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HUD Frequently Asked Environmental Questions

The Environment Q&A Forum provides answers to the most frequently asked questions regarding environmental review and does not cover all environmental hazards subject to environmental review. For the reader's convenience, the blue highlight and underline in the index page indicates a hot link to the chapter by that title, for example [Environmental Clearance](#). In addition, the blue highlight and underline within the chapter itself is a hot link to the particular section of the law, regulation, or other information source that supports of the answer to the question. Each question has its own subject heading.

For a complete list of subjects that must be covered in an environmental review to accomplish environmental clearance, go to the heading [Environmental Clearance](#) and then go to the subheading [Subjects for Environmental Clearance: By Type of Assisted Activity](#). There the reader will find the protocol that provides specific questions for the recipient to answer for each property proposed for the project. The index below does not cover all subjects for the environmental review.

Table of Contents

AIR POLLUTION HAZARDS	1
Air Pollution Hazards.....	1
Question: How does the environmental review for a HUD-assisted project consider air pollution hazards?	1
State Implementation Plan for Clean Air.....	1
Question: What sources of information are available to make the determination of conformity with the State Implementation Plan (SIP)?.....	1
AIRPORT HAZARDS	2
Airport Runway Clear Zones	2
Question: When must the environmental review evaluate airport hazards to HUD-assisted project proposed near an airport?.....	2
Covered Activities.....	2
Question: What HUD-assisted activities are covered by the requirement for impact review of airport runway clear zones?	2
Notice to Prospective Buyers of Properties Located in Runway Clear Zones	3
Question: What does the notice look like?	3
COASTAL AREA PROTECTION	5
Coastal Area Protection	5
Question: When must the environmental review give special consideration to the protection and management of coastal areas?.....	5
Information Sources for Coastal Area Protection.....	5
Question: How do I determine whether a project: (i) is located within designated Coastal Barrier Resources; and (ii) is consistent with the State’s Coastal Zone Management (CZM) Program?.....	5
ENDANGERED SPECIES PROTECTION	6
Endangered Species Protection	6
Question: Must the environmental review consider potential impacts of the HUD-assisted project to endangered and threatened species and critical habitats?.....	6
Section 7 Consultation for Protecting Endangered Species.....	6
Question: How does the Section 7 consultation apply to HUD-assisted projects?	6

Single Family Home Mortgage Insurance	6
Question: Do HUD endorsements for single-family home mortgage insurance require compliance with the Endangered Species Act?	6
 ENVIRONMENTAL CLEARANCE	 8
Project Begins Without Completed Environmental Clearance.....	8
Question: What if a project is started prior to compliance with HUD environmental procedures?	8
Recipient’s Developers and Owners Participating in HUD Assisted Projects.....	8
Question: Doesn’t the limitations on activities pending environmental clearance apply only to the grant recipient?.....	8
Limitations on Activities Pending Environmental Clearance	8
Question: Assuming the environmental assessment has covered all environmental issues, can a Finding of No Significant Impact (FONSI) be made where a Memorandum of Agreement (MOA) is being negotiated with respect to the proposed acquisition of a historic property identified by the State Historic Preservation Officer (SHPO) as needing compliance with the historic preservation Section 106 review and consultation process (36 CFR 800)? What alternatives are available to get the project underway without waiting?	8
Real Estate Options.....	9
Question: What alternatives are available to get the site control portion of a HUD-assisted project underway prior to environmental clearance?.....	9
Exceptions.....	9
Question: Are there any exceptions for permitting project activities prior to completion of environmental review?.....	9
Exemptions for Tax-exempt Bond Financing.....	10
Question: If a project is being funded in part by tax-exempt Empowerment Zone (EZ) bonds, but no other HUD Round II EZ dollars are being used for the project, do the environmental review requirements still apply? Obviously NEPA applies to all Federal grants (for certain types of activities), but as the bonds are an indirect Federal benefit in the form of reduced tax liability, would an EZ still need to go through the environmental review process? If yes, would it be incumbent upon the HUD office to do the review (as they would for projects using HUD EZ dollars), or, say, Treasury?.....	10
Revolving Loan Fund and Environmental Clearance.....	10
Question: Does environmental review apply to activities assisted by a revolving loan fund?10	
Subjects for Environmental Clearance: By Type of Assisted Activity	10
Question: What kinds of subjects must be covered in an environmental review to accomplish environmental clearance?.....	10
Tiering the Review and Non-Site Specific Environmental Analysis	12

Question: How does one perform an environmental review for anticipated activities for which project sites and locations are to be determined in the future? 12

ENVIRONMENTAL JUSTICE..... 14

Environmental Justice..... 14

Question: Is it necessary for the environmental review for a HUD-assisted project to evaluate environmental justice issues?..... 14

Information on Environmental Justice..... 14

FARMLANDS PROTECTION 15

Farmlands Protection..... 15

Question: When must the environmental review for a HUD-assisted project include an evaluation of the impacts to farmlands? 15

Protecting Farmlands..... 15

Question: What is the authority for the requirement to protect farmland?..... 15

Information Sources for Protecting Farmlands..... 15

Question: Where is information available on prime and unique farmlands? 15

FLOOD INSURANCE PURCHASE 16

Relationship to Floodplain Management Requirements..... 16

Question: When HUD recipients comply with the flood insurance purchase requirements, is that sufficient, or must recipients also comply with HUD’s floodplain management requirements?..... 16

Flood Insurance Purchase: Protecting financial loss due to flooding damage..... 16

Question: When is flood insurance purchase mandatory?..... 16

Special Flood Hazard Areas..... 16

Question: Where are Special Flood Hazards Areas (SFHA) located?..... 16

Insurance Coverage 17

Question: What duration and amount of flood insurance coverage is required?..... 17

Exceptions..... 17

Question: Are there any exceptions to the flood insurance purchase requirements? 17

Effect of Non-participation in the National Flood Insurance Program..... 18

Question: What if flood insurance is not any longer available in the community in which the assisted SFHA property is located? 18

Federal Disaster Relief Assistance	18
Question: What if the property owner failed to maintain flood insurance on a SFHA property previously assisted with Federal disaster relief assistance?.....	18
Small Repairs	19
Question: Does HUD financial assistance for small repairs require compliance with the flood insurance purchase requirement?.....	19
Maintenance Activities	19
Question: Does HUD financial assistance for maintenance activities require compliance with flood insurance purchase requirement?	19
Environmental Exemptions and Categorical Exclusions	19
Question: Is compliance with flood insurance purchase requirements required for the exempt activities listed in 24 CFR 58.34 or to the categorical exclusions listed in 24 CFR 58.35?.....	19
Homeowner Property Casualty Insurance	20
Question: Doesn't the homeowner property casualty insurance cover financial loss due to flooding damage?.....	20
HUD Subsidy and Limited-income Property Owners	20
Question: Can HUD grant assistance be used to subsidize the purchase and maintenance of flood insurance protection for low-income owners of SFHA property?	20
FLOODPLAIN MANAGEMENT	21
Relationship to Flood Insurance Purchase Requirements	21
Question: When HUD recipients comply with the floodplain management requirements, is that sufficient, or must recipients also comply with HUD's flood insurance purchase requirements?.....	21
Protecting floodplains and wetlands: Executive Orders 11988 and 11990	21
Question: Must the environmental review evaluate the impacts to a floodplain or wetland that may be caused by a proposed HUD-assisted project?	21
Question: What is the purpose and basic responsibility of these Executive Orders?	21
Exceptions	22
Floodplains and Designated Wetlands	22
Question: Where are floodplains and designated wetlands located?.....	22
Single-Family Homes	22
Question: Do these procedures apply to assistance for existing single-family homes?	22
Critical Actions	23
Question: What HUD assisted projects are to be considered a "critical action" in the floodplain?	23

HAZARDOUS INDUSTRIAL OPERATIONS24

Hazardous Industrial Operations..... 24

Question: Must the environmental review for the HUD-assisted project consider nearby hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature?..... 24

Acceptable Separation Distance from Hazardous Industrial Operations 24

Information Sources on Local Hazardous Industrial Operations..... 24

Question: How do I determine whether the property is located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature? 24

HISTORIC PROPERTIES.....26

Historic Properties 26

Question: When must the environmental review for a HUD-assisted project include an evaluation of the impacts to historic properties? 26

Question: What regulations are to be followed for historic preservation processing? 26

Information sources for historic properties 27

Question: Where is information available on historic properties? 27

EZ/EC and Historic Properties 27

Question: Does Section 106 for historic preservation processing apply to the Empowerment Zone/Enterprise Communities (EZ/EC) program? 27

Emergency Demolition of Public Housing Structures and Section 106 Applicability 28

Question: What Section 106 procedural and documentation requirements apply to emergency undertakings? 28

SHPO/THPO Response Within 30 Days..... 29

Question: Is the failure of the SHPO/THPO to respond within the 30-day period considered agreement of the SHPO/THPO with the finding required at 36 CFR 800.5(c)(1) and fulfillment of the SHPO/THPO 106 review responsibilities?..... 29

Example of a Memorandum of Agreement (MOA) for Historic Properties 29

INTERGOVERNMENTAL REVIEW32

Intergovernmental Review 32

Question: When do the requirements for intergovernmental review apply? 32

Question: What HUD programs require compliance with intergovernmental review?..... 32

Question: What other HUD programs require compliance with intergovernmental review? 32

Question: What Federal agency has the lead responsibility for Executive Order 12372? 33

LEASING	34
Leasing and Environmental Review Requirements.....	34
Question: What is the environmental review policy for HUD assisted leasing that does not involve property repairs, rehabilitation, acquisition, or new construction?.....	34
Question: What is the environmental review policy for HUD assisted leasing that includes property repairs, rehabilitation, acquisition, or new construction?.....	34
Rental vouchers and environmental review	34
Information sources for assisted leasing and environmental review	35
Question: What other information is available on the subject of leasing assistance and environmental review?.....	35
RESPONSIBLE ENTITIES	36
Responsible Entities.....	36
Question: Who can serve as the responsible entity?.....	36
HUD Programs Subject to 24 CFR Part 58.....	36
Question: What HUD programs are authorized to allow the responsible entity to assume HUD’s environmental review responsibilities under 24 CFR part 58.....	36
Special Purpose Grants Under Part 58.....	37
Question: What are the environmental procedures for special purpose grants?.....	37
Homeless Assistance Grants Under Part 58.....	37
Question: Do Part 58 procedures apply to Special Needs Assistance Program grants received by private nonprofit organizations and governmental entities with special or limited purpose powers (i.e., public housing agencies)?	37
SOLE SOURCE AQUIFER	40
Sole Source Aquifer	40
Question: Must the environmental review for a HUD-assisted project include an evaluation of the impacts to a sole source aquifer or other aquifer?	40
Protecting Sole Source Aquifers or Other Aquifers	40
Question: What is the authority for the requirement to protect sole source aquifers?.....	40
Information Sources for Protecting Sole Source Aquifers.....	40
Question: Where is information available on sole source aquifers?.....	40
TOXIC HAZARDS	41
Toxic Chemicals and Radioactive Hazards	41

