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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Community Planning and Development
WASHINGTON, DC 20410-7000

Special Attention of:

Regional and Field CPD Directors
CPD Program Staff
Emergency Solutions Grants Recipients¹

Notice CPD-12-011

Issued: June 15, 2012
Expires: June 15, 2013

Cross References: 24 CFR 50

Subject: Environmental Review Processing for Emergency Solutions Grants (ESG) Programs FY2012

I. Introduction

A. Purpose

This notice provides direction for environmental review processing for the Emergency Solutions Grants (ESG) program. This notice directs Regional and Field Office Community Planning and Development (CPD) Directors (CPD Directors) to perform environmental review processing for any ESG projects² located within their HUD field office jurisdiction. CPD Directors shall direct their staff to collect the necessary information to conduct the environmental review in accordance with 24 CFR Part 50 – Protection and Enhancement of Environmental Quality (hereafter, Part 50). If CPD field office staff determines that the activity is subject to the federal laws and authorities at 24 CFR 50.4 or that an Environmental Assessment is necessary, ESG recipients through CPD field office staff must supply the Field Environmental Officer (FEO) with information that would help the FEO complete the

¹ For the purposes of this memo, a recipient can be either a recipient or subrecipient as defined by the Emergency Solutions Grants regulations at 24 CFR part 576, published as an interim rule 76 FR 75954 (Dec. 5, 2011) (the ‘Interim Rule’). “Recipient” is defined in 576.2 of the interim rule as “any State, territory, metropolitan city, or urban county, or in the case of reallocation, any unit of general purpose local government that is approved by HUD to assume financial responsibility and enters into a grant agreement with HUD to administer assistance under this part.” “Subrecipient” is defined as “a unit of general purpose local government or private nonprofit organization to which a recipient makes available ESG funds.”

² A “project” means “an activity, or a group of integrally-related activities, undertaken directly by HUD or proposed for HUD assistance or insurance.” See 24 CFR 50.2(a).

environmental review procedure under Part 50. The Notice defines the information to be provided by ESG recipients to HUD (see **Appendix A**).

B. Background

On May 20, 2009, President Obama signed into law the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act (Public Law 111-22, Division B). The law revised the Emergency Shelter Grants program and renamed it the Emergency Solutions Grants program. The change in the program's name reflects the change in the program's focus from addressing the needs of homeless people in emergency shelters to assisting people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness. The expanded homelessness prevention component includes various housing relocation and stabilization services. It also includes short- and medium-term rental assistance to help prevent people from becoming homeless. The new rapid re-housing assistance component includes similar services and assistance to help people who are homeless move quickly into permanent housing and achieve stability in that housing.

C. Authority

The authority for environmental review of HUD-assisted projects and activities carried out under the ESG program is the National Environmental Policy Act (NEPA), the implementing regulations of the Council on Environmental Quality (CEQ), related environmental laws and authorities, and the Department's regulations at 24 CFR Part 50. The HEARTH Act repealed prior assumption authority to allow states and units of general local government to perform HUD's environmental review responsibility for the ESG program. Therefore the use of procedures under 24 CFR Part 58 – Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities – is not authorized.

II. Basic Environmental Requirements

A. Activities Subject to Environmental Review

HUD's award of ESG funds to a recipient does not constitute approval of any proposed sites. After awarding funds to a recipient, HUD will perform an environmental review of activities proposed for ESG assistance, in accordance with 24 CFR Part 50. The results of the environmental review may require that proposed activities be modified or that proposed sites be rejected. **Recipients are particularly cautioned not to undertake or commit funds for acquisition or development of proposed properties prior to HUD approval of specific properties or areas.**

In accordance with 24 CFR 576.407(d), the recipient must:

1. Supply all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR Part 50;
2. Carry out mitigating measures required by HUD or select alternate eligible property;
3. Ensure that the recipient or subrecipient, or any contractor of the recipient or subrecipient, will not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for an ESG project or commit or expend HUD or local funds for these activities, until the recipient has received HUD approval of the property with respect to environmental review.

The term "local funds" refers to any nonfederal funds. The term "HUD approval" means written approval by the CPD Director in the HUD field office jurisdiction in which the ESG project is located. CPD Directors handle all responsibilities related to the purpose of this Notice including rejections of activities with significant adverse environmental impacts.

