennial Mall North  
Lincoln, NE 68508-3866

Prime Farmlands,  
Forests, Rangeland,  
Wetlands Identification on agricultural  
property

U. S. Army Corps of Engineers  
8901 South 154<sup>th</sup> Street  
Omaha, NE 68138-3621

Or

<http://www.nwo.usace.army.mil/html/op-r/district.htm>

Or

U. S. Army Corps of Engineers  
Kearney Field Office  
1430 Central Avenue  
Kearney, NE 68847

Wetlands Identification and  
Wetland Construction Permits for  
waters of the U.S.

Native American Consultation Database  
[www.cast.uark.edu/other/nps/nacd](http://www.cast.uark.edu/other/nps/nacd)

Tribal Government  
Contacts

## HUD Guide to Environmental Compliance: NEPA-Related Statutes, Authorities and Requirements

### 24 CFR Part 58.5 – NEPA-Related Federal laws and authorities

**Important:** (1) Information contained herein is for general guidance only. Applicable authorities and regulations take precedence over guidance material and should be consulted as necessary to achieve full compliance. (2) HUD cannot attest to the accuracy of information provided by web sites external to HUD, and access to these sites does not constitute an endorsement by HUD, or any of its employees, of the sponsors of the site or the products presented on the site. (3) Contact the HUD Environmental Officer in your area [[www.hud.gov/offices/cpd/environment/contact/localcontacts/index.cfm](http://www.hud.gov/offices/cpd/environment/contact/localcontacts/index.cfm)] for information or assistance related to compliance with HUD environmental requirements. MOHR\_HUD\_REG-VII\_4.10.09\_v8

Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
<p><b>1. Air Quality</b></p> <p><i>Clean Air Act of 1970, as amended (42 U.S.C. 7401 et seq.), particularly 7506 (c) &amp; (d).</i></p> <p><i>40 CFR parts 6, 51, and 93 (EPA)</i></p> <p><i>CAA of 1990, Sec. 112; 40 CFR Part 61 (NESHAP)</i></p>	<ul style="list-style-type: none"> <li>▪ Acquisition of undeveloped land</li> <li>▪ Change of land use</li> <li>▪ Demolition</li> <li>▪ Major rehabilitation</li> <li>▪ New construction</li> </ul>	<p>Project is located in an EPA-designated non-attainment area or maintenance area for one or more of six "criteria pollutants," called National Ambient Air Quality Standards (NAAQS).</p> <p>Criteria pollutants (NAAQS):  <a href="http://www.epa.gov/air/criteria.html">http://www.epa.gov/air/criteria.html</a></p>	<p>Designated non-attainment and maintenance areas are listed on EPA web site:  <a href="http://www.epa.gov/oar/oaqps/greenbk/">http://www.epa.gov/oar/oaqps/greenbk/</a></p> <p>County-level air quality data:  <a href="http://www.epa.gov/oar/oaqps/greenbk/multipol.html">http://www.epa.gov/oar/oaqps/greenbk/multipol.html</a></p> <p>Maps of non-attainment areas:  <a href="http://www.epa.gov/oar/data/">http://www.epa.gov/oar/data/</a></p>	<p>A determination of conformity with the State Implementation Plan (SIP) is required with respect to the proposed activity and the specific pollutant for which the area was designated a non-attainment or maintenance area.</p> <p>Document that the activity does/does not require SIP compliance. Contact the MPO or EPA to determine if the proposed activity is one that requires a permit under the SIP. If yes, obtain letter of consistency showing that the project is consistent with the SIP.</p>	<p>Conformity to SIP is made by:</p> <ul style="list-style-type: none"> <li>▪ Regional or Metropolitan Planning Organization (MPO); or</li> <li>▪ EPA Regional Office.</li> </ul> <p>Status of non-attainment areas and EPA policy questions are addressed by EPA Regional Office.</p> <p>EPA Region 7 SIPs:  <a href="http://www.epa.gov/region07/programs/artd/air/rules/fedapprv.htm">http://www.epa.gov/region07/programs/artd/air/rules/fedapprv.htm</a></p> <p>State and local AQ contacts:  <a href="http://www.epa.gov/region7/programs/artd/air/st_local/st_local.htm">http://www.epa.gov/region7/programs/artd/air/st_local/st_local.htm</a></p> <p>HUD Q&amp;A:  <a href="http://www.hud.gov/offices/cpd/environment/review/ga/airpollution.cfm">http://www.hud.gov/offices/cpd/environment/review/ga/airpollution.cfm</a></p>
<p><b>2. Airport Hazards (Clear Zones &amp; APZ)</b></p>	<ul style="list-style-type: none"> <li>▪ Acquisition for construction</li> <li>▪ Change in land use</li> <li>▪ Increase in density</li> </ul>	<p>Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a</p>	<p>Airport clear zone and accident potential zone (APZ) maps are available from airport operations</p>	<p>RCZ/CZ: New construction, major rehabilitation, and activities that significantly prolong physical or economic</p>	<p>Contact airport operator or nearest FAA District office.</p> <p>Airport locations:</p>