Question: How does the environmental review for HUD-assisted projects address toxic chemicals or radioactive hazards?	41
Projects Under 24 CFR part 58	41
Question: Does HUD policy at 24 CFR 50.3(i) apply to projects subject to 24 CFR part 58?	41
ASTM Phase I	42
Question: Does HUD policy require an ASTM Phase I for the environmental review?	42
Existing Real Properties	42
Question: Does HUD policy at 24 CFR 50.3(i) apply to assisted existing real properties? ...	42
 WILD AND SCENIC RIVERS	 43
Wild and Scenic Rivers	43
Question: When must the environmental review for a HUD-assisted project include an evaluation of the impacts to wild and scenic rivers?	43
Protecting Wild and Scenic Rivers	43
Question: What is the authority for the requirement for protecting wild and scenic rivers?..	43
Information Sources for Protecting Wild and Scenic Rivers	43
Question: Where is information available on wild and scenic rivers?	43

AIR POLLUTION HAZARDS

Air Pollution Hazards

Question: How does the environmental review for a HUD-assisted project consider air pollution hazards?

Answer:

The environmental review should determine whether the particular location is suitable for the particular project from the perspective of air pollution hazards: (i) from nearby stack emissions, toxic releases, etc. and (ii) from emissions due to nearby traffic and parking congestion. HUD assisted new construction, demolition, conversion of land use, major rehabilitation of existing buildings, and the acquisition of undeveloped land are subject to the requirements of the Clean Air Act ([42 U.S.C. 7401 et seq.](#)). For HUD policy, see [24 CFR 58.5\(g\)](#) or [24 CFR 50.4 \(h\)](#). For projects subject to [Part 50](#), HUD must make a determination as to whether the proposed action conforms to the air quality State Implementation Plan (SIP) and indicate any unresolved conflicts with the SIP (see below). Similarly, for projects subject to Part 58, the Responsible Entity must make this conformity determination and indicate any unresolved conflicts with the SIP. The project may need to be modified or mitigation measures developed and implemented as a result of the environmental review.

State Implementation Plan for Clean Air

Question: What sources of information are available to make the determination of conformity with the State Implementation Plan (SIP)?

Answer:

Information is available from the State and local government agency responsible for implementing clean air standards for the community in which the HUD-assisted project is located. For HUD e-maps: <http://www.hud.gov/offices/cio/emaps/index.cfm>

For information on toxic releases regarding CERCLIS, RCRIS, landview mapping maintained by the Right-to-Know Network, see: <http://www.rtk.net/>.

For information maintained by the Environmental Protection Agency relating to State Air Programs and the Office of Attorney General providing Air Enforcement activities and data compilations, see: <http://es.epa.gov/oeca/ore/aed/links/index.html>

AIRPORT HAZARDS

Airport Runway Clear Zones

Question: When must the environmental review evaluate airport hazards to HUD-assisted project proposed near an airport?

Answer:

If the project is within 3,000 feet from the end of a runway at a civil airport or 2-1/2 miles from the end of a runway at a military airfield, compliance is required with [24 CFR Part 51, Subpart D](#).

For properties located within 3,000 feet of a civil airport or 2-1/2 miles from the end of a runway at a military airfield, the environmental review must include a written finding made by the airport or airfield operator stating whether or not the property proposed for assistance is located within a runway CZ (civil airport) or CZ or APZ (military airfield) [24 CFR 50.4\(k\)](#) and [24 CFR 58.5\(i\)](#) and [58.6\(d\)](#). See below for covered activities.

Covered Activities

Question: What HUD-assisted activities are covered by the requirement for impact review of airport runway clear zones?

Answer:

HUD policy described in [24 CFR Part 51, Subpart D](#) applies to assisted properties located within Clear Zones (CZ) in the case of proposed new construction, major or substantial rehabilitation (as defined below) of an existing structure, and acquisition of undeveloped land. This HUD policy also applies to properties located within Accident Potential Zones (APZ). Assisted construction or major rehabilitation of any property located on a clear zone site is prohibited for a project to be frequently used or occupied by people. Clear Zones are also referred to as "Runway protection zones."

Rehabilitation (including conversion) is "major" or "substantial" when the estimated cost of the work is 75 percent or more of the total estimated cost of replacement after rehabilitation or, in the case of property in an APZ, when the work would change the use of the facility to a use that is not generally consistent with the recommendations of the Department of Defense's (DOD) "Land Use Compatibility Guidelines for Accident Potential Zones," or significantly increases the density or number of people at the site [24 CFR 51.302\(b\)\(1\)](#)

The provision of HUD financial assistance in a CZ is allowed for properties proposed for acquisition or lease with or without minor rehabilitation or repair [24 CFR 51.302 \(c\)](#). Upon approval for acquisition or lease of a property in a CZ, advance written notice must be given to the prospective property buyer or lessor in accordance with [24 CFR 51.303\(a\)\(3\)](#) and a copy of the HUD notice signed by the prospective property buyer or lessor must be placed in the property file (for a sample notice, see below). The written notice informs the prospective buyer or lessor of the potential hazards from airplane accidents which studies have shown are more likely to

occur within clear zones than in other areas around an airport/airfield and the potential by airport or airfield operators, who may wish to purchase the property at some point in the future as part of a clear zone acquisition program.

For properties located in an APZ, the environmental review must include a determination as to whether the use of the property is generally consistent with DOD guidelines.

Notice to Prospective Buyers of Properties Located in Runway Clear Zones

Question: What does the notice look like?

Answer:

Below is a sample copy of the notice. The original signed copy of the Notice to Prospective Buyers must be maintained as part of the project file on this action.

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**NOTICE TO PROSPECTIVE BUYERS OF PROPERTIES LOCATED
IN RUNWAY CLEAR ZONES AND CLEAR ZONES**

In accordance with 24 CFR 51.303(a)(3), this Notice must be given to anyone interested in using HUD assistance, subsidy or insurance to buy an existing property which is located in either a runway Clear Zone¹ at a civil airport or a Clear Zone at a military installation. The original signed copy of the Notice to Prospective Buyers must be maintained as part of the project file on this action. [**Instruction:** fill out the area shown in parentheses below.]

The property that you are interested in purchasing at (**Insert:** street address, city, state, zip code) is located in the Runway Clear Zone/Clear Zone for (**Insert:** the name of the airport/airfield, city, state).

Studies have shown that if an aircraft accident were to occur, it is more likely to occur within the Runway Clear Zone/Clear Zone than in other areas around the airport /airfield. Please note that we are not discussing the chances that an accident will occur, only where one is most likely to occur.

You should also be aware that the airport/airfield operator may wish to purchase the property at some point in the future as part of a clear zone acquisition program. Such programs have been underway for many years at airports and airfield across the country. We cannot predict if or when this might happen since it is a function of many factors, particularly the availability of funds but it is a possibility.

We want to bring this information to your attention. Your signature on the space below indicates that you are now aware that the property you are interested in purchasing is located in a Runway Clear Zone/Clear Zone.

Signature of prospective buyer Date

Typed or printed name of prospective buyer

¹ Also referred to as runway protection zone.

COASTAL AREA PROTECTION

Coastal Area Protection

Question: When must the environmental review give special consideration to the protection and management of coastal areas?

Answer:

HUD assisted activities are subject to the requirements of Coastal Barrier Resources Act and Coastal Zone Management Act. The environmental review must give special consideration to the protection and management of coastal areas if the HUD-assisted project is located: (i) within a coastal barrier designated on a current FEMA flood map or Department of Interior coastal barrier resources map, or (ii) within a coastal zone management (CZM) area designated by the State CZM agency.

The Coastal Barrier Resources Act, as amended, ([16 U.S.C. 3501 et seq.](#)) prohibits using Federal financial assistance for properties if the properties are located within designated coastal barriers of the Atlantic Ocean, Gulf of Mexico, or the Great Lakes. For HUD policy, see [24 CFR 58.6\(c\)](#) or [24 CFR 50.4\(c\)\(1\)](#).

The Coastal Zone Management (CZM) Act of 1972 ([16 U.S.C. 1451 et seq.](#)) only applies to HUD assisted activities proposing new construction, conversion of land use, major rehabilitation of existing structures (including substantial improvement), or the acquisition of undeveloped land. Projects that can affect the coastal zone must be carried out in a manner consistent with the State coastal zone management program under Section 307(c) and (d) of the Act, as amended. For HUD policy, see [24 CFR 58.5\(c\)](#) or [24 CFR 50.4\(c\)\(2\)](#).

Information Sources for Coastal Area Protection

Question: How do I determine whether a project: (i) is located within designated Coastal Barrier Resources; and (ii) is consistent with the State's Coastal Zone Management (CZM) Program?

Answer:

Information is available from the State and local government agency responsible for implementing the coastal zone protection and management.

Coastal barrier resources are designated on maps issued by the Fish and Wildlife Service of the Department of Interior: <http://www.fws.gov/>This information is also provided on the flood insurance rate maps issued by the Federal Emergency Management Agency: <http://msc.fema.gov/MS/>

The National Oceanic and Atmospheric Administration, Department of Commerce, administers the CZM program in cooperation with the covered State CZM agency. For general information on any State's coastal zone management program: <http://www.ocrm.nos.noaa.gov/czm>

ENDANGERED SPECIES PROTECTION

Endangered Species Protection

Question: Must the environmental review consider potential impacts of the HUD-assisted project to endangered and threatened species and critical habitats?

Answer:

The environmental review must consider potential impacts of the HUD-assisted project to endangered and threatened species and critical habitats. The review must evaluate potential impacts not only to any listed but also to any proposed endangered or threatened species and critical habitats. This responsibility is cited in environmental procedures at [24 CFR 58.5\(e\)](#) and [24 CFR 50.4 \(e\)](#). The Federal list of endangered and threatened wildlife and plants is published jointly by the Department of Interior (Fish and Wildlife Service) and the Department of Commerce (National Marine Fisheries Service). The list must be examined to determine whether the HUD-assisted project is likely to affect any listed or proposed endangered or threatened species or critical habitats. While there is considerable information on the website, the reviewer is encouraged to consult with Fish and Wildlife Ecological Services Field Offices. The list is available [online](#).