B. Activities Not Subject to Environmental Review

Section 50.19(b) lists the activities that do not require environmental review under NEPA except in extraordinary circumstances (§50.20(b)) or under the other laws and authorities cited at §50.4. Recipients may commit and expend funds for these activities³, which are not subject to environmental review (except as noted below), without HUD environmental approval of the property:

1. Environmental and other studies, resource identification and the development of plans and strategies, if specific to eligible ESG activities such as rehabilitation or conversion;*
2. Administrative and management expenses;*
3. Public services that will not have a physical impact or result in any physical changes, including, but not limited to, services concerned with employment,* crime prevention, child care,* health,* drug abuse,* education,* counseling,* energy conservation and welfare or recreational needs;
4. Inspections and testing of properties for hazards or defects;*

³ ESG funds may only be used for the activities listed in section 50.19 that are considered eligible in accordance with the ESG Interim Rule. The activities that may be considered eligible ESG activities, if in compliance with the regulations set forth in the Interim Rule, are denoted with an asterisk (*).

5. Purchase of insurance (i.e. shelter operating costs);*
6. Purchase of tools (i.e. shelter equipment);*
7. Engineering or design costs;*
8. Technical assistance and training;*
9. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;*
10. Tenant-based rental assistance;*
11. Supportive services including, but not limited to, health care;* housing services;* permanent housing placement;* day care;* nutritional services;* short-term payments for rent,* mortgage, utility costs,* and assistance in gaining access to local, state, and federal government benefits and services*;
12. Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs; however, in the case of equipment, compliance with §50.4(b)(1) is required;*

III. Responsibilities

A. HUD Headquarters (Office of Special Needs Assistance Programs and Office of Environment and Energy)

The Office of Special Needs Assistance Programs (SNAPS) and the Office of Environment and Energy are responsible for providing field office staff with the support and guidance necessary to fulfill their responsibilities as described in this Notice. SNAPS will coordinate with the Office of Environment and Energy, as needed, to answer all ESG Helpdesk questions related to the environmental review of activities involving ESG program funds. HUD Headquarters will provide field office staff and ESG recipients with technical assistance on this notice via webinar.

B. HUD CPD Director and Staff (Including Field Environmental Officers)

1. CPD Director and Staff Responsibilities

- a. Approving Official.** The CPD Director will serve as the "HUD approving official" as defined in §50.2 for ESG grants located within the HUD field office jurisdiction.
- b. Recipient Outreach.** The CPD Director and staff will provide adequate outreach to the ESG recipient, such as an initial meeting with the recipient, conference call or webinar, to explain the environmental review responsibilities and to explain how the recipient may obtain the environmental information that is to be supplied to the field CPD Director;
- c. Environmental Management and Monitoring.** The CPD Director and staff will establish, as necessary, commitments for environmental management and monitoring in accordance with §50.22;
- d. Documentation.** The CPD Director and staff should document any projects or activities that are excluded from environmental review under NEPA and the related laws by putting a note to this effect in the project file. For projects or activities that are not excluded from environmental review under NEPA and the related laws, CPD Director's staff should forward all environmental review documentation to the Field Environmental Officer (FEO) assigned to their jurisdiction, who will conduct the environmental review; and
- e. Approval/Disapproval.** The CPD Director and staff will prepare the written approval or disapproval letter (see form letters in Appendix B) for the CPD Director's signature and dispatch the written notification to the ESG recipient. The FEO should review the letter prior to signature. A copy is to be forwarded to the SNAPS office.

2. Field Environmental Officer Responsibilities

- a. Source of Information.** In accordance with §50.32, the FEO may use any information supplied by the ESG recipient provided that HUD independently (1) evaluates the information, so that HUD will be responsible for its accuracy, (2) supplements the information (if necessary) to conform to the requirements of Part 50, and (3) prepares the environmental finding.

- b. Environmental Review Processing.** For projects or activities that are not excluded from environmental review under NEPA and the related laws, the FEO will complete the environmental review in accordance with Part 50. Upon satisfactory completion, the FEO will (1) document the Department's compliance on the "Sample Field Notes Checklist" for Form HUD-4128 and complete form HUD-4128 – "Environmental Assessment and Compliance Findings for the Related Laws"; (2) attach to the HUD-4128 the information provided by the ESG recipient or other sources used for completing the environmental analysis and findings; and (3) obtain the signature of CPD Director as the HUD approving official. These documents serve as the environmental review record, which the HUD field office must maintain and make available upon request.

On form HUD-4128, complete both Part A (Compliance Findings for §50.4 Related Laws and Authorities) and Part B (Environmental/Program Factors) for HUD approval of all actions except those categorically excluded from the NEPA assessment.