<p>24 CFR Part 51-D "Siting of HUD-Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields" (HUD)</p>	<ul style="list-style-type: none"> <li>Major ('substantial') rehabilitation</li> <li>New construction</li> </ul> <p>Where airport is:</p> <ul style="list-style-type: none"> <li>Civil airport designated in Nat'l Plan of Integrated Airport System (NPIAS):</li> </ul> <p><a href="http://www.faa.gov/airports_airtraffic/airports/planning_capacity/npias/reports/">http://www.faa.gov/airports_airtraffic/airports/planning_capacity/npias/reports/</a></p> <ul style="list-style-type: none"> <li>All military air installations</li> </ul> <p>(Note: See also Clear Zone notification requirement, page 11.)</p>	<p>military airfield runway.</p> <p>HUD policy is to promote compatible land uses in RCZ/CZ/APZ.</p>	<p>authority.</p> <ul style="list-style-type: none"> <li>Civil airport: The Airport Layout Plan shows the Runway Clear Zone (RCZ), [a.k.a. Runway Protection Zone].</li> <li>Military airfield: The AICUZ Study shows the CZ and APZ.</li> </ul>	<p>life of the property are prohibited.</p> <p>APZ: HUD assistance in APZ is discouraged, and project must be compatible with DOD land use guidelines for APZs.</p>	<p>Civil NPIAS  <a href="http://www.faa.gov/airports_airtraffic/airports/planning_capacity/npias/reports/">http://www.faa.gov/airports_airtraffic/airports/planning_capacity/npias/reports/</a>  and  <a href="http://www.airnav.com/airports/">http://www.airnav.com/airports/</a></p> <p>Military Bases:  <a href="http://www.globalsecurity.org/military/facility/conus.htm">http://www.globalsecurity.org/military/facility/conus.htm</a></p> <p>and  <a href="http://www.globemaster.de/bases.html">http://www.globemaster.de/bases.html</a></p> <p>HUD Q&amp;A:  <a href="http://www.hud.gov/offices/cpd/environment/review/ga/airport.cfm">http://www.hud.gov/offices/cpd/environment/review/ga/airport.cfm</a></p>
<p><b>3. Coastal Zone Management</b></p> <p><i>Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et. seq., particularly section 1424(e)).</i></p>	<ul style="list-style-type: none"> <li>Acquisition of undeveloped land</li> <li>Change of land use</li> <li>Major rehabilitation</li> <li>New construction</li> </ul>	<p>Project is located in a state having a Coastal Zone Management (CZM) Program.</p>	<p>CZMP maps are on NOAA (Nat'l Oceanic &amp; Atmospheric Administration) web site:  <a href="http://coastalmanagement.noaa.gov/mystate/welcome.html">http://coastalmanagement.noaa.gov/mystate/welcome.html</a></p>	<p>State CZM agency (or its approved local designee) must concur with a finding (or issue permit) in evidence that project is consistent with approved State CZM plan.</p>	<p>NOAA:  <a href="http://coastalmanagement.noaa.gov/welcome.html">http://coastalmanagement.noaa.gov/welcome.html</a></p> <p>HUD Q&amp;A:  <a href="http://www.hud.gov/offices/cpd/environment/review/ga/coastal.cfm">http://www.hud.gov/offices/cpd/environment/review/ga/coastal.cfm</a></p>
<p><b>4. Contamination and Toxic Substances</b></p> <p><i>24 CFR Part 58.5 (i) (2) (HUD).</i></p>	<ul style="list-style-type: none"> <li>Acquisition</li> <li>Conversion from non-residential to residential.</li> <li>Demolition</li> <li>Leasing</li> <li>New construction</li> <li>Rehabilitation</li> </ul>	<p>Project is located on or near site that contains hazardous materials or contaminants that could affect the health and safety of occupants or that conflict with the intended utilization of the property.</p> <p>Particular attention to be</p>	<p>Documentation may consist of Phase I environmental site assessment* (ASTM standard E1527-05, as amended) and, if applicable, Phase II assessment.</p> <p>Additional/alternative documentation may include:</p> <ul style="list-style-type: none"> <li>Site inspection(s) by</li> </ul>	<p>Due diligence must be exercised to ascertain the presence of contamination.</p> <p>In many cases, a Phase I environmental site assessment (ASTM standard E1527-05, as amended) must be performed.* If the Phase I assessment identifies</p>	<p>EPA Envirofacts Data:  <a href="http://www.epa.gov/enviro/">http://www.epa.gov/enviro/</a></p> <p>EPA Toxic Release Inventory (TRI):  <a href="http://www.epa.gov/enviro/html/toxic_releases.html">http://www.epa.gov/enviro/html/toxic_releases.html</a></p> <p>EPA Maps:  <a href="http://www.epa.gov/enviro/html">http://www.epa.gov/enviro/html</a></p>