Section 7 Consultation for Protecting Endangered Species

Question: How does the Section 7 consultation apply to HUD-assisted projects?

Answer:

Section 7 of the Endangered Species Act of 1973 ([16 U.S.C. 1536 et seq.](#)) mandates consultation to resolve potential impacts to endangered and threatened species and critical habitats -- both those listed and those proposed for listing on the Federal list. If the HUD assisted project is likely to affect any endangered or threatened species or critical habitat, then compliance is required with Section 7. Generally, this applies to assisted activities that propose new construction, conversion of land use, major rehabilitation of existing buildings, and the acquisition of undeveloped land. The Department of Interior has issued implementing regulations at [50 CFR part 402](#) which are the procedures for consultation with the Department of Interior (Fish and Wildlife Service) or the Department of Commerce (National Marine Fisheries Service) depending on the species involved. Conferring is required if a proposed action is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of a critical habitat proposed to be designated for such species or habitat. In the case of major construction activities, which are major federal actions significantly affecting the quality of the human environment (as referred to in NEPA), "biological assessments" must be prepared.

Single Family Home Mortgage Insurance

Question: Do HUD endorsements for single-family home mortgage insurance require compliance with the Endangered Species Act?

Answer:

HUD endorsements for single-family home mortgage insurance are listed in environmental procedures at [24 CFR 50.19\(b\)\(17\)](#) as categorical exclusions that are not subject to the related Federal environmental laws and authorities. Therefore, the requirements of the Endangered Species Act are not triggered by HUD's insurance of one-to-four family mortgages under the Direct Endorsement program, the insurance of one-to-four family mortgages under the Lender Insurance program, and HUD's guarantee of loans for one-to-four family dwellings under the Direct Guarantee procedure for the Indian Housing Loan guarantee program, without any HUD review or approval before the completion of construction or rehabilitation and loan closing.

ENVIRONMENTAL CLEARANCE

(See also [RESPONSIBLE ENTITY](#))

Project Begins Without Completed Environmental Clearance

Question: What if a project is started prior to compliance with HUD environmental procedures?

Answer:

Project sponsors are to halt non-compliance activities and seek the advice of the Program Director in the HUD Field Office. Non-compliance with HUD environmental procedures puts at risk proceeding with the project with Federal financial assistance. The non-HUD funded portion of the project is subject to the same HUD environmental procedures as the HUD-funded portion. HUD environmental procedures define the term "project" (see [24 CFR 58.2\(a\)\(4\)](#) or [24 CFR 50.2](#)) and require the aggregation of proposed and contemplated project activities under a single evaluation (see [24 CFR 58.32](#) or [24 CFR 50.21](#)). Also see: [24 CFR 58.22](#) on limitations on activities pending clearance or [24 CFR 50.17](#) relating to decision points for projects subject to environmental procedures.

Recipient's Developers and Owners Participating in HUD Assisted Projects.

Question: Doesn't the limitations on activities pending environmental clearance apply only to the grant recipient?

Answer:

The limitation on activities pending environmental clearance applies not only to recipients, but also to other project participants, such as public or private non-profit or for-profit entities and their contractors. HUD policy is at [24 CFR 58.22](#) on limitations on activities pending clearance or [24 CFR 50.17](#) relating to decision points for projects subject to environmental procedures. Undertaking an activity that would have adverse environmental impact or limit the choice of alternatives as well as committing or expending non-HUD funds to such an activity is prohibited before HUD (or the State, if applicable) approval of the request for the release of funds and certification of compliance and the written notification is provided to the recipient authorizing the use of grant funds for a HUD assisted project.

Limitations on Activities Pending Environmental Clearance

Question: Assuming the environmental assessment has covered all environmental issues, can a Finding of No Significant Impact (FONSI) be made where a Memorandum of Agreement (MOA) is being negotiated with respect to the proposed acquisition of a historic property identified by the State Historic Preservation Officer (SHPO) as needing compliance with the historic preservation Section 106 review and consultation process (36 CFR 800)? What alternatives are available to get the project underway without waiting?

Answer:

First, completion of compliance with all applicable Federal environmental laws and authorities including historic preservation Section 106 review and consultation process is necessary before a FONSI finding can be made. The HUD policy is at [24 CFR 58.22](#) on limitations on activities pending clearance or [24 CFR 50.17](#) relating to decision points for projects subject to environmental procedures.

Neither can the property acquisition phase of the project be broken off and made into a separate project, because HUD environmental procedures define the term "project" at [24 CFR 58.2\(a\)\(4\)](#) or [24 CFR 50.2](#). HUD policy requires that aggregation of project activities be evaluated together under a single evaluation ([24 CFR 58.32](#) or [24 CFR 50.21](#)). For alternatives, see below real estate options.

Real Estate Options

Question: What alternatives are available to get the site control portion of a HUD-assisted project underway prior to environmental clearance?

Answer:

One alternative available is the purchase of a real estate option. Purchase of an option agreement on the property would secure the property and provide the additional time to complete the environmental clearance. 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 ([24 CFR 58.22\(b\)](#)).

Exceptions

Question: Are there any exceptions for permitting project activities prior to completion of environmental review?

Answer:

The [Self-Help Homeownership Opportunity Program](#) (SHOP) is the only HUD program that has special legislation authorizing a limited exception for permitting property acquisition prior to completion of environmental clearance for the HUD assisted project. Section 202 of the American Homeownership and Economic Opportunity Act of 2000 permits reimbursement of organizations, consortia and affiliates for their acquisition of land prior to approval of environmental review. SHOP funds may be used to reimburse an organization, consortium, or affiliate for a property acquired with nongrant funds only upon completion of the environmental review and HUD approval of form 7015.15 (or form HUD 4128, if applicable) or upon notification from the Responsible Entity that it has determined that the acquisition is exempt. HUD policy is at Notice CPD-01-09 (issued May 21, 2001).

Exemptions for Tax-exempt Bond Financing

Question: If a project is being funded in part by tax-exempt Empowerment Zone (EZ) bonds, but no other HUD Round II EZ dollars are being used for the project, do the environmental review requirements still apply? Obviously NEPA applies to all Federal grants (for certain types of activities), but as the bonds are an indirect Federal benefit in the form of reduced tax liability, would an EZ still need to go through the environmental review process? If yes, would it be incumbent upon the HUD office to do the review (as they would for projects using HUD EZ dollars), or, say, Treasury?

Answer:

In this instance the bonds were issued by one of the following: a State or local government, state bond banks, industrial development authorities or industrial development. While HUD approves implementation plans for EZs that might include mention of contemplated bond issuance, HUD does not substantively approve the activities proposed in the plans. It would appear that there is no HUD or other Federal substantive "approval" of the bond issuance, and thus no Federal "action" that would trigger an environmental review under the National Environmental Policy Act or other Federal environmental laws and authorities.

Revolving Loan Fund and Environmental Clearance

Question: Does environmental review apply to activities assisted by a revolving loan fund?

Answer:

Generally, activities assisted with repayments to a revolving loan fund initially assisted with HUD funds are subject to environmental review requirements only if HUD program rules treat the activity assisted with repayments as being subject to Federal requirements.

Subjects for Environmental Clearance: By Type of Assisted Activity

Question: What kinds of subjects must be covered in an environmental review to accomplish environmental clearance?

Answer:

The protocol (see below) provides specific questions for the recipient to answer for each property proposed for the project. In addition, the protocol provides resources related to each question. These questions should be applied to an entire neighborhood area if the recipient proposes to use the funds to benefit the neighborhood area.

Type of Assisted Activity:

The type of project activity proposed by the recipient will determine which of the following questions (Q) need to be answered.

(1) For proposed leasing or rental assistance of existing structures, generally only Q1 through 3 only are applicable.

(2) For proposed acquisition of existing structures, generally only Q1 through 5 are applicable.

(3) For proposed minor rehabilitation and repair of existing structures, generally Q1 through 6 are applicable.

(4) Individual actions: For proposed new construction or acquisition of land for development of up to four housing units **or** for five or more units of housing on scattered sites where the housing sites are more than 2,000 feet apart and there are not more than four units on any one site, generally Q1 through 15 are applicable.

(5) Other project actions: generally applicable are Q1 through 16 for other proposed new construction (including demolition), acquisition of undeveloped land, conversion from one land use to another, infrastructure improvements, or major rehabilitation and improvement (unless otherwise noted) of existing buildings.

Subjects covered in the environmental review:

Q1: Is the property located within designated coastal barrier resources?

Q2: Is the property contaminated by toxic chemicals or radioactive materials?

Q3: Is the property located within a flood hazard area or designated wetland?

Q4: Is the property within an area requiring flood insurance protection?

Q5: Is the property located within an airport runway clear zone?

Q6: Is the property listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, an historic district; or is a property whose area of potential effect includes a historic district or property?

Q7: Is the property located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature?

Q8: Is the site noise-impacted?

Q9: Is the project consistent with the coastal zone management plan?

Q10: Does the project affect a sole source aquifer?

Q11: Does the project affect endangered species?

Q12: Does the project affect listed wild and scenic rivers?

Q13: Does the project affect prime and unique farmland, or other farmland of statewide or local significance?

Q14: Is the project located within a "non-attainment" or "maintenance" area identified in the air quality State Implementation Plan?

Q15: Is the project located in a neighborhood or community where the proposed action is likely to raise environmental justice issues?

Q16: Does the recipient propose:

- (i) acquisition of land for development of more than four housing units on any one site **or** of five or more units of housing where the housing sites are 2,000 feet or less apart;
- (ii) infrastructure;
- (iii) new construction other than for residential activities excluded under [§50.20\(a\)\(2\)](#);
- (iv) major rehabilitation of existing structures in accordance with §50.20(a)(2) that involves any of the following conditions: (a) in the case of residential buildings, an increase in the unit density of more than 20 percent; (b) changes in land use (from non-residential to residential or from residential to non-residential); or (c) estimated cost of rehabilitation that is 75 percent or more of the total estimated cost of replacement after rehabilitation; or
- (v) any other activity not categorically excluded under [§50.20\(a\)](#)?