Complete only Part A (Compliance Findings for §50.4 Related Laws and Authorities) for HUD approval of the categorically excluded activities (a) through (d) listed below. However, any categorical exclusion having the potential for significant impact because of extraordinary circumstances under §50.20(b) also requires completion of both Part A (Compliance Findings for §50.4 Related Laws and Authorities) and Part B (Environmental/Program Factors). Categorically excluded activities are the following:

- i.** Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities;
- ii.** An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site. This does not apply to rehabilitation of a building for residential use (with one to four units)(see subparagraph (c) below);
- iii.** Minor rehabilitation of existing structures (§50.20(a)(2)) when the following conditions are met:

- (a) in the case of a building for residential use (with one to four units), (1) the density is not increased beyond four units, (2) the land use is not changed, and (3) the footprint of the building is not increased in the floodplain or a wetland;
 - (b) in the case of multifamily residential buildings: (1) unit density is not changed more than 20 percent; (2) the project does not involve changes in land use from residential to non-residential; and (3) the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation; or
 - (c) in the case of non-residential structures, including commercial, industrial, and public buildings: (1) the facilities and improvements are in place and will not be changed in size nor capacity by more than 20 percent; and (2) the activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- iv. Acquisition (including leasing) or disposition of, or equity loans on, an existing structure or acquisition (including leasing) of a vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- c. **Approval/Disapproval Letter.** Review the written approval letter or other typed letter, if approval is not warranted, (see form letters in Appendix B) prior to the CPD Director's signature.

C. ESG Recipient Responsibilities

1. **Provide a Submission Timeline.** ESG recipients⁴ will supply the CPD Director with a timeline, estimating their schedule for submitting all environmental information to the CPD Director as set forth in this Notice.
2. **Provide Information.** ESG recipients will supply the CPD Director with all available, relevant information necessary for HUD to perform environmental reviews required under Part 50. Recipients are to complete the attached Format (see Appendix A) and provide the information for the environmental review. HUD encourages electronic submission of such information. The Format provides specific questions for the recipient to answer for each property proposed for the

⁴ See footnote 1.

ESG project. Also, it 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. The recipient's information will help HUD to complete the environmental review processing required by 24 CFR Part 50 – Protection and Enhancement of Environmental Quality.

- 3. Resources for Supporting Documentation.** Recipients may wish to contact their local or county planning agency or local community development agency, and request the agency's help in developing the information or have the agency staff prepare a letter with their answers (i.e., findings) to the questions in the attached Format (Appendix A). Instead or in addition, recipients may wish to use ESG administrative funds to help pay for staff services or private consultants who would obtain and supply the information or support recipients in supplying information to the HUD field office. Most of the information necessary to prepare the response to these questions is readily available to recipients from their local or county planning agency, local community development agency or building permit official.

The recipient's written response should include a city or county map that shows the location of the property or project area as well as photos, when appropriate, showing the north, east, south, and west perspectives from the property or the project area, and the dates the photos were taken. Because the most time consuming item is the letter (see Appendix A) from the State Historic Preservation Officer (SHPO), recipients are encouraged to contact the SHPO **as early as possible**.

- 4. Mitigating Measures.** ESG recipients must carry out environmental mitigating measures required by HUD or select alternate eligible property;
- 5. Limitations Prior to HUD Approval.** Recipients must not acquire, rehabilitate, convert, demolish, lease, repair or construct property, nor commit or expend HUD or nonfederal funds for these program activities with respect to any eligible property, until the recipient receives HUD environmental approval of the property from the CPD Director in the field office in which the ESG project is located.
- 6. Aggregate Properties for HUD Environmental Review.** As provided under 24 CFR 50.21, activities which are geographically related and are logical parts of a composite of contemplated projects must be evaluated together. For example, if a recipient intends to fund project-based rental assistance for multiple units in the same building, the recipient must group those units together so that they can be evaluated together. Additionally, if a recipient

intends to fund rehabilitation and conversion of a shelter with ESG funds and related water, drainage, and surface improvements to the property with non-ESG funds, the recipient generally should consider these actions to be one project and group them together for evaluation. If there are concerns regarding aggregation, the HUD Field or Regional Environmental Officer can assist in determining the appropriate scope of the project.

- 7. Communications with HUD Staff.** To achieve time savings and effective delivery of information to the HUD field CPD Director, ESG recipients are encouraged to use e-mail or FAX in communicating with the HUD field staff responsible for performing environmental processing for their projects under this Notice.

