

HUD Healthy Homes Grantee Program

Environmental Review

Overview

In housing and development projects, it is necessary to assess the environmental impact that the project may have on the area, or the impact that the area may have on the project. In accordance with the Multifamily Housing Property Disposition Reform Act of 1994, the process required to consider environmental impact is presented in the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ). Regulations (laws and authorities) that govern the process of environmental review in HUD-assisted programs include:

- 24 CFR Part 50: Protection and Enhancement of Environmental Quality
- 24 CFR Part 58: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities
- 24 CFR Part 51: Environmental Criteria and Standards
- 24 CFR Part 55: Floodplain Management
- 36 CFR Part 800: Protection of Historic Properties
- 40 CFR Parts 1500-1508: Council on Environmental Quality Implementation of NEPA Procedural Provisions
- 7 CFR Part 658: Farmland Protection Policy Act

24 CFR Part 50 specifies rules and procedures for performing an environmental assessment (EA) or preparing an Environmental Impact Statement (EIS). 24 CFR Part 58 covers requirements for performing the assessments or preparing an EIS. Other rules, including historic preservation, clean air, flood management, describe specific categories of the environment that require an environmental impact assessment.

Under 24 CFR Part 50, HUD assumes responsibility for conducting environmental reviews for any HUD programs which may impact, or be impacted by, the environment. Although HUD is made responsible for environmental reviews under these regulations, statutory authority allows other qualified entities to assume this responsibility for certain programs. The rules governing reviews by qualified entities are found in 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities." When legislation permits, HUD clients (state, local, and Native American governments) are called responsible entities, and may assume responsibilities for complying with federal environmental laws and rules. These rules governing reviews by qualified entities are found in 24 CFR Part 58. In some cases, an entity responsible for environmental review may be the recipient of HUD funding, but the responsible entity and the funded organization are not always one and the same. For example, a Public Housing Authority (PHA) may be the recipient in charge of planning a HUD-assisted program, but because the PHA is not a state, local, or tribal government, it is not responsible for environmental review.

Whether the environmental review is performed by HUD or a responsible entity, it must be completed before any funds may be committed to a project. In addition, activities in the project are limited, pending clearance of the environmental review. Because of the importance

of environmental review, this summary of information and references was developed for HUD's Healthy Homes Initiative grantees.

The Process of Environmental Review

It is necessary to perform an environmental review to assess the impact to, or from, project activities in following areas:

- Coastal Barrier Resources
- Floodplain Management
- Historic Preservation
- Noise Abatement
- Hazardous Operations – Explosive and Flammable Operations
- Airport Hazards
- Protection of Wetlands
- Toxic Chemicals and Radioactive Materials
- Endangered Species
- Sole Source Aquifers
- Farmlands Protection
- Flood Insurance
- Environmental Justice
- Air Quality

Certain activities are defined in Parts 50 and 58 as exempt from environmental review, or are not subject to NEPA and other environmental laws and authorities. If these activities are exempt, they must be documented in the grantee's file. Even though certain activities are defined as categorically excluded from NEPA, some of these still require compliance actions for their specific category of the environment, e.g., historic preservation, clean air, flood management. If activities and projects are categorically excluded, the responsible entity completes two forms:

- Environmental Compliance Documentation, and
- HUD Form 4128, indicating compliance.

Projects that have activities that are not exempt, or categorically excluded, require an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) that considers a broad range of impacts in addition to compliance with specific laws and authorities listed above. Most HUD projects do not require the preparation of an EIS. When a finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 101(2)C of the National Environmental Policy Act of 1969, 42 U.S.C. 4332, The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, D.C. 20410.

Coastal Barrier Resources

Projects located within a coastal barrier or designated on a current FEMA flood map or Department of Interior coastal barrier resources are prohibited from being funded.