Tiering the Review and Non-Site Specific Environmental Analysis

Question: How does one perform an environmental review for anticipated activities for which project sites and locations are to be determined in the future?

Answer:

HUD encourages tiered ([24 CFR 58.15](#)) environmental review for non-site specific activities aggregated under a singular evaluation with two stages. The focus of the environmental review in stage one is on the geographic areas or neighborhoods or residential subdivisions (recorded or unrecorded) in which the activities are proposed. The applicable environmental laws and authorities are applied (see Q1 through 16 immediately above) to the geographic areas or neighborhoods or residential subdivisions. The environmental review should indicate whether the geographic areas or neighborhoods or residential subdivisions in which the activities will take place contain and may affect (or be affected by) the following environmental factors: designated coastal barrier resources, toxic chemicals or radioactive materials, special flood hazard areas or designated wetlands, locations requiring flood insurance purchase, airport runway or accident potential zones, historic properties or archeological resources, locations near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature, noise hazards, sole source aquifers, endangered or threatened species, listed wild and scenic rivers, listed prime and unique farmlands, air pollution hazards, and environmental justice issues. The stage one (the "umbrella" or original) environmental review should address how the

selection of sites will be treated if the sites for the proposed activity impact on environmental hazards and resources, if the recipient is unable to avoid the environmental hazards and resources. Generally, there would not be any need for subsequent site-specific environmental reviews, unless the recipient selects a site that triggers any of the environmental factors discussed above. At stage two - as specific sites and locations are selected, environmental review is required, if the recipient's site is unable to avoid the environmental hazards and resources identified in the original review and that such impacts and their satisfactory mitigation were not addressed in the stage one environmental review. It is the responsibility of the recipient to bring this information including information on any adverse environmental impacts to the attention of the entity that performed the original environmental review. The recipient may be asked to select an alternate site or property, if mitigation is infeasible or other reason ([24 CFR 50.3\(h\)](#)). The initial or "umbrella" environmental review lasts for at least the duration of the grant period, but may last beyond in accordance with [24 CFR 58.47](#), if the review is current. When other Federal, State, or local agencies have prepared an environmental assessment (EA) or other environmental analysis for a proposed property or neighborhood proposed for assistance, these documents should be requested and used as supporting evidence to the extent possible (see [24 CFR 50.35](#)) when preparing the original environmental review.

ENVIRONMENTAL JUSTICE

Environmental Justice

Question: Is it necessary for the environmental review for a HUD-assisted project to evaluate environmental justice issues?

Answer:

[Executive Order 12898](#) - "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations" is cited in HUD environmental regulations at [24 CFR 50.4\(l\)](#) and [24 CFR 58.5\(j\)](#). Generally, this Order applies to low-income or minority neighborhoods where the HUD assisted project proposes the acquisition of existing housing, the acquisition of land for development, and new construction. Environmental justice issues may include, but are not limited to new, continued or historically disproportionate potential for high and adverse human health and environmental effects on minority or low-income populations. The environmental review must determine if the proposed site or neighborhood suffers from disproportionate adverse health and environmental effects relative to the community at large. If the project is likely to raise environmental justice issues and has the potential for new or continued disproportionately high and adverse human health and environmental effects on minority or low-income populations, the environmental review must consider mitigation or avoidance of adverse impacts from the project to the extent practicable.

Information on Environmental Justice

The Environmental Protection Agency is the lead Federal agency and its Office of Environmental Justice provides technical assistance, courses, guidance, and grants in support of Environmental Justice: <http://es.epa.gov/oeca/main/ej/>.

FARMLANDS PROTECTION

Farmlands Protection

Question: When must the environmental review for a HUD-assisted project include an evaluation of the impacts to farmlands?

Answer:

If the site of the HUD-assisted project is presently being farmed, the project must conform with the Farmland Protection Policy Act and HUD policy memo.

The environmental review must include a finding either that that the proposed HUD assisted project site does not include prime or unique farmland, or other farmland of statewide or local significance as identified by the Natural Resources and Conservation Service (NRCS), Department of Agriculture, or the project site includes prime farmland but is located in an area committed to urban uses. However, if the proposed project site includes farmland, the environmental review must include an evaluation of the land type by the NRCS using form AD 1006. This requirement applies only to assisted new construction activities and the acquisition of undeveloped land: [24 CFR 58.5\(h\)](#) or [24 CFR 50.4\(j\)](#).

Protecting Farmlands

Question: What is the authority for the requirement to protect farmland?

Answer:

The 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](#)). For Department of Agriculture regulations, see 7 CFR Part 658.

Information Sources for Protecting Farmlands

Question: Where is information available on prime and unique farmlands?

Answer:

For county maps provided by the Natural Resources Conservation Service, Department of Agriculture, see: <http://www.nhq.nrcs.usda.gov/land/index/prime.html>.

FLOOD INSURANCE PURCHASE

Relationship to Floodplain Management Requirements

Question: When HUD recipients comply with the flood insurance purchase requirements, is that sufficient, or must recipients also comply with HUD's floodplain management requirements?

Answer:

Compliance with mandatory flood insurance purchase discussed below does not constitute compliance with floodplain management requirements discussed elsewhere under the heading of Floodplain Management.

Flood Insurance Purchase: Protecting financial loss due to flooding damage

Question: When is flood insurance purchase mandatory?

Answer:

Owners of HUD-assisted properties that are located within Special Flood Hazard Areas (SFHA) must purchase and maintain flood insurance protection as a condition of approval of any HUD financial assistance for proposed property acquisition, rehabilitation, conversion, repair or construction. For HUD policy, see [24 CFR 58.6\(a\)](#) and [24 CFR 50.4\(a\)\(2\)](#). The standard documentation for compliance is the policy "Declarations" form issued by the National Flood Insurance Program (NFIP) or issued by any property insurance company offering coverage under the NFIP. In cases, where a HUD grantee provides assistance to a SFHA-property owner, the grantee's file for any such property shall contain "proof of purchase" of flood insurance protection. For guidance, see "Mandatory Purchase of Flood Insurance Guidelines" issued by the Federal Emergency Management Agency (FEMA) Owners of HUD-assisted properties that are located within Special Flood Hazard Areas (SFHA) must purchase and maintain flood insurance protection as a condition of approval of any HUD financial assistance for proposed property acquisition, rehabilitation, conversion, repair or construction. For HUD policy, see [24 CFR 58.6\(a\)](#) and [24 CFR 50.4\(a\)\(2\)](#). The standard documentation for compliance is the policy "Declarations" form issued by the National Flood Insurance Program (NFIP) or issued by any property insurance company offering coverage under the NFIP. In cases, where a HUD grantee provides assistance to a SFHA-property owner, the grantee's file for any such property shall contain "proof of purchase" of flood insurance protection. For guidance, see "[Mandatory Purchase of Flood Insurance Guidelines](#)" issued by the Federal Emergency Management Agency (FEMA).

Special Flood Hazard Areas

Question: Where are Special Flood Hazards Areas (SFHA) located?

Answer:

Information on where SFHA are located is available on Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA) See:

<http://www.fema.gov/msc> The SFHA is represented on the flood map by darkly shaded areas designated with the letter "A" or "V." FEMA uses engineering studies to determine the delineation of these areas or zones subject to flooding. The flood maps are available for public review at the local planning agency or building permit agency. Local appraisers and companies that make flood hazard determinations for banks and other lenders in connection with property loans also have access to these maps and data bases.

Insurance Coverage

Question: What duration and amount of flood insurance coverage is required?

Answer:

The Flood Disaster Protection Act of 1973 ([42 U.S.C. 4001-4128](#)) as amended by the National Flood Insurance Reform Act of 1994 (Pub.L. 103-325, 108 Stat. 2160) prescribes the duration and dollar amount of flood insurance under Sections 3 and 102 of the Act.

Duration of Coverage: The statutory period for such coverage may extend beyond project completion. For loans, loan insurance or guaranty, coverage must be continued for the term of the loan. For grants and other non-loan forms of assistance, coverage must be continued for the life of the property, regardless of transfer of ownership of such property. Section 582(c) of the Community Development and Regulatory Improvement Act of 1994 mandates that "...The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property." ([42 U.S.C. 5154a](#))

Dollar Amount of Coverage: For loans, loan insurance or guaranty, the amount of coverage need not exceed the outstanding principal balance of the loan. For grants and other non-loan forms of assistance, the amount of coverage must be at least equal to the development or project cost (less estimated land cost, if any) or to the maximum limit of coverage made available by the Act with respect to the particular type of building involved (i.e., single family, other residential, or non-residential), whichever is less. The development or project cost is the total cost for acquiring, constructing, reconstructing, repairing, or improving the building. This cost must include both the Federally assisted and non-Federally assisted portion of the cost, including any machinery, equipment, fixtures, and furnishing. If the Federal assistance includes any portion of the cost of any machinery, equipment, fixtures or furnishing, the total cost of that item must be covered.

Exceptions

Question: Are there any exceptions to the flood insurance purchase requirements?

Answer:

There are four exceptions: (a) formula grants made to States; (b) State-owned property; (c) small loans (\$5,000 or less); and (d) assisted leasing that does not involve repairs, improvements, and acquisition. Each category of exception is explained as follows:

(a) HUD State-administered assistance such as Community Development Block Grants (CDBG), Emergency Shelter Grants (ESG), and HOME Investment Partnership Grants are considered

“formula grants made to States.” By law, “formula grants made to States” and along with “general and special revenue sharing” are exempt from the flood insurance purchase requirements by Section 3(a)(3) of the Act. For HUD policy, see [24 CFR 58.6\(a\)\(3\)](#).

(b) Flood insurance purchase is not required for any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to FEMA as published in a list of States to which Section 102(c)(1) of the Act applies. Local governments and other organizations are **not** authorized by this Act to be self-insurers under the National Flood Insurance Program. If the State agency has authority under State regulations, it may require the property owner to purchase and maintain flood insurance to protect the federal investment benefiting HUD assisted SFHA-property.

(c) Flood insurance is not required for loans having an original outstanding principal balance of \$5,000 (or less) and repayment term of 1 year (or less) as authorized by Section 102(c)(2) of the Act.

(d) Flood insurance is not required for HUD assisted leasing of a building or structure provided that the assistance is not used for repairs, improvements, and acquisition.

Effect of Non-participation in the National Flood Insurance Program

Question: What if flood insurance is not any longer available in the community in which the assisted SFHA property is located?