		<p>given to any site located on or in general proximity to landfills, dumps, industrial sites, gas stations or other locations that contain hazardous wastes or materials.</p> <p>HUD policy is to ensure that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.</p>	<p>knowledgeable professional(s).</p> <ul style="list-style-type: none"> <li>▪ Search of EPA and other databases for sites and facilities posing real or potential contamination concerns (including NPL (Superfund), TRI, RCRA sites and facilities).</li> <li>▪ Analysis of past uses of the site and adjacent properties as documented by Sanborn Fire Insurance Rate Maps (or equivalent historic maps).</li> </ul> <p>ASTM Phase I and Phase II protocols are available at: <a href="http://www.astm.org/cgi-bin/SoftCart.exe/index.shtml?E+mystore">http://www.astm.org/cgi-bin/SoftCart.exe/index.shtml?E+mystore</a></p> <p>Current ASTM Phase I standard (E1527-05): <a href="http://www.astm.org/cgi-bin/SoftCart.exe/DATABAS E.CART/PAGES/E1527.htm?L+mystore+iweh6695+1022889987">http://www.astm.org/cgi-bin/SoftCart.exe/DATABAS E.CART/PAGES/E1527.htm?L+mystore+iweh6695+1022889987</a></p> <p>NOTE: A person may purchase property with the knowledge that the property is contaminated without being held potentially liable for the cleanup of the contamination. Conducting "all appropriate inquiries" (AAI) into the previous ownership and uses of a property is one of the requirements for claiming CERCLA liability protection.</p> <p>The federal (USEPA) standard for performing AAI was effective 11/01/06. The AAI final rule is found at 40 CFR 312.</p>	<p>recognized environmental conditions or if the results are inconclusive, a Phase II environmental site assessment will be required.</p> <p>Based upon the Phase II results, remediation, mitigation and monitoring measures may be required.</p> <p>Such measures must be consistent with Federal, State and local laws and regulations, and must be implemented by qualified professionals.</p> <p>Specific forms of remediation are not prescribed by HUD and may vary depending on the nature of the hazard.</p>	<p><a href="#">/em/</a></p> <p>HUD Maps (select "Map Your Community"): <a href="http://egis.hud.gov/egis/">http://egis.hud.gov/egis/</a></p> <p>EPA CERCLIS/NPL database Text - <a href="http://www.epa.gov/superfund/sites/query/basic.htm">http://www.epa.gov/superfund/sites/query/basic.htm</a> Map - <a href="http://www.epa.gov/superfund/sites/npl/npl.htm">http://www.epa.gov/superfund/sites/npl/npl.htm</a></p> <p>ATSDR "ToxFAQs" summaries about hazardous substances: <a href="http://www.atsdr.cdc.gov/toxfaq.html">http://www.atsdr.cdc.gov/toxfaq.html</a></p> <p>Right-To-Know Network:</p> <ul style="list-style-type: none"> <li>▪ EPA databases, including TRI (Toxic Release Inventory); NPL &amp; CERCLIS; RCRA: <a href="http://www.rtknet.org/">http://www.rtknet.org/</a></li> </ul> <p>Scorecard.Org:</p> <ul style="list-style-type: none"> <li>▪ Releases of toxic chemicals</li> <li>▪ Cancer risks from hazardous air pollutants</li> <li>▪ Superfund sites</li> <li>▪ Facilities emitting criteria air pollutants</li> </ul> <p><a href="http://www.scorecard.org/community/ej-index.tcl">http://www.scorecard.org/community/ej-index.tcl</a></p> <p>State voluntary cleanup programs:</p> <ul style="list-style-type: none"> <li>▪ Kansas Dept. Health &amp; Environ't (KDHE) <a href="http://www.kdheks.gov/remedial/index.html">http://www.kdheks.gov/remedial/index.html</a></li> <li>▪ Missouri Dept. Natural Resources (DNR) <a href="http://www.dnr.mo.gov/env/hwp/index.html">http://www.dnr.mo.gov/env/hwp/index.html</a></li> <li>▪ Nebraska Dept.</li> </ul>
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			<p><a href="http://www.epa.gov/swerosps/bf/regneg.htm">http://www.epa.gov/swerosps/bf/regneg.htm</a></p> <p>The ASTM E1527-05 Phase I standard is consistent and compliant with EPA's final rule for AAI and may be used to comply with the provisions of AAI.</p>		<p>Environmental Quality (NDEQ) <a href="http://www.deq.state.ne.us/">http://www.deq.state.ne.us/</a></p> <ul style="list-style-type: none"> <li>Iowa Dept. Natural Resources (DNR) <a href="http://www.iowadnr.com/land/consites/index.html">http://www.iowadnr.com/land/consites/index.html</a></li> </ul> <p>FAQs about USTs: <a href="http://www.epa.gov/swerust1/faqs/index.htm">http://www.epa.gov/swerust1/faqs/index.htm</a></p>
<p><b>5. Endangered Species</b></p> <p><b>Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), particularly section 7 (16 U.S.C. 1536)</b></p> <p><b>50 CFR Part 402 "Endangered Species Act" (DOI &amp; Commerce)</b></p>	<ul style="list-style-type: none"> <li>Acquisition of undeveloped land</li> <li>Conversion of land use</li> <li>Demolition</li> <li>Major rehabilitation</li> <li>New construction</li> </ul>	<p>Project is likely to affect, or may affect, any Federally listed endangered or threatened species or habitat.</p>	<p>Contact the US Fish and Wildlife Service (USFWS) to determine if a listed species or habitat is present in the project action area or may be affected by the project.</p> <p>General information on listed species and habitats: <a href="http://endangered.fws.gov/wildlife.html#Species">http://endangered.fws.gov/wildlife.html#Species</a></p> <p>USFWS Critical Habitat online mapper: <a href="http://crithab.fws.gov/">http://crithab.fws.gov/</a></p> <p>Kansas listed species: <a href="http://ecos.fws.gov/tess_public/servlet/gov.doi.tess_public.servlets.RegionLists?leadregion=6#KS">http://ecos.fws.gov/tess_public/servlet/gov.doi.tess_public.servlets.RegionLists?leadregion=6#KS</a></p> <p>Missouri listed species: <a href="http://mdcgis.mdc.mo.gov/heritage/">http://mdcgis.mdc.mo.gov/heritage/</a> (USFWS &amp; state Natural Heritage Database)</p> <p>Also: Federal listings <a href="http://midwest.fws.gov/endangered/lists/missouri-city.html">http://midwest.fws.gov/endangered/lists/missouri-city.html</a> and State listings: <a href="http://mdc.mo.gov/nathis/endangered/">http://mdc.mo.gov/nathis/endangered/</a></p> <p>Nebraska listed species:</p>	<p>If a listed species or habitat is present, consultation is required under Section 7 of the Endangered Species Act to determine if the proposed activity will adversely affect the subject species or habitat.</p> <p>Step-by-step consultation: <a href="http://www.fws.gov/midwest/endangered/section7/s7process/7a2process.html">http://www.fws.gov/midwest/endangered/section7/s7process/7a2process.html</a></p> <p>When required, a biological assessment must be prepared by a qualified professional (e.g., biologist or botanist) explaining the likely effect on the species or habitat.</p>	<p>Section 7 consultation: <a href="http://www.fws.gov/midwest/endangered/section7/index.html">http://www.fws.gov/midwest/endangered/section7/index.html</a></p> <p>U.S. Fish &amp; Wildlife Ecological Services Field offices:</p> <p>Kansas</p> <ul style="list-style-type: none"> <li>315 Houston St, Rm E; Manhattan, KS 66502-6172 (785-539-3474)</li> </ul> <p>Missouri</p> <ul style="list-style-type: none"> <li>101 Park DeVille Dr. Suite A Columbia, MO 65203-0057 (573-234-2132)</li> </ul> <p>Nebraska</p> <ul style="list-style-type: none"> <li>203 West 2nd St. Second Floor Grand Island, NE 68801 (308-382-6468)</li> </ul> <p>Iowa</p> <ul style="list-style-type: none"> <li>4469 48th Ave Court Rock Island, IL 61201 (309-793-5800)</li> </ul> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/ga/endangeredspecies.cfm">http://www.hud.gov/offices/cpd/environment/review/ga/endangeredspecies.cfm</a></p>