IV. Other

A. Use of Prior Environmental Assessments and Use of Information Submitted by the Recipient

1. When other federal, state, or local agencies have prepared an environmental assessment or other environmental analysis for a property (or neighborhood) which the recipient had selected for use in its ESG program, these documents should be requested and used to the extent possible (see §50.35).
2. CEQ regulations at 40 CFR 1506.5(a) require HUD to independently evaluate environmental information submitted by the recipient and be responsible for its accuracy, as well as to verify (but not redo) acceptable work. The independent HUD evaluation will result in an environmental assessment and/or environmental compliance review, Finding of No Significant Impact or Environmental Impact Statement, or a determination that the program/project is categorically excluded from environmental review and not subject to related environmental laws.

B. Environmental Consultant and Administrative Costs

ESG recipients' administrative funds may be used to obtain the information that the recipients are responsible for supplying to the HUD field office under this Notice. There is no requirement for an environmental compliance review for the use of these funds for such purpose. §§50.19(b)(1) and (3) respectively exclude from environmental review procedures both "environmental and other studies" as well as "administrative and management costs." This exclusion extends to the costs of environmental consultants engaged by the recipient and/or payments to local governments for this service.

C. HUD environmental website

For more information on preparing environmental reviews, see the HUD environmental website at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/

D. Directory of Field CPD Division Directors and Field Environmental Officers

1. Field Office CPD Directors:

<http://www.hud.gov/offices/cpd/about/staff/fodirectors/>

2. Local Environmental Contacts:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/contact/localcontacts

SUGGESTED FORMAT⁵

**THRESHOLD REVIEW FOR PROPOSED ACTIVITIES
HUD EMERGENCY SOLUTIONS GRANT (ESG) PROGRAM**

(Recipients are to provide the following information to HUD)

ESG Recipient's Name:

ESG Grant Number:

Preparer's Name:

Phone Number:

FAX Number:

E-mail Address:

Recipient Street Address:

A. Describe the project. In addition to the activities involved, indicate the number of housing units to be assisted, and/or acreage to be developed. Include project street address, if applicable.

B. Attach a map identifying the location of the proposed project within the community

Map attached

Optional: attach photographs of the property and adjacent properties

Photographs attached

C. Describe the present and proposed use of the property:

Present:

Proposed:

E. Report the repair/rehabilitation costs and related property values, if conversion, repair, minor or major rehabilitation is being proposed.

(1) Property value before repair/rehab \$

(2) Repair/rehab costs (estimate) \$

(3) Property value after repair/rehab \$

⁵ The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 – 3520) and assigned OMB control number 2506 – 0177. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

F. Are there any physical or environmental conditions that have or may have a significant impact on the human environment?

- Yes No Uncertain

If the answer is "uncertain" or "yes," describe the conditions and impacts.

G. Respond to these questions:

- For equipment purchase: Complete Section #1 in Part I only.
- For project-based rental assistance and leasing of existing structures for office space: Complete Sections #1 – 3 in Part I only.
- For repair or minor rehabilitation⁶ of existing structures: Complete Sections #1 – 5 in Part I only.
- For major rehabilitation: Complete Sections #1 – 12 in Part I and Part II.
- For conversion from one land use to another: Complete Sections #1 – 16 in Part I and Part II.

Part I: Related Laws and Authorities

1. Flood Insurance

Requirements: The Flood Disaster Protection Act of 1973 requires that property owners purchase flood insurance for projects involving construction, rehabilitation, or acquisition of mobile homes, buildings, or insurable personal property (including equipment, fixtures, and furnishings) located within Special Flood Hazard Areas.

Note that flood insurance is not required if less than one year has passed since FEMA notification of the Special Flood Hazards. Federal assistance may not be used in a floodplain if the community is not currently participating in the National Flood Insurance Program. The purchase of flood insurance is not required for ESG formula grants allocated to States.

Authority: Flood Disaster Protection Act of 1973 as amended (42 USC 4001-4128). 24 CFR 55.1(b).

Resources:

- [ATEC Site on Flood Insurance Compliance](#)
- [Flood Insurance FAQ](#)

⁶ “Minor rehabilitation” is defined as --

- In the case of a building for residential use with one to four units: rehabilitation when the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland.
- In the case of a multifamily residential building: rehabilitation when the unit density is not changed more than 20 percent, the project does not involve a change in land use from residential to non-residential, and the estimated cost of rehabilitation is less than 75% of the total estimated cost of replacement after rehabilitation.

[FEMA's Flood Insurance Rate Maps \(FIRMs\)](#)

Provide the following:

- FEMA/FIRM map with the project site marked
- If the site is in a Special Flood Hazard Area: Estimate of the amount and period of flood insurance coverage that should be made a condition of approval of the building

Is flood insurance required at this site?