Answer:

Section 202(a) of the Act prohibits the approval of HUD assistance for a property located within the Special Flood Hazard Area unless the community in which the SFHA is situated is then participating in the National Flood Insurance Program (NFIP). For a community's status in the NFIP and dates of the current flood insurance rate maps, see <http://www.fema.gov/fema/csb.htm>. Information is also available from the FEMA Regional Office serving that community or from local planning agency or building permit agency.

Federal Disaster Relief Assistance

Question: What if the property owner failed to maintain flood insurance on a SFHA property previously assisted with Federal disaster relief assistance?

Answer:

No Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under the applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property (Section 582(a) of the Act). For HUD policy, see [24 CFR 58.6\(b\)](#).

Small Repairs

Question: Does HUD financial assistance for small repairs require compliance with the flood insurance purchase requirement?

Answer:

Yes. Any form of HUD assistance for repairs (including emergency repairs) or improvements of any publicly or privately owned SFHA building or mobile home requires compliance with the flood insurance purchase requirements (see Section 3(a)(4)) of the Act.

Maintenance Activities

Question: Does HUD financial assistance for maintenance activities require compliance with flood insurance purchase requirement?

Answer:

No. HUD assisted “routine maintenance” activity for a SFHA building does not require compliance with the flood insurance purchase requirement. “Routine maintenance” activities should be carefully distinguished from “repair” or “improvement” of any SFHA building. “Routine maintenance” merely keeps a building in good order and an ordinary, efficient operating condition. It does not materially add to the value of a structure, appreciably prolong its useful life, or adapt it to new uses, whereas “repairs” or “improvements” might do so. Some examples of building maintenance are: (1) painting either the exterior or interior of a building, (2) fixing gutters or floors, (3) mending leaks or plastering, and (4) replacing thermostats, broken windowpanes or door locks. In contrast, adding a room, putting in a new system of plumbing or electrical wiring or air conditioning, installing a new roof, replacing a boiler, or fixing of damages sustained by a building from flooding or other hazards are considered to be “repairs” or “improvements”. However, if items that would otherwise be considered “routine maintenance” are done as part of an extensive remodeling or renovation of a building, the entire job is considered “a repair” or “an improvement”.(May 5, 1989 from CPD Deputy Assistant Secretary to Regional Administrators: Attn Regional Environmental Officers)

Environmental Exemptions and Categorical Exclusions

Question: Is compliance with flood insurance purchase requirements required for the exempt activities listed in [24 CFR 58.34](#) or to the categorical exclusions listed in [24 CFR 58.35](#)?

Answer:

Yes. The flood insurance purchase requirements are cited at [24 CFR 58.6\(a\) and \(b\)](#) as "Other requirements" in order to highlight that flood insurance is not regulated by provisions of the rule that govern environmentally exempt activities cited at [24 CFR 58.34](#) or environmental categorical exclusions cited at [24 CFR 58.35](#).

Homeowner Property Casualty Insurance

Question: Doesn't the homeowner property casualty insurance cover financial loss due to flooding damage?

Answer:

Generally, homeowner and other property casualty insurance policies do not provide coverage for potential financial loss that may be caused by flooding damage. Many of the private insurance companies are now marketing policies offered by the National Flood Insurance Program along with their own property casualty insurance policies. FEMA refers to these companies as "Write-Your-Own (WYO) Companies, 44 CFR Part 62, Subpart C.

HUD Subsidy and Limited-income Property Owners

Question: Can HUD grant assistance be used to subsidize the purchase and maintenance of flood insurance protection for low-income owners of SFHA property?

Answer:

Yes, only if the specific HUD program regulations allow grant assistance to be used for this purpose. For example, CDBG program regulations at [24 CFR 570.202\(b\)\(7\)\(iii\)](#) specifically allow the use of grant assistance for "flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to [24 CFR 570.605](#)" in connection with rehabilitation and preservation activities. Limited income homeowners and small business owners without other financial assets may need such financial protection, if their property is located within the Special Flood Hazard Area. In the case of hardship cases, the responsible entity or the recipient agency (if other than a responsible entity) is encouraged to provide such subsidy, if warranted.

FLOODPLAIN MANAGEMENT

Relationship to Flood Insurance Purchase Requirements

Question: When HUD recipients comply with the floodplain management requirements, is that sufficient, or must recipients also comply with HUD's flood insurance purchase requirements?

Answer:

Compliance with the floodplain management requirements discussed below does not constitute compliance with mandatory flood insurance purchase discussed elsewhere under the heading of Flood Insurance Purchase.

Protecting floodplains and wetlands: Executive Orders [11988](#) and [11990](#)

Question: Must the environmental review evaluate the impacts to a floodplain or wetland that may be caused by a proposed HUD-assisted project?

Answer:

Projects located within a flood hazard area or designated wetland are subject to [Executive Order 11988](#) (Floodplain Management) and [Executive Order 11990](#) (Protection of Wetlands) respectively. HUD's implementing regulations at [24 CFR Part 55](#) -- "Floodplain Management" prescribe measures for protecting floodplains, and when amended, for protecting wetlands. Under the provisions of these Executive Orders, HUD must avoid financial support for covered activities, unless it can demonstrate that there are no practicable alternatives outside the floodplain or wetland. Where flood-free and wetland-free sites are available within the community or housing market area, these are considered practicable. For HUD policy, see [24 CFR 58.5\(b\)](#) and [24 CFR 50.4\(b\)\(2\) and \(3\)](#). The requisite decision-making process is set forth at [24 CFR 55.20](#).

Question: What is the purpose and basic responsibility of these Executive Orders?

Answer:

The purpose of Executive Order 11988 – Floodplain Management is “to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.”

<http://www.epa.gov/OWOW/wetlands/regs/eo11988.html>

The purpose of Executive Order 11990 – Protection of Wetlands is “to avoid to the extent possible the long and short term adverse impacts associated with wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.”

<http://www.epa.gov/OWOW/wetlands/regs/eo11990.html>

Exceptions

Question: Are there any exceptions?

Answer:

The only exceptions authorized by both Executive Orders (Section 8 of E.O. 11988 and Section 9 of E.O. 11900) is for assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146). HUD's [24 CFR part 55](#) does not apply to categories of proposed actions listed at [24 CFR 55.12\(b\) and \(c\)](#).

Floodplains and Designated Wetlands

Question: Where are floodplains and designated wetlands located?

Answer:

Information on where floodplains are located is available on Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA) <http://www.fema.gov/msc>. The floodplain designated by FEMA as the Special Flood Hazard Area (SFHA) is represented on the flood map by darkly shaded areas designated with the letter "A" or "V." FEMA uses engineering studies to determine the delineation of these areas or zones subject to flooding. The flood maps are available for public review at the local planning agency or building permit agency. Local appraisers and companies that make flood hazard determinations for banks and other lenders in connection with property loans also have access to these maps and data bases.

Information on where designated wetlands are located is available on the wetlands maps issued by the Department of the Interior (DOI) for the National Inventory of Wetlands: <http://www.wetlands.fws.gov/>. The wetlands maps are available for public review at the local planning agency or State natural resources agency.

For environmental review purposes, these location findings should cite the map panel number of the official maps issued by DOI and FEMA on the basis of which the findings were made.

Single-Family Homes

Question: Do these procedures apply to assistance for existing single-family homes?

Answer:

Generally, [24 CFR part 55](#) does not apply to existing single-family properties proposed for acquisition or lease and located within the floodplain, provided

- (i) the existing property is not located within a floodway or coastal high hazard area;
- (ii) the existing property does not involve substantial improvement, which for flood hazard purposes is defined in [24 CFR 55.2\(b\)\(8\)](#);
- (iii) in accordance with [24 CFR 55.12\(b\)\(1\)](#), the community in which the property is located is in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24); and

- (iv) that the existing property does not involve a critical action.

Critical Actions

Question: What HUD assisted projects are to be considered a “critical action” in the floodplain?

Answer:

A critical action means any activity for which even a slight change of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. Approval of HUD assistance for proposed critical actions located in floodways and coastal high hazard areas is prohibited ([24 CFR 55.2\(a\)\(2\)](#)). The critical action standard applies to the proposed use of HUD assistance to structures or facilities located within the 500-year floodplain, when the structures or facilities are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events. The 500-year floodplain is represented on the flood map issued by FEMA with the letter “X” or formerly “B.”

Question: What is the regulatory citation that requires 500-year flood protection for critical actions including hospital projects?

Answer:

"The Floodplain Management Guidelines for Implementing [E.O. 11988](#)" (43 FR 6030) at Step 1 (1.C) provides guidance on critical actions. Also review FEMA regulations at 44 CFR 60.22 (Planning Considerations). The provisions advise communities which are adopting and implementing the floodplain management criteria of the National Flood Insurance Program.

HAZARDOUS INDUSTRIAL OPERATIONS

Hazardous Industrial Operations

Question: Must the environmental review for the HUD-assisted project consider nearby hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature?

Answer:

If there are industrial facilities handling explosive or fire-prone materials such as liquid propane, gasoline or other storage tanks adjacent to or visible from the HUD-assisted project site, compliance is required with HUD safety standards at [24 CFR Part 51, Subpart C](#) and the HUD Hazards Guide. The environmental review must evaluate project sites that are located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature: [24 CFR 58.5\(i\)](#) or [24 CFR 50.4\(k\)](#).

Acceptable Separation Distance from Hazardous Industrial Operations

Question: When must the environmental review include a determination of acceptable separation distance (ASD) between the property and the hazardous industrial operations?

Answer:

The ASD is the actual setback required for the safety of occupied buildings and their inhabitants and the people in open (exposed) spaces. Hazardous industrial operations includes storage containers of explosive or flammable material. An ASD is required if the project proposes:

- (a) construction of a building;
- (b) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable;
- (c) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or
- (d) the acquisition of undeveloped land. In the case of tanks containing flammable materials, the requirement for an acceptable separation distance (ASD) calculation excludes storage tanks that have a capacity of less than 100 gallons of common liquid industrial fuels.

Also, see: A guide to HUD Environmental Criteria and Standards, HUD Handbook 1390.4, Subpart C, 3-34 – 3-53.

Information Sources on Local Hazardous Industrial Operations

Question: How do I determine whether the property is located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature?

Answer:

Information is available from local fire protection and emergency management agencies as to whether there are any hazardous industrial operations in the vicinity of the property proposed for the project -- including transport of fuels and of chemicals of an explosive or flammable nature through the neighborhood in which the property is located. HUD safety standards do not regulate

the transportation of any hazardous substance through a neighborhood, however the environmental review should address the potential environmental impacts of such transport upon the assisted project.