			<p><a href="http://ecos.fws.gov/tess_public/servlet/gov.doi.tess_public.servlets.RegionLists?lead_region=6#NE">http://ecos.fws.gov/tess_public/servlet/gov.doi.tess_public.servlets.RegionLists?lead_region=6#NE</a></p> <p>Iowa counties:  <a href="http://www.fws.gov/Midwest/Endangered/LISTS/iowa_cty.html">http://www.fws.gov/Midwest/Endangered/LISTS/iowa_cty.html</a></p>		
<p><b>6. Environmental Justice</b></p> <p>E.O. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"</p>	<p>Applies when an adverse impact or condition occurs with respect to an environmental issue; and,</p> <p>When the activity is:</p> <ul style="list-style-type: none"> <li>▪ Acquisition</li> <li>▪ Change of land use</li> <li>▪ Demolition</li> <li>▪ Major rehabilitation</li> <li>▪ New construction</li> </ul>	<p>Project entails adverse health or environmental effects which disproportionately impact a minority or low-income population relative to the community at large.</p> <p>The potential for new or continued adverse health or environmental effects must be considered.</p>	<p>EPA's Geographic Assessment Tool provides information relevant to EJ assessments:  <a href="http://www.epa.gov/enviro/ej/">http://www.epa.gov/enviro/ej/</a></p> <p>Census and geospatial data from local and regional planning agencies. Census data and maps also available at:  <a href="http://factfinder.census.gov/home/saff/main.html">http://factfinder.census.gov/home/saff/main.html</a></p> <p>and:  <a href="http://www.census.gov/">http://www.census.gov/</a></p> <p>Tract-level data on race &amp; income:  <a href="http://www.ffiec.gov/geocode/default.htm">http://www.ffiec.gov/geocode/default.htm</a></p>	<p>Perform an EJ analysis using census, geographic and other data to determine if a low-income/minority population is disproportionately impacted.</p> <p>If susceptible populations are impacted:</p> <ul style="list-style-type: none"> <li>• Mitigation or avoidance of adverse impacts must be considered to the extent practicable; and,</li> <li>• Public participation processes must involve the affected population(s) in the decision-making process.</li> </ul>	<p>EJ maps &amp; analysis, by location:  <a href="http://www.scorecard.org/community/ej-index.tcl">http://www.scorecard.org/community/ej-index.tcl</a></p> <p>EPA Maps:  <a href="http://www.epa.gov/compliance/environmentaljustice/assessment.html">http://www.epa.gov/compliance/environmentaljustice/assessment.html</a></p> <p>CEQ guide to NEPA &amp; EJ  <a href="http://www.epa.gov/compliance/resources/policies/ej/ej_guidance_nepa_ceq1297.pdf">http://www.epa.gov/compliance/resources/policies/ej/ej_guidance_nepa_ceq1297.pdf</a></p> <p>Human Health &amp; Toxicology:</p> <ul style="list-style-type: none"> <li>• CDC (NIOSH)  <a href="http://www.cdc.gov/niosh/topics/chemical.html">http://www.cdc.gov/niosh/topics/chemical.html</a></li> <li>• ATSDR  <a href="http://www.atsdr.cdc.gov/">http://www.atsdr.cdc.gov/</a></li> <li>• EPA (IRIS)  <a href="http://cfpub.epa.gov/ncea/iris/index.cfm">http://cfpub.epa.gov/ncea/iris/index.cfm</a></li> </ul> <p>HUD Q&amp;A:  <a href="http://www.hud.gov/offices/cpd/environment/review/ga/environmentaljustice.cfm">http://www.hud.gov/offices/cpd/environment/review/ga/environmentaljustice.cfm</a></p>
<p><b>7. Explosive and Flammable Operations</b></p> <p>Housing and Community</p>	<p>Residential project when the activity is:</p> <ul style="list-style-type: none"> <li>▪ New construction</li> <li>▪ Rehabilitation, where unit density increased</li> <li>▪ Conversion of land</li> </ul>	<p>Project is located within sight of or in proximity to a stationary hazardous facility that stores, handles or processes chemicals or petrochemicals of an explosive or flammable</p>	<p>Site inspection, aerial photo analysis and/or contact local fire protection or emergency management agencies as to presence of hazardous industrial operations in vicinity of project.</p>	<p>Calculate the acceptable separation distance (ASD) per guidebook HUD-1060-CPD (1996), "Siting of HUD-Assisted Projects Near Hazardous Facilities," and apply appropriate mitigation</p>	<p>Contact HUD Field Environmental Officer for tanks having over 1 million-gallon capacity.</p> <p>HUD explosive/ flammable hazard guidebook:</p>