Floodplain Management

Whenever HUD financial assistance is proposed for a project within a floodplain, compliance is required with the 8-step decision making process of Executive Order 11988, "Floodplain

Management,” and implementing procedures specified in 24 CFR Part 55. Federal programs are “to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” HUD policy strongly discourages the occupancy and modification of the floodplain wherever there is a practicable alternative for the project. Floodplain means Special Flood Hazard Area (SFHA) identified on the flood maps published for the National Flood Insurance Program. These maps, available through a community’s land planning or building permit office or through FEMA’s Map Service Center [800-358-9616], should be referenced when inquiring whether a project is located on a floodplain.

Historic Preservation

The preparer of the environmental review should check the National Register of Historic Places to determine if the project is among, or near, any properties listed on the National Register. These properties may be accessed through the web page of the National Register. In addition it is necessary to consult the State Historic Preservation Officer (SHPO) as the environmental review is concerned with properties that are not only listed on the National Register, but those that are eligible for listing.

Noise Abatement

If any of noise-related questions on the Sample Field Notes Checklist used to prepare HUD Form 4128 are answered yes, a noise analysis should be performed. If the analysis shows that the exterior noise level is in the unacceptable range, 65-75 db level noise, attenuation should be recommended. If barriers are to be recommended for noise attenuation, the barrier must intercept the line of sight of the noise source as well as the receiver. In order to be effective, barriers must be of earthen, masonry or similar permanent construction and be continued for the length of the site to protect the proposed residences.

Hazardous Operations - Explosive and Flammable Operations

This category addresses above-ground storage tanks within a one-mile radius surrounding the site. If storage tanks are observed, the contents of the tanks should be identified. If either hazardous liquids or gases are present, then HUD regulations are involved and it will be necessary to determine the Acceptable Separation Distance from the tanks.

Airport Hazards

HUD policies prevent building homes in areas where airplane crashes are created or most likely to occur.

Protection of Wetlands

Whenever HUD financial assistance is proposed for a project within a designated wetland, compliance with the 8-step decision making process of Executive Order 11990, “Protection of Wetlands,” is required. HUD policy strongly discourages the modification or destruction of designated wetlands in accordance with the Executive Order requirements. When inquiring about the location of a project within a wetland, the U.S. Fish and Wildlife Service’s official listing, “National Inventory of Wetlands,” should be referenced.

Toxic Chemicals and Radioactive Materials

Particular attention should be given to any project site for HUD assistance that is located on, or in the general proximity of, such areas as dumps, landfills, industrial sites, or other locations that contain hazardous waste. It is HUD policy that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances.

Endangered Species

HUD requires compliance with the Endangered Species Act of 1973, as amended, whenever a project has the potential for affect endangered species or critical habitats. A list of endangered species is available by county from the Fish and Wildlife Service.

Sole Source Aquifers

Pollution of streams and bodies of water is covered by National Pollutant Discharge Elimination System (NPDES) permits issued by EPA. For example, if project activities in an urban area cause a sewage treatment plant to exceed its designed capacity, effluent limits may be exceeded and the state or local office issuing NPDES permits should be contacted.

Farmlands Protection

Whenever HUD financial assistance is proposed for a project that would contribute to the irreversible commitment of prime, unique, or State or local designated farmlands for non-agricultural uses, compliance with the National Farmland Policy Act of 1981 is required.

Flood Insurance

As a condition of funding approval, the property owner must purchase and maintain flood insurance whenever the owner's building is located within the Special Flood Hazard Area and is receiving HUD assistance.

Environmental Justice

The impacts of HUD projects must take account of disproportionate health and environmental dangers related to social, economic, or political position, and alleviate these health and environmental dangers, when recognized.

Air Quality

The U.S. Environmental Protection Agency (EPA) has established National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), ozone (O₃), and total suspended particulates (TSP). EPA classifies a contaminant as either being in attainment, non-attainment, or unclassifiable; and, on the basis of this classification, the state is given responsibility for ensuring that contaminants in a metropolitan area are in attainment. If project activities generate a large number of dwelling units, and a subsequent high volume of vehicular traffic, it is possible that carbon monoxide or ozone might exceed the NAAQS. In these cases, measures will need to be taken to bring these levels into attainment.