Information regarding the type and volume of fuels and chemicals of an explosive or flammable nature is available from the local operator of the industrial operations.

HISTORIC PROPERTIES

Historic Properties

Question: When must the environmental review for a HUD-assisted project include an evaluation of the impacts to historic properties?

Answer:

If HUD assistance is proposed for property repair (see definition below), rehabilitation of an existing structure, conversion of use, demolition, new construction, or the acquisition of undeveloped land, then the environmental review ([24 CFR 58.5\(a\)](#) or [24 CFR 50.4 \(a\)](#)) requires evidence of consultation with the State Historic Preservation Officer (SHPO), the Tribal Historic Preservation Officer (THPO), and in some cases the Advisory Council on Historic Preservation (ACHP). Following the Secretary of the Interior's Standards and Guidelines for Evaluation, a determination must be made and documented in the environmental review as to whether the property is:

- (a) listed on or eligible for listing on the National Register of Historic Places; or
- (b) located within or directly adjacent to a National Register eligible or listed historic district;
or
- (c) a property whose area of potential effects includes a National Register eligible or listed historic district or property. Repair includes work other than in-kind replacement or routine maintenance of external and internal building features.

Question: What regulations are to be followed for historic preservation processing?

Answer:

Historic properties and districts are subject by law to special protection and historic preservation processing, which must be performed to comply with the regulations of the Advisory Council on Historic Preservation ([36 CFR Part 800](#)). For properties determined to be historic properties, (or properties whose area of potential effects includes a historic district or property) even if the SHPO/THPO concludes that no adverse effect will occur as a result of the assisted project, 30 to 90 days may be required to obtain this information and in most cases to perform the processing required by 36 CFR 800. These regulations implement the National Historic Preservation Act of 1966 (NHPA) as amended, ([16 U.S.C. 470 et seq.](#)) and related authorities. The goal of this regulatory process is to avoid, minimize, or mitigate adverse effects on historic properties.

Question: What types of written findings or responses from the SHPO/THPO and/ or ACHP are included in the environmental review record for the assisted project?

Answer:

- A. There are four results of the historic property identification and evaluation process to which the SHPO/THPO will respond in writing:
 - (i) There are no historic properties present;
 - (ii) There are historic properties present but the undertaking will have no effect upon them;

- (iii) There are historic properties present that may be affected by the undertaking; or
 - (iv) Reasons the SHPO/THPO was not able to provide the requested information or a response within 30 days. The process is concluded if concurrence is reached on (i) or (ii), or if HUD finds reasons in (iv) acceptable.
- B.** If concurrence is reached with the SHPO/THPO on (iii) above, or if the SHPO/THPO or ACHP objects within 30 days to the finding of (i) or (ii), then consultation must continue on the adverse effects of the undertaking. There are two results of the adverse effects assessment process to which the SHPO/THPO and/or ACHP will respond: (v) No adverse effect; or (vi) Adverse effect. The process is concluded if concurrence is reached on (v).
- C.** If the SHPO/THPO, ACHP, and consulting parties concur with the finding of (vi), or if the SHPO/THPO, ACHP, or a consulting party objects within 30 days to (v) above, then consultation must continue to resolve the adverse effects. There is one result of the resolution of adverse effects process, which is put into a written [Memorandum of Agreement](#) (MOA) or Programmatic Agreement (PA). The MOA or PA, signed by all consulting parties, concludes the process. See [attached](#) as an example of an MOA.

Information sources for historic properties

Question: Where is information available on historic properties?

Answer:

Information on historic properties within your State or Tribe is available from the [State Historic Preservation Officer](#) (SHPO) or [Tribal Historic Preservation Officer](#) (THPO) and the local historical society.

The [National Park Service](#), Department of Interior, holds information on every property listed in the [National Register of Historic Places](#). It may also have information on many properties that have been determined eligible and that have been nominated for (not yet listed in) the National Register. For the National Register regulations, see: 36 CFR Part 60.

For regulations of the Advisory Council on Historic Preservation, see [36 CFR Part 800](#).

See the Secretary of the Interior's [Standards and Guidelines for Evaluation](#).

EZ/EC and Historic Properties

Question: Does Section 106 for historic preservation processing apply to the Empowerment Zone/Enterprise Communities (EZ/EC) program?

Answer:

Compliance with environmental review procedures including historic preservation processing is required for EZ grants proposed for property acquisition, repairs and rehabilitation of an existing structure, conversion of land use, demolition, and new construction. Environmental review

procedures do not apply to the tax incentive aspects of the EZ/EC program. HUD policy is at [Notice CPD-99-07](#) (issued September 20, 1999).

Emergency Demolition of Public Housing Structures and Section 106 Applicability

Question: What Section 106 procedural and documentation requirements apply to emergency undertakings?

Answer:

Section 110(k) of the NHPA as amended ([16 U.S.C. 470 et seq.](#)) states that no federal agency shall give assistance to an applicant who intends to intentionally create an adverse effect on historic properties. This is to prevent federal agencies from rewarding applicants for neglecting and/or mismanaging historic properties and thus undermining the goals of the NHPA. However, under the Section 106 regulations (see [36 CFR 800.12](#)), "Emergency Situations", there are specific times when emergency undertakings may occur with federal assistance. First, §800.12 applies only to undertakings that will be implemented within 30 days after a disaster or emergency has been formally declared by the appropriate authority (President, Tribal government, Governor, local government's chief executive officer or legislative body). Second, the types of emergency undertakings intended to be covered under §800.12 include, but are not limited to, immediate and essential responses to storms, floods, acts of war or terrorism, and other threats to life and property. Sec. 800.12 is not intended to cover cases of property-owner neglect or mismanagement.

When the agency official determines that [§ 800.12](#) applies, the following procedural and documentation requirements apply:

Notify the SHPO/THPO, ACHP, and other consulting parties of the properties to be affected prior to the undertaking and allow them an opportunity to comment within 7 days. Notification can be by telephone, fax, e-mail, or letter. Comments may be submitted likewise.

If the agency official determines that circumstances do not permit 7 days for comment, the agency official must notify the SHPO/THPO, ACHP, and other consulting parties and invite any comments within the time available. Again, notification can be by telephone, fax, e-mail, or letter. Comments may be submitted likewise.

When a local government official serves as the agency official (for purposes of Section 106 compliance), the same procedural and documentation requirements as noted above apply. However, if the ACHP or SHPO/THPO objects to the proposed emergency undertaking within 7 days, the local government shall comply with [§800.3 through 800.6](#).

If [§800.12](#) does not apply to a proposed "emergency" undertaking, then the agency official must comply with [§800.3 through 800.6](#).

Sec. [800.12](#) encourages agencies to develop procedures, Programmatic Agreements, and other agency alternatives to streamline the Section 106 compliance process for emergency undertakings.

SHPO/THPO Response Within 30 Days

Question: Is the failure of the SHPO/THPO to respond within the 30-day period considered agreement of the SHPO/THPO with the finding required at [36 CFR 800.5\(c\)\(1\)](#) and fulfillment of the SHPO/THPO 106 review responsibilities?

Answer:

For findings of no adverse effect ([36 CFR 800.4\(d\)](#)), it is clear that [36 CFR 800.5\(c\)\(1\)](#) states "...Failure of the SHPO/THPO to respond within 30 days from receipt of the finding shall be considered agreement of the SHPO/THPO with the finding." It is prudent to have proper documentation that proves the dates on which the SHPO/THPO received/logged the information (i.e., a USPS return receipt). This option should be exercised sparingly and only on those projects that are truly time-critical. One runs the risk of damaging relations with the SHPO/THPO and potentially causing delays on other projects.

Example of a Memorandum of Agreement (MOA) for Historic Properties

**MEMORANDUM OF AGREEMENT (AGREEMENT)
BETWEEN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
(HUD),
(name) STATE HISTORIC PRESERVATION OFFICE (SHPO),
AND THE
(name) HOUSING AUTHORITY (PHA)
FOR THE
(name) HOMES REVITALIZATION PROJECT**

WHEREAS, HUD proposes to provide financial assistance to the PHA for its (name) Homes (the Development) revitalization project, a map of which is appended as Attachment 1: and

WHEREAS, the PHA has determined in its submission to HUD that the rehabilitation of the Development is not a feasible alternative; and

WHEREAS, the PHA has provided HUD with a proposal to demolish the Development (the Undertaking); and

WHEREAS, HUD and the SHPO have concurred in the above-referenced determinations; and

WHEREAS, HUD and the SHPO have determined that the Development is eligible for listing on the National Register of Historic Places (Register); and

WHEREAS, HUD has determined that the Undertaking will have an adverse effect upon the Development, and has consulted with the SHPO pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, HUD and the SHPO have agreed that the area of potential effect for this Undertaking is limited to the Development itself; and

WHEREAS, HUD has complied with the notification requirements of 36 CFR Part 800, and the Advisory Council on Historic Preservation (Council) did not exhibit an interest in participating in consultations within the time period allotted in Part 800 (Attachment 2); and

WHEREAS, the PHA has participated in the consultation process and has been invited to concur in this Agreement; and

NOW, THEREFORE, HUD, the PHA and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties.

STIPULATIONS

HUD will ensure that the following measures are carried out:

1.Documentation of the Development

Prior to its demolition, the Development will be recorded by the PHA in accordance with the “State Guidance for Documenting Historic Properties in Mitigation of Adverse Effects Pursuant to Section 106 of the National Historic Preservation Act” (Guidance) appended as Attachment 3. Specifically, the documentation will consist of the following:

- a. Written Documentation** following the outline in the “Guidance”.
- b. Graphic Documentation** outlined in the “Guidance” as required and any additional graphic documentation requested in writing by SHPO staff.
- c. Photographic Documentation** outlined in the “Guidance” as required and as further required in writing by SHPO staff. Photographic documentation will be in the format outlined in the “Guidance”, as clarified in writing by SHPO staff.

PHA shall forward this documentation to the SHPO for review and approval. PHA shall not initiate demolition until the SHPO has approved the above-referenced documentation. Once the documentation is approved, a set will be retained by the SHPO, and the PHA shall forward a copy to the (name) Office of City Planning.

2. Amendments or Non-Compliance

If any of the signatories to this Agreement believe that the terms cannot be adhered to, or that an amendment to the terms must be made, that signatory shall immediately consult with the other signatories to develop amendments. The process of amending the Agreement shall be the same as was exercised in creating it. If an amendment cannot be agreed upon, the dispute resolution process set forth in Stipulation 3 will be followed.