<p>Development Act of 1974, as amended.</p> <p>24 CFR Part 51 Subpart C "Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature" (HUD)</p>	<p>use from non-residential to residential use</p> <ul style="list-style-type: none"> <li>▪ <i>Vacant building made habitable</i></li> </ul> <p>or</p> <p><i>Any project for industrial, commercial, institutional, or recreational use when the activity is:</i></p> <ul style="list-style-type: none"> <li>▪ New construction</li> <li>▪ Conversion of land use</li> </ul>	<p>nature, such as liquid propane, gasoline or other above-ground storage tanks.</p> <p>Mobile tanks, (including railroad cars), buried tanks, residential tanks for 1-4 unit housing, and tanks with less than 100-gallon capacity and having common fuels are excluded.</p>	<p>Contact local operator of such facility to determine the type and volume of fuels and chemicals of an explosive or flammable nature.</p>	<p>measures or reject the site.</p> <p>Electronic calculator of ASD: <a href="http://www.hud.gov/offices/cpd/environment/training/guidebooks/hazfacilities/">http://www.hud.gov/offices/cpd/environment/training/guidebooks/hazfacilities/</a></p> <p>Mitigation may include construction of a barrier of adequate size and strength to protect the building and occupants.</p>	<p><a href="http://www.hud.gov/offices/cpd/environment/training/guidebooks/hazfacilities/">http://www.hud.gov/offices/cpd/environment/training/guidebooks/hazfacilities/</a></p> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/explosive.cfm">http://www.hud.gov/offices/cpd/environment/review/explosive.cfm</a> and <a href="http://www.hud.gov/offices/cpd/environment/review/qa/hazardfacilities.cfm">http://www.hud.gov/offices/cpd/environment/review/qa/hazardfacilities.cfm</a></p>
<p><b>8. Farmland Protection</b></p> <p>Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 <i>et seq.</i>), particularly sections 1504(b) &amp; 1541</p> <p>7 CFR Part 658, "Farmland Protection Policy" (USDA)</p>	<ul style="list-style-type: none"> <li>▪ Acquisition of undeveloped land</li> <li>▪ Conversion of undeveloped land</li> <li>▪ New construction</li> <li>▪ Site clearance</li> </ul>	<p>Project is located in area that includes prime farmland, unique farmland, or land of statewide or local importance. Can include forest land, pastureland or cropland, but not water or urbanized land. Urban land is exempt if the land is "already in" or "committed" to urban development per 7 CFR 685.2(a).</p>	<p>NRCS soil maps (95% of nation's counties): <a href="http://websoilsurvey.nrcs.usda.gov/app/">http://websoilsurvey.nrcs.usda.gov/app/</a></p> <p>Alternatively, contact local Natural Resources Conservation Service (NRCS) office to determine the potential presence of protected farmland.</p>	<p>Site assessment by NRCS is required to determine impact of the farmland conversion. Form #AD-1006 rates 12 criteria. Sponsor must submit form to NRCS, which has 45 days to make a determination.</p> <p>Form AD-1006 and instructions: <a href="http://www.nrcs.usda.gov/programs/fppa/pdf_files/AD_1026_Instruct.pdf">http://www.nrcs.usda.gov/programs/fppa/pdf_files/AD_1026_Instruct.pdf</a></p>	<p>County offices for Natural Resources Conservation Services (NRCS) listed at: <a href="http://offices.sc.egov.usda.gov/locator/app">http://offices.sc.egov.usda.gov/locator/app</a></p> <p>NRCS and FPPA: <a href="http://www.nrcs.usda.gov/programs/fppa/">http://www.nrcs.usda.gov/programs/fppa/</a></p> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/qa/farmlandprotection.cfm">http://www.hud.gov/offices/cpd/environment/review/qa/farmlandprotection.cfm</a></p>
<p><b>9. Floodplain Management</b></p> <p>E.O. 11988, "Floodplain Management", particularly section 2(a).</p> <p>24 CFR Part 55 "Floodplain Management" (HUD)</p>	<ul style="list-style-type: none"> <li>▪ Acquisition for construction or for existing bldg &gt;4 units</li> <li>▪ Disposition &gt;4 units</li> <li>▪ Financing &gt;4 units</li> <li>▪ Leasing &gt;4 units</li> <li>▪ New construction</li> <li>▪ Substantial Rehabilitation &gt;4 units housing (rehab cost &gt;50% pre-rehab value or &gt;20% density)</li> </ul>	<p>Project is located within a Special Flood Hazard Area (100-year floodplain), or, if a critical action (e.g., nursing home; hospital; fire station) is located in a 500-year floodplain.</p>	<p>FEMA Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Map (FHBM).</p> <p>FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: <a href="http://www.store.msc.fema.gov">http://www.store.msc.fema.gov</a></p> <p>For unmapped areas, FEMA Community Status Book can</p>	<p>Avoid direct or indirect support of floodplain development wherever there is a practicable alternative.</p> <p>Approval of project requires compliance with the decision-making provisions of §55.20, i.e., the "eight-step" process.</p> <p>Project may be approved only if there is no practicable alternative outside the floodplain. Project must</p>	<p>FEMA: <a href="http://www.fema.gov/business/nfip/fmapinfo.shtml">http://www.fema.gov/business/nfip/fmapinfo.shtml</a></p> <p>State Floodplain Managers: <a href="http://www.floods.org/StatePOCs/map.asp">http://www.floods.org/StatePOCs/map.asp</a></p> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/qa/floodplainmgmt.cfm">http://www.hud.gov/offices/cpd/environment/review/qa/floodplainmgmt.cfm</a></p>