Yes

No

2. Coastal Barrier Resources Act (CBRA)

Requirements: CBRA prohibits most Federal assistance within barrier islands that are subject to frequent damage by hurricanes and storm surges. Islands, sand barriers, and sand pits that are part of the system are located along the Atlantic Ocean, Gulf of Mexico, and the Great Lakes. HUD will reject any project located in the Coastal Barrier Resources System.

The following states have Coastal Barrier Resources: Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Minnesota, New Jersey, New York, North Carolina, Ohio, Puerto Rico, Rhode Island, South Carolina, Texas, U.S. Virgin Islands, Virginia, and Wisconsin.

Authority: Coastal Barrier Resources Act (CBRA), as amended by the Coastal Barrier Improvement Act of 1990 (16 USC 3501).

Resources:

[ATEC Site on CBRA](#)

[Fish and Wildlife Service's CBRA Page](#)

[Fish and Wildlife Service's Official CBRS Map](#)

If the project is in a state with Coastal Barrier Resources, provide the following:

- A map or other documentation showing that the project site is not in a CBRA Unit

2. Contamination and Toxic Substances

Requirements: It is HUD policy 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. The environmental review of multifamily housing with 5 or more dwelling units must include a review of previous uses of the site and other evidence of contamination on or near the site to assure the proposed occupants are not impacted by any of these hazards.

Authority: 24 CFR 50.3(i)

Resources:

[ATEC Site on Toxics](#)

[Choosing and Environmentally Safe Site](#)

[EPA EnviroMapper](#)

Provide the following:

- A report of toxic sites and releases within 3,000 feet using EPA’s EnviroMapper or similar services. Provide the map, list of EPA regulated sites, and the compliance report for each EPA regulated site listed.
- If providing multifamily assistance (i.e. assistance to 5 or more units in one building): Documentation showing past uses of the site. Supporting documentation of past uses may include historic aerial photographs of the site showing the status/use of the site through time, Sanborn Fire Insurance Rate maps, historical property tax records/cards, street directories and/or other historical mapping data, or a Phase I Environmental Assessment Report.

Did the reports uncover any unmitigated compliance problems (Recognized Environmental Conditions) or underground storage tanks?

Yes – REC Yes – underground storage tank(s) No

3. Floodplain Management

Requirements: Executive Order 11988, Floodplain Management, requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. HUD will refuse financial support for proposed activities unless there are no practicable alternatives outside the floodplain. Where sites outside of a floodplain are available within the community or housing market area, these are considered practicable.

Authority: Executive Order 11988. 24 CFR Part 55.

References:

[ATEC Site on Floodplain Management](#)
[FEMA’s Flood Insurance Rate Maps \(FIRMs\)](#)

Provide the following:

- FEMA/FIRM map with the project site marked
- If the site is in the 100-year floodplain (or 500-year floodplain for critical actions) and not excepted by 55.12, a discussion of alternative sites outside the floodplain and their practicability, identification of impacts of the proposed project on the floodplain, appropriate mitigation to minimize risks, and a rationale for not selecting a non-floodplain site . The recipient is also responsible for any publication costs for the required notices to be published at HUD’s direction.

Is the site in a 100-year floodplain (or 500-year floodplain for critical actions⁷)?

Yes No

⁷ Critical action means any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property, e.g., hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Critical actions cannot be approved in floodways or coastal high hazard areas.

4. Historic Preservation

Requirements: Regulations under Section 106 of the NHPA require a consultative process to identify historic properties, assess project impacts on them, and avoid, minimize, or mitigate adverse effects. The consulting parties in the review include the federal agency official, the applicant (the ESG recipients in this case), State Historic Preservation Officers (SHPOs), and a representative of the local government, and may also include Tribal Historic Preservation Officers and tribal leaders, other parties with demonstrated interest, the general public, and the federal Advisory Council on Historic Preservation. Applicants for federal assistance often hire historic preservation professionals to assist with Section 106 reviews.

Historic properties are defined as those buildings, structures, objects, sites, landscapes and districts that are listed on or eligible for the National Register of Historic Places. In general, a building must be at least 50 years old to qualify for the National Register, although there are exceptions, and it must retain its historic features and materials to a large degree. Many buildings qualify as contributing resources in historic districts in old residential neighborhoods and historic downtowns. Archeological sites and traditional religious and cultural properties of significance to Indian tribes may also be listed on the National Register. If a project involves significant ground disturbance, it may be necessary to consult with tribes about impacts to those resources.

Authority: Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f). 36 CFR 800 "[Protection of Historic Properties.](#)"

References:

[