Failure to fulfill the terms of this Agreement requires that HUD consult in accordance with 36 CFR 800.6(c)(8). If HUD cannot fulfill the terms of this Agreement, it shall not take or sanction any action or make an irreversible commitment that would result in an adverse effect with respect to eligible or listed properties covered by the Agreement until the consultation process has been completed.

3. Dispute Resolution

If, at any time during the implementation of the measures stipulated in this Agreement, a dispute should arise as to any measure or its manner of implementation, the parties to this Agreement will consult to resolve the dispute. If no resolution is achieved, HUD will request the comments of the Council pursuant to 36 CFR 800.7.

4. Term of Agreement

This Agreement will become effective on the date of last signing and will continue in force for a period of two years from that date unless the signatories agree in writing to an extension for carrying out its terms.

Execution of this Agreement by HUD, the PHA and the SHPO, the subsequent filing of this Agreement with the Council, and implementation of its terms, is evidence that HUD has taken into account the effects of the undertaking on historic properties.

HUD (name) State Office (date)

(name) State Historic Preservation Officer(date)

CONCURRENCE:

(name) Housing Authority (date)

INTERGOVERNMENTAL REVIEW

Intergovernmental Review

Question: When do the requirements for intergovernmental review apply?

Answer:

Executive Order 12372, "Intergovernmental Review of Federal Programs," is implemented by 24 CFR part 52. The regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. The requirements of E.O. 12372 apply only to HUD programs whose regulations (or operating instructions) require compliance or the State has selected any HUD program or activity published in the Federal Register in accordance with §52.3 of this part for intergovernmental review under these regulations.

Intergovernmental review is not considered part of environmental compliance, whose requirements for public review are broader and provide opportunity for public review and comment to any agency, group, or individual.

Question: What HUD programs require compliance with intergovernmental review?

Answer:

The regulations of the Community Development Block Grant (CDBG) Program require compliance with the requirements of Executive Order 12372.

[24 CFR 570.612\(b\)](#) applies the requirements of Executive Order 12372, only where a CDBG entitlement grantee proposes to use funds for the planning or construction (reconstruction or installation) of water or sewer facilities. Such facilities include storm sewers as well as all sanitary sewers, but do not include water and sewer lines connecting a structure to the lines in the public right-of-way or easement. It is the responsibility of the grantee to initiate the Executive Order review process if it proposes to use its CDBG funds for activities subject to review.

Although the State CDBG program rule at [24 CFR 570.480](#), Subpart I, does not provide a separate applicability section (as the regulations do for the Entitlement and UDAG programs), the absence of a regulatory provision does not relieve a state from compliance with the requirements of E.O. 12372 if the local jurisdiction applies for State CDBG funds to assist with a major project that is also supported by other Federal resources (which is usually the case). In many instances, the total cost of providing such facilities far exceed amounts states tend to make available under the category of public facilities/infrastructure activities. The appropriate contract provisions related to Executive Order 12372 are included HUD grant agreements with states as a means of securing coordinated efforts at the appropriate levels of investment.

Question: What other HUD programs require compliance with intergovernmental review?

Answer:

Executive Order 12372, "Intergovernmental Review of Federal Programs is cited in volume 24 of the Code of Federal Regulations for the following HUD programs:

HOME Investment Partnerships Program, [24 CFR 92.357](#) For Insular Areas: 24 CFR 92.64 (b).

Housing Finance Agency Risk-Sharing Program for Insured Affordable Multifamily Project Loans, 24 CFR 266.210(c)

Emergency Shelter Grants Program, [24 CFR 576.57\(j\)](#)

Drug Elimination Programs, 24 CFR 761.40(f)

Supportive Housing for Elderly and Persons with Disabilities, 24 CFR 891.155(f)

Uniform Administrative Requirements: Standard Form (SF-424 series) 24 CFR 84.12(c)

Question: What Federal agency has the lead responsibility for Executive Order 12372?

Answer:

The Office of Management and Budget (OMB) is the responsible agent for maintaining a list of official state entities designed as Single Points of Contact (SPOC). SPOC refers to those states that manage and direct a clearinghouse for the purpose of processing and reviewing local applications involving designated Federal programs of assistance including water and sewer projects. See below the OMB website identifying the states that have a designated SPOC. States no longer choosing to operate a clearinghouse (and thus negating the need for a designated SPOC), must notify OMB **first** before notifying HUD in writing that they no longer wish to participate in the review process (as stated in the contract condition). The same applies to any changes or updates a state wishes to make regarding a designated SPOC entity.

LEASING

Leasing and Environmental Review Requirements

Question: What is the environmental review policy for HUD assisted leasing that does not involve property repairs, rehabilitation, acquisition, or new construction?

Answer:

1. the statutory prohibition against locating on a designated coastal barriers resource ([24 CFR 58.6\(c\)](#) and [24 CFR 50.4\(c\)\(1\)](#));
2. the design standards for structures located in coastal high hazard areas ([24 CFR 55.1\(c\)\(3\)](#));
3. the requirement that sites must be free of hazardous materials and toxic chemicals ([24 CFR 50.3\(i\)](#) and [24 CFR 58.5\(i\)](#));
4. sites must not be located in a floodway ([24 CFR 55.1\(a\)](#)) and
5. the floodplain management decision making process ([24 CFR 55.20](#)) if leasing proposed to assist more than 4 dwelling units located within the floodplain. Assisted leasing is considered a categorical exclusion subject to the related laws ([24 CFR 58.35](#) and [24 CFR 50.20](#)), only if the leasing does not involve property repairs, rehabilitation, acquisition or new construction. For categorical exclusions having the potential for significant impact because of extraordinary circumstances, an environmental assessment (EA) must be prepared ([24 CFR 35\(c\)](#) and [24 CFR 50.20\(b\)](#)).

Question: What is the environmental review policy for HUD assisted leasing that includes property repairs, rehabilitation, acquisition, or new construction?

Answer:

If other activities such as property repairs, rehabilitation, acquisition, or new construction are joined with leasing assistance, then a single environmental review would be required that addresses all issues relevant to those other activities. For example, major rehabilitation and new construction require an environmental assessment ([24 CFR 58.36](#) and [24 CFR 50.31](#)).

Rental vouchers and environmental review

Question: Isn't HUD's tenant-based rental assistance excluded from environmental review?

Answer:

There is no environmental review requirement for tenant-based rental assistance ([24 CFR 58.35\(b\)\(1\)](#) and [24 CFR 50.19\(b\)\(11\)](#)). There is the statutory prohibition against using HUD assistance for locating on a designated coastal barriers resource ([24 CFR 58.6\(c\)](#) and [24 CFR 50.4\(c\)\(1\)](#)). Tenant-based rental assistance refers to HUD programs that provide rental vouchers to very low-income persons, who are then free to locate suitable rental units that met their needs.

Information sources for assisted leasing and environmental review

Question: What other information is available on the subject of leasing assistance and environmental review?

Answer:

For environmental review and leasing assistance for the homeless, see:

<http://www.hud.gov/offices/cpd/homeless/library/snapshots1.cfm>

RESPONSIBLE ENTITIES

Responsible Entities

Question: Who can serve as the responsible entity?

Answer:

The term “responsible entity” is defined at [24 CFR 58.2\(a\)\(7\)](#). Generally, responsible entity refers to State, local, and tribal governments within which the HUD assisted project is located that exercise land use responsibility. Governmental entities with special or limited purposes powers such as public housing agencies and redevelopment authorities cannot serve as “responsible entities” assuming HUD’s environmental review responsibilities under [24 CFR part 58](#).

HUD Programs Subject to 24 CFR Part 58

Question: What HUD programs are authorized to allow the responsible entity to assume HUD’s environmental review responsibilities under [24 CFR part 58](#).

Answer:

The list of authorizations and affected programs are at [24 CFR 58.1\(b\)](#). That listing will be updated and will include the following HUD programs:

- [Community Development Block Grants \(Entitlement\)](#)
- [Community Development Block Grants for States and Small Communities](#)
- [Section 108 Loan Guarantee](#)
- [Community Development Block Grants for Indian and Alaska Native Villages](#)
- [Economic Development Initiative Grants](#)
- [Brownfield Economic Development Initiative Grants](#)
- [Emergency Shelter Grants](#)
- [Supportive Housing Grants](#)
- [Shelter Plus Care Grants](#)
- Safe Havens for Homeless Individuals Demonstration Program
- Rural Homeless Housing Assistance
- [Section 8 Moderate Rehabilitation Single Room Occupancy for Homeless Individuals](#)
- [HOME Investment Partnerships Grants](#)
- [Lead-Based Paint Hazard Abatement](#)
- [HOPE VI Revitalization](#)
- [HOPE VI Demolition](#)
- [Capital Fund](#)
- Mixed Finance Assistance
- Section 202 Conversions
- [Section 8 Project-Based Assistance](#)
- Special Projects
- FHA Multifamily Housing Finance Agency Risk-Sharing Pilot Program
- [Self-Help Homeownership Opportunity Program](#)

[Indian Housing Block Program](#)
[Indian Housing Loan Guarantees](#)
[Housing Opportunities for Persons with AIDS](#)

Special Purpose Grants Under Part 58

Question: What are the environmental procedures for special purpose grants?

Answer:

Grantees must comply with the prohibition on the commitment or expenditure of any HUD or nonfederal funds to most program activities with respect to any eligible property, until HUD has notified the grantee that it has completed its environmental review or approved the release of funds. For Special Purpose Grants, the local, Tribal, or State government is the Responsible Entity (RE) for performing the environmental review under [24 CFR part 58](#)-- “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.” If the grantee is not a State, Tribal, or local government, the grantee must negotiate an arrangement with the RE within which the project is located that exercises land use responsibility for the performance of the environmental review. The grantee’s architect and engineer should be able to provide the RE the site and environmental information needed for the environmental review. The RE documents its compliance on form [HUD-7015.15](#) – “Request for the Release of Funds and Certification.” Parts 1 and 2 of the form are completed and signed by the Certifying Officer of the RE; and Part 3 of the form is completed and signed by the grantee, who then submits the form to HUD for approval.