	increase)		provide information on flood hazards: <a href="http://www.fema.gov/fema/csb.shtm">www.fema.gov/fema/csb.shtm</a>	apply appropriate mitigation.	
<p><b>10. Historic Preservation</b></p> <p>National Historic Preservation Act of 1966 (16 U.S.C. 470 <i>et seq.</i>), particularly sections 106 &amp; 110.</p> <p>36 CFR Part 800 "Protection of Historic Properties" (ACHP)</p>	<p>Any undertaking having the potential to cause effect, such as:</p> <ul style="list-style-type: none"> <li>▪ Acquisition</li> <li>▪ Demolition</li> <li>▪ Disposition</li> <li>▪ Ground disturbance</li> <li>▪ New construction</li> <li>▪ Rehabilitation</li> </ul>	<p>Project's area of potential effects [see §800.16(d)] contains:</p> <ul style="list-style-type: none"> <li>▪ A property listed in, or eligible for listing in, the National Register of Historic Places; or,</li> <li>▪ An historic district listed in, or eligible for listing in, the National Register of Historic Places; or,</li> <li>▪ Compelling evidence of the high probability of archeological resources eligible for listing in the National Register of Historic Places.</li> </ul> <p>National Register Eligibility Criteria: <a href="http://www.achp.gov/nrcriteria.html">http://www.achp.gov/nrcriteria.html</a></p>	<p>Information on historic resources available from National, State, Tribal and local registers/sources:</p> <ul style="list-style-type: none"> <li>▪ National Register <a href="http://www.nr.nps.gov/">http://www.nr.nps.gov/</a></li> <li>▪ State Historic Preservation Office (SHPO) <a href="http://ncshpo.org">http://ncshpo.org</a></li> <li>▪ Tribal Historic Preservation Office (THPO) <a href="http://www.nathpo.org">http://www.nathpo.org</a></li> <li>▪ Certified Local Government (CLG) preservation staff.</li> </ul>	<p>Afford the Advisory Council on Historic Preservation a reasonable opportunity to comment, consistent with the procedures of 36 CFR Part 800 implementing the Section 106 process. Consultation with the SHPO is required. Consultation with THPO and interested parties and public participation may be required.</p> <p>The Section 106 process includes initiation of the process [§800.3], identification of historic properties [§800.4], assessment of adverse effects [§800.5], and resolution of adverse effects [§800.6].</p> <p>A Memorandum of Agreement (MOA) stipulates how adverse effects will be resolved. Guidance on writing MOAs: <a href="http://www.npi.org/tools.html">http://www.npi.org/tools.html</a></p> <p>HUD database of Section 106 agreements (MOA &amp; PA): <a href="http://www.hud.gov/offices/cpd/environment/section106/index.cfm">http://www.hud.gov/offices/cpd/environment/section106/index.cfm</a></p>	<p>Advisory Council: <a href="http://www.achp.gov">http://www.achp.gov</a></p> <p>State Historic Preservation Officers (SHPOs): <a href="http://www.ncshpo.org">http://www.ncshpo.org</a></p> <p>Tribal Historic Preservation Officers (THPOs): <a href="http://www.nathpo.org">http://www.nathpo.org</a></p> <p>Federally-recognized Indian tribes: <a href="http://home.nps.gov/nacd/">http://home.nps.gov/nacd/</a></p> <p>National Register database: <a href="http://www.nr.nps.gov/">http://www.nr.nps.gov/</a></p> <p>National Register: <a href="http://www.cr.nps.gov/nr/index.htm">http://www.cr.nps.gov/nr/index.htm</a></p> <p>Preservation staff of a CLG (Certified Local Govern't) – local contact.</p> <p>NPS technical info: <a href="http://www.cr.nps.gov/hps/tps/index.htm">http://www.cr.nps.gov/hps/tps/index.htm</a></p> <p>Other resource links: <a href="http://www.nal.usda.gov/ric/ricubs/preserve.html">http://www.nal.usda.gov/ric/ricubs/preserve.html</a></p> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/qa/historicproperties.cfm">http://www.hud.gov/offices/cpd/environment/review/qa/historicproperties.cfm</a></p>

<p><b>11. Noise Abatement &amp; Control</b></p> <p>Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978.</p> <p>24 CFR Part 51 Subpart B "Noise Abatement and Control" (HUD)</p>	<p><i>Residential and other noise-sensitive developments (e.g., hospitals, nursing homes, day care, community center, etc.)</i></p> <p>Required:</p> <ul style="list-style-type: none"> <li>▪ Acquisition for residential or noise-sensitive use</li> <li>▪ Conversion of land use from non-residential to residential</li> <li>▪ New construction</li> </ul> <p>Encouraged:</p> <ul style="list-style-type: none"> <li>▪ Rehabilitation</li> </ul>	<ul style="list-style-type: none"> <li>• Project is located within:             <ul style="list-style-type: none"> <li>• 1,000 feet of major/busy road,</li> <li>• 3,000 feet of railway,</li> <li>• 15 miles of airport (civil or military).</li> </ul> </li> <li>• HUD interior noise goal is 45 decibels (DNL) or lower.</li> <li>• HUD exterior noise goal is 55 decibels (DNL) or lower, although 65 DNL is considered acceptable.</li> </ul>	<p>Noise assessment data sources include: local or state highway departments; local or regional planning departments; public works departments; railroad dispatch offices; and airport operators.</p> <p>Airport noise contour maps are shown on Airport Layout Plan (civil airport) or AICUZ Study (military airfield).</p>	<p>Perform noise assessment in accordance with the Noise Assessment Guidelines (NAG) in guidebook HUD-953-CPD(1). For airports, use the airport's noise contour maps to determine noise levels (the contour lines are expressed in DNL noise levels).</p> <p>Electronic noise level calculator:  <a href="http://www.hud.gov/offices/cpd/environment/dnlcalculator.cfm">http://www.hud.gov/offices/cpd/environment/dnlcalculator.cfm</a></p> <p>Projected noise levels:</p> <ul style="list-style-type: none"> <li>▪ 65-75 DNL – "Normally Unacceptable;" requires mitigation or attenuation.</li> <li>▪ &gt;75 DNL "Unacceptable;" requires rejection in most cases.</li> </ul>	<p>Traffic volumes - Road:</p> <p><b>Iowa</b>  <a href="http://www.iowadotmaps.com/msp/traffic/index.html">http://www.iowadotmaps.com/msp/traffic/index.html</a></p> <p><b>Kansas</b>  <a href="http://www.ksdot.org/burTransPlan/prodinfo/trafdata.asp">http://www.ksdot.org/burTransPlan/prodinfo/trafdata.asp</a></p> <p><b>Missouri</b>  <a href="http://www.modot.mo.gov/safety/trafficvolumemaps.htm">http://www.modot.mo.gov/safety/trafficvolumemaps.htm</a></p> <p><b>Nebraska</b>  <a href="http://www.nebraskatransportation.org/maps/#traffvol">http://www.nebraskatransportation.org/maps/#traffvol</a></p> <p>Rail information:</p> <p><b>Iowa</b>  <a href="http://www.iowadotmaps.com/msp/pdf/Rail_Base.pdf">http://www.iowadotmaps.com/msp/pdf/Rail_Base.pdf</a></p> <p><b>Kansas</b>  <a href="http://www.ksdot.org/burRail/rail/default.asp">http://www.ksdot.org/burRail/rail/default.asp</a></p> <p><b>Missouri</b>            N/A</p> <p><b>Nebraska</b>  <a href="http://www.nebraskatransportation.org/rpt/rail.htm">http://www.nebraskatransportation.org/rpt/rail.htm</a></p> <p>Barrier guidance (FHWA):  <a href="http://www.fhwa.dot.gov/environment/keepdown.htm">http://www.fhwa.dot.gov/environment/keepdown.htm</a></p> <p>HUD noise guidebook:  <a href="http://www.hud.gov/offices/cpd/environment/review/noise.cfm">http://www.hud.gov/offices/cpd/environment/review/noise.cfm</a></p>
<p><b>12. Water Quality (Sole Source Aquifers)</b></p>	<ul style="list-style-type: none"> <li>▪ Acquisition of undeveloped land</li> <li>▪ Change of land use</li> <li>▪ New construction</li> </ul>	<p>Project is located within area of an EPA-designated sole source aquifer, unless project utilizes municipal water</p>	<p>Designated sole source aquifers are listed on EPA web site:  <a href="http://www.epa.gov/safewater/sourcewater/pubs/grg_ss">http://www.epa.gov/safewater/sourcewater/pubs/grg_ss</a></p>	<p>Review of project by Regional EPA Office of Ground Water is required if activity is of a type and size specified in an agreement between EPA and</p>	<p>EPA:  <a href="http://www.epa.gov/safewater/ssanp.html">http://www.epa.gov/safewater/ssanp.html</a></p> <p>EPA &amp; state - source water</p>