If this procedure is not feasible, or if the RE is unwilling to undertake such review, the grantee should notify the local HUD field office CPD Division Director by supplying a letter from the local government declining to perform the environmental review or simply the name, title, address, and phone number of the local government representative who communicated the negative decision. In such case, grantees may choose: (i) to request HUD to ask the county or State to perform the environmental review, or (ii) to supply HUD in a timely manner with all available and relevant information needed for HUD to perform the environmental review in accord with [24 CFR part 50](#) – “Protection and Enhancement of Environmental Quality.” HUD documents its compliance on form [HUD-4128](#) – “Environmental Assessment and Compliance Findings with the Related Laws.” In all cases, grantees must implement mitigating measures resulting from the environmental review or must select an alternate eligible property. A record of all inquiries made as part of the review must be available for HUD compliance monitoring.

Homeless Assistance Grants Under Part 58

Question: Do Part 58 procedures apply to Special Needs Assistance Program grants received by private nonprofit organizations and governmental entities with special or limited purpose powers (i.e., public housing agencies)?

Answer:

HUD field staff was advised that effective immediately grants for Supportive Housing, Shelter Plus Care, and Housing Opportunities for Persons with AIDS are now subject to 24 CFR part 58:

"Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities." References in program regulations to 24 CFR part 50: "Protection and Enhancement of Environmental Quality" are no longer effective and will be removed in the next rulemaking. ([Memorandum of 2/20/01](#) see below). Further information is contained in the Operating Instructions for these programs.

* * * * *

The following memo was signed 2/20/01 and is being distributed. This email version is for your immediate use.

MEMORANDUM FOR: All CPD Division Directors
Field Environmental Officers

FROM: Richard H. Broun, Director, Office of Community Viability, DVP

SUBJECT: Applicability of 24 CFR Part 58 to grants for Supportive Housing, Shelter Plus Care, and Housing Opportunities for Persons with AIDS

This is to advise you that effective immediately grants for Supportive Housing, Shelter Plus Care, and Housing Opportunities for Persons with AIDS are now subject to 24 CFR part 58: "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities." References in program regulations to 24 CFR part 50: "Protection and Enhancement of Environmental Quality" are no longer effective and will be removed in the next rulemaking.

Administrative provisions (Sections 208 and 203(c)) in the FY 2001 appropriations act included language enabling these programs to utilize fully the environmental assumption authority contained in Section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994. Section 305(c) allows not only recipients that are States or units of general local government (uglg) to assume HUD environmental responsibilities, but also allows non-recipient States and uglgs to be responsible entities and assume HUD environmental responsibilities for applicants who are private non-profit organizations or governmental entities with special or limited purpose powers (i.e., housing authorities, etc.). This authorization is permanent for each of these programs.

Under the Supportive Housing and Shelter Plus Care programs, recipients that are States or units of general local government already had authority and responsibility for completing Part 58 environmental reviews. The new statutory provision means that units of general local government will also be called upon to perform Part 58 environmental reviews for grants to other types of recipients, i.e., private non-profit organizations and housing authorities.

Under HOPWA, the FY 1999 HUD appropriations act applied Section 305(c)(i.e., authorized Part 58 environmental reviews) to FY 1999 and prior years funds, but that provision was not permanent and was not renewed in the FY 2000 appropriations. Under the new permanent provision, environmental reviews that have not yet been undertaken for activities under FY 2000 formula grants as well as future grants should be undertaken by responsible entities under Part 58.

Prior year grantees in the HOPWA and homeless programs with competitively awarded grants are not contractually obligated to follow the new review procedure under Part 58, but may agree to do so. Part 50 applies in cases where the agreement is not reached.

The latest operating instructions for these programs provide processing details (see Shelter Plus Care, 12/22/2000; Supportive Housing Program, 01/05/2001; Housing Opportunities for Persons with AIDS, 10/27/2000 for competitive grants; 12/28/2000 for formula grants).

If you have any questions or need further assistance, please e-mail to Walter Prybyla, Deputy Director for Policy, Environmental Review Division.

SOLE SOURCE AQUIFER

Sole Source Aquifer

Question: Must the environmental review for a HUD-assisted project include an evaluation of the impacts to a sole source aquifer or other aquifer?

Answer:

The environmental review must evaluate the potential impact to any sole source aquifer designated by Environmental Protection Agency (EPA) or other aquifer when the HUD assisted project is located on or would affect the aquifer. Generally, this requirement applies only to the approval of HUD assistance for new construction, conversion of land use, or acquisition of undeveloped land ([24 CFR 58.5\(d\)](#) or [24 CFR 50.4 \(d\)](#)). The environmental review must:

- i. identified the aquifer,
- ii. provide a written explanation that is made by a qualified data source as to the effect of the proposed project on the aquifer and the measures to ameliorate the adverse effect (if any),
- iii. include a copy of any comments received from the EPA and the State or local agency with jurisdiction for protecting the drinking water system, and
- iv. include a copy of the written responses to such comments.

Protecting Sole Source Aquifers or Other Aquifers

Question: What is the authority for the requirement to protect sole source aquifers?

Answer:

The [Sole Source Aquifer \(SSA\) Protection Program](#) is authorized by Section 1424(e) of the Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 et. seq., and 21 U.S.C. 349) that requires protection of drinking water systems that are the sole or principal drinking water source of an area and which, if contaminated, would create a significant hazard to public health. Aquifers are a geological formation, group of formations, or part of formation that is capable of yielding a significant amount of water to a well or spring (40 CFR 149.2).

Information Sources for Protecting Sole Source Aquifers

Question: Where is information available on sole source aquifers?

Answer:

For a list of EPA-designated sole source aquifers, see the homepage of the EPA Office of Ground Water and Drinking Water at [For a list of EPA-designated sole source aquifers, see the homepage of the EPA Office of Ground Water and Drinking Water at their website.](#)

TOXIC HAZARDS

Toxic Chemicals and Radioactive Hazards

Question: How does the environmental review for HUD-assisted projects address toxic chemicals or radioactive hazards?

Answer:

HUD policy, as described in [24 CFR 50.3\(i\)](#), provides 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. HUD environmental review of multifamily (housing with five or more units) and non-residential properties shall include evaluation of previous uses of the site and other evidence of contamination on or near the site, to assure that occupants of proposed sites are not adversely affected by the hazards. HUD will not approve the provision of financial assistance to residential properties located on contaminated sites that are not found to meet the above criterion. Sites known or suspected to be contaminated by toxic chemicals or radioactive materials include, but are not limited to, sites which:

- i. are on the EPA Superfund National Priorities List (NPL) or the list of CERCLIS sites, or an equivalent State list;
- ii. are located within 3,000 feet of a toxic or solid waste landfill site; or
- iii. have an underground storage tank. For information on toxic releases regarding CERCLIS, RCRIS, landview mapping maintained by the [Right-to-Know Network](#).

Projects Under 24 CFR part 58

Question: Does HUD policy at [24 CFR 50.3\(i\)](#) apply to projects subject to [24 CFR part 58](#)?

Answer:

A conforming amendment is being made to 24 CFR 58(i), which will replace the reference to HUD Notice 79-33--Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials (issued September 10, 1979). HUD is amending 24 CFR 58(i) to conform with 24 CFR 50.3(i). The new provision would reflect the general HUD policy that regardless of whether the environmental reviews are performed by HUD or by the responsible entity, the same standards would be used. The proposed provision would state HUD's policy that property proposed for use in HUD programs must be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants of the property or conflict with the intended utilization of the property. Environmental reviews for multifamily housing with five or more units (including leasing) and non-residential property must include evaluation of previous site uses and other evidence of contamination on or near the site. The entity responsible for compliance with 24 CFR part 58 must give particular attention to any proposed site on or in the general proximity of areas that contain or may have contained hazardous waste, such as dumps, landfills, and industrial sites.

ASTM Phase I

Question: Does HUD policy require an ASTM Phase I for the environmental review?

Answer:

HUD policy as stated in [24 CFR 50.3\(i\)](#) relies on a general performance standard, which could also include a Phase I environmental assessment for toxics, a standard issued by the American Society for Testing Materials (ASTM) (see document: [ASTM E 1527](#)). Some HUD programs such as mortgage insurance for Multifamily Housing already require an ASTM Phase I report, which is a real estate transaction standard with respect to the range of contaminants within the scope of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and petroleum products. This test permits a user to satisfy one of the requirements to qualify for the innocent landowner defense to CERCLA liability as to "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice" as defined in 42 U.S.C. 9601 et seq.)

Existing Real Properties

Question: Does HUD policy at [24 CFR 50.3\(i\)](#) apply to assisted existing real properties?

Answer:

For assisted existing multifamily and non-residential properties, paragraphs (1) through (4) of 24 CFR 50.3(i) apply and are to be addressed within the environmental review, as appropriate.

For assisted existing single-family homes, only paragraph (1) of 24 CFR 50.3(i) applies and is to be considered within the environmental review, as appropriate. For individual 1 to 4 single family units of existing housing, one would need to assess the site history, surroundings, and evaluate the likelihood of hazardous conditions existing nearby or on the property which could affect the health and safety of proposed occupants. These findings and observations would then be recorded in the environmental review record.

WILD AND SCENIC RIVERS

Wild and Scenic Rivers

Question: When must the environmental review for a HUD-assisted project include an evaluation of the impacts to wild and scenic rivers?

Answer:

The environmental review must evaluate the potential for impact to any listed Wild and Scenic River, when the assisted project is within one mile of the listed natural resource. This applies to the approval of HUD assistance proposed for new construction, conversion of land use, major rehabilitation of existing structures, and the acquisition of undeveloped land ([24 CFR 58.5\(f\)](#) or [24 CFR 50.4\(f\)](#)).

Protecting Wild and Scenic Rivers

Question: What is the authority for the requirement for protecting wild and scenic rivers?

Answer:

Section 7 of the Wild and Scenic Rivers Act ([16 U.S.C. 1278](#)), as amended provides for the protection of the free flowing, scenic, and natural values of rivers designated as components or potential components of the National Wild and Scenic Rivers System from the effects of construction of any water resources project.

Information Sources for Protecting Wild and Scenic Rivers

Question: Where is information available on wild and scenic rivers?

Answer:

For listed wild and scenic rivers, see National Park Service, Department of Interior [website](#). For the legislation, the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended particularly Sections 7(b) and (c) ([16 U.S.C. 1278\(b\) and \(c\)](#))

For Department of Interior regulations, see: 36 CFR Part 297 particularly Section 297.6 dealing with environmental analysis requirements.

Content updated May 24, 2002

<http://www.hud.gov/offices/cpd/energyenviron/environment/compliance/qa/index.cfm>

Word Document created By: John Swanson, CPD, MN; June 10, 2002