<p>Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) <i>et seq.</i>, and 21 U.S.C. 349), particularly section 1424(e)</p> <p>40 CFR Part 149 "Sole Source Aquifers" (EPA)</p>		<p>and sewer and has appropriate local drainage.</p>	<p><a href="#">amap_reg7.pdf</a></p>	<p>HUD.</p> <p>Project may require memorandum of understanding (MOU) with EPA describing compliance to be followed.</p>	<p>protection contacts: <a href="http://cfpub.epa.gov/safewater/sourcewater/sourcewater.cfm?action=Contacts">http://cfpub.epa.gov/safewater/sourcewater/sourcewater.cfm?action=Contacts</a></p> <p>EPA – TDML maps: <a href="http://www.epa.gov/OWOW/tmdl/index.html">http://www.epa.gov/OWOW/tmdl/index.html</a></p> <p>EPA – Septic Systems: <a href="http://cfpub.epa.gov/safewater/sourcewater/sourcewater.cfm?action=Septic">http://cfpub.epa.gov/safewater/sourcewater/sourcewater.cfm?action=Septic</a></p> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/qa/aquifer.cfm">http://www.hud.gov/offices/cpd/environment/review/qa/aquifer.cfm</a></p>
<p><b>13. Wetland Protection</b></p> <p>E.O. 11990, "Protection of Wetlands," particularly sections 2 &amp; 5.</p> <p>Draft 24 CFR Part 55 "Floodplain Management" (42 FR 26961 – 5/25/97)</p>	<ul style="list-style-type: none"> <li>▪ Acquisition of undeveloped land</li> <li>▪ Change of land use</li> <li>▪ New construction</li> <li>▪ Expansion of bldg footprint</li> </ul>	<p>Project is located within, or has impact upon, a wetland.</p>	<p>National Wetlands Inventory maps are listed on FWS site: <a href="http://www.fws.gov/wetlands/data/index.html">http://www.fws.gov/wetlands/data/index.html</a></p> <p>NWI maps are useful as a preliminary screen. Where site inspection or other information indicates potential for a wetland, delineation of a wetland by a qualified professional should occur.</p> <p>For wetlands delineations, contact USACOE, USFWS, USDA- NRCS, USEPA and/or private consultants.</p>	<p>Avoid adverse impacts upon wetlands and direct or indirect support of new construction in wetlands wherever there is practicable alternative.</p> <p>Approval of project requires compliance with the decision-making provisions of §55.20, i.e., the "eight-step" process. Project may be approved only if there is no practicable alternative outside the wetland.</p>	<p>U.S. Army Corp of Engineers: <a href="http://www.usace.army.mil/CE/CW/Pages/reg_faq.aspx">http://www.usace.army.mil/CE/CW/Pages/reg_faq.aspx</a> and <a href="http://www.usace.army.mil/CE/CW/Pages/cecwo_req.aspx">http://www.usace.army.mil/CE/CW/Pages/cecwo_req.aspx</a></p> <p>U.S. Fish and Wildlife Service: <a href="http://wetlands.fws.gov/">http://wetlands.fws.gov/</a></p> <p>EPA: <a href="http://www.epa.gov/owow/wetlands/">http://www.epa.gov/owow/wetlands/</a></p> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm">http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm</a></p>
<p><b>14. Wild &amp; Scenic Rivers</b></p> <p>Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 <i>et seq.</i>), particularly sections 5(d),</p>	<ul style="list-style-type: none"> <li>▪ Acquisition of undeveloped land</li> <li>▪ Change of land use</li> <li>▪ Major rehabilitation</li> <li>▪ New construction</li> </ul>	<p>Project is located within one (1) mile of a designated Wild &amp; Scenic River, or river being studied as a potential component of the Wild &amp; Scenic River system.</p> <p>Project is located upstream, downstream, or</p>	<p>Designated wild and scenic rivers are listed on the National Park Service: <a href="http://www.rivers.gov/wildriverslist.html">http://www.rivers.gov/wildriverslist.html</a></p> <p>GIS shape files (maps) can also be downloaded from this site.</p>	<p>For a Designated River or Study River, determination from the National Park Service (NPS) must be obtained, with finding that the project will not have a direct and adverse effect on the river nor invade or diminish values associated with such rivers.</p>	<p>National Park Service: <a href="http://www.nps.gov/rivers/">http://www.nps.gov/rivers/</a> and <a href="http://www.nps.gov/ncrc/programs/rtca/nri/auth.html">http://www.nps.gov/ncrc/programs/rtca/nri/auth.html</a></p> <p>NEPA Guidance: <a href="http://www.nps.gov/ncrc/programs/rtca/nri/hist.html">http://www.nps.gov/ncrc/programs/rtca/nri/hist.html</a></p>

<p>7(a), 7(b) &amp; (c). 36 CFR Part 297 "Wild and Scenic Rivers" (USDA)</p>		<p>on a tributary of river that is designated, studied or has potential for listing on the system.</p> <p>Protected rivers are designated, study and NRI rivers.</p>	<p>Study Rivers (potential wild and scenic rivers): <a href="http://www.rivers.gov/study.html">http://www.rivers.gov/study.html</a></p> <p>National River Inventory (NRI) listed rivers: <a href="http://www.nps.gov/ncrc/programs/rtca/nri/">http://www.nps.gov/ncrc/programs/rtca/nri/</a></p>	<p>For NRI rivers, consultation with NPS is recommended to identify and eliminate direct and adverse effects.</p>	<p>Publications: <a href="http://www.rivers.gov/publications.html#guidelines">http://www.rivers.gov/publications.html#guidelines</a></p>
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**24 CFR Part 58.6 – Other Requirements**

<p><b>1. Airport Clear Zones</b></p> <p>24 CFR Part 51 Subpart D "Siting of HUD-Assisted Projects in Clear Zones and Accident Potential Zones" (HUD)</p>	<ul style="list-style-type: none"> <li>▪ Purchase or sale of real property</li> </ul>	<p>Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway.</p>	<p>Airport clear zone maps available from airport operations authority.</p>	<p>Purchase or sale of a property in a CZ requires notification to buyer per 24 CFR Part 58.6(d).</p> <p>The notice informs the prospective buyer of potential hazards from airplane accidents and the potential by airport or airfield operators who may wish to purchase the property at some point in the future.</p>	<p>Contact airport operator or nearest FAA District office.</p> <p>Sample notice and HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/ga/airport.cfm">http://www.hud.gov/offices/cpd/environment/review/ga/airport.cfm</a></p>
<p><b>2. Coastal Barriers</b></p> <p>Coastal Barrier Resources Act, as amended (16 U.S.C. 3501)</p>	<ul style="list-style-type: none"> <li>▪ All activities having a physical impact</li> </ul>	<p>Project is located in a community listed in the Coastal Barrier Resources System (CBRS).</p>	<p>CBRS maps on FEMA web site: <a href="http://coastalmanagement.noaa.gov/mystate/welcome.html">http://coastalmanagement.noaa.gov/mystate/welcome.html</a></p> <p>Coastal barriers also displayed on FEMA Flood Insurance Rate Maps (FIRM).</p>	<p>Federal funding is prohibited for projects located within a designated coastal barrier.</p>	<p>FEMA: <a href="http://www.fema.gov/pdf/nfip/manual200505/18cbars.pdf">http://www.fema.gov/pdf/nfip/manual200505/18cbars.pdf</a></p> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/ga/coastal.cfm">http://www.hud.gov/offices/cpd/environment/review/ga/coastal.cfm</a></p>
<p><b>3. Flood Insurance</b></p> <p>Federal Disaster Protection Act of 1973, as amended. National Flood Insurance</p>	<p>All HUD programs that provide assistance to buildings.</p> <p><b>Exceptions:</b></p> <ul style="list-style-type: none"> <li>▪ Leasing without rehab, acquisition or improvements</li> <li>▪ Loans &lt; \$5,000 repaid within 1 year</li> </ul>	<p>Project is located within Special Flood Hazard Area (SFHA is the 100-year floodplain).</p>	<p>FEMA Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM).</p> <p>FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: <a href="http://www.store.msc.fema.gov">http://www.store.msc.fema.gov</a></p>	<p>Property owner must purchase and maintain flood insurance protection.</p> <p>Coverage is limited to the building and improvements only. No coverage is available for land.</p> <p>Coverage requirements:</p>	<p>FEMA "Mandatory Purchase of Flood Insurance" Guidelines: <a href="http://www.fema.gov/library/viewRecord.do?id=2954">http://www.fema.gov/library/viewRecord.do?id=2954</a></p> <p>FEMA Nat'l Flood Insurance Program (NFIP): <a href="http://www.fema.gov/business/nfip/index.shtm">http://www.fema.gov/business/nfip/index.shtm</a> and</p>

<p>Reform Act of 1994 (42 U.S.C. sec 4001f)</p> <p>44 CFR Parts 59-77 "Regulations of the National Flood Insurance Program" (FEMA)</p>	<ul style="list-style-type: none"> <li>▪ Maintenance</li> <li>▪ State-administered formula grants (i.e., CDBG, HOME &amp; ESG programs)</li> </ul> <p><u>Inapplicable:</u></p> <ul style="list-style-type: none"> <li>▪ Improvements or repairs costing less than the deductible of a standard flood insurance policy on a building (current FEMA deductible is \$500).</li> </ul>		<p><a href="#">ov</a></p>	<ul style="list-style-type: none"> <li>▪ Grants – Term is for life of the building, regardless of transfer of ownership; and coverage amount is equal to total project cost (up to maximum coverage limit).</li> <li>▪ Loans – Term equal to that of the loan; coverage amount equal to that of the loan (up to maximum coverage limit).</li> </ul>	<p>FEMA "FloodSmart": <a href="http://www.floodsmart.gov/floodsmart/pages/index.jsp">http://www.floodsmart.gov/floodsmart/pages/index.jsp</a></p> <p>Community status of participation in National Flood Insurance Program: <a href="http://www.fema.gov/fema/csb.shtm">www.fema.gov/fema/csb.shtm</a></p> <p>HUD Q&amp;A: <a href="http://www.hud.gov/offices/cpd/environment/review/ga/floodinsurance.cfm">http://www.hud.gov/offices/cpd/environment/review/ga/floodinsurance.cfm</a></p>
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# CODE OF FEDERAL REGULATIONS

## for HUD Environmental Review

[24 CFR 58]

Note: The most current electronic version of these regulations is available at: [<http://ecfr.gpoaccess.gov>] Consult this website to ensure the most up to date version of the regulations are being used.

### **Title 24: 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.

**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, 4332, 4852, 5304(g), 11402, 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.

§ 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, particularly sections 2 and 5.

(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]

#### § 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.

(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]

## 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, 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 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]

#### § 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 responsible entity must use the current HUD-recommended formats or develop equivalent formats.

(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.

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

#### § 58.40 Preparing the environmental assessment.

The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, 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) Examine alternatives to the project itself, if appropriate, including the alternative of no action.

(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.

#### § 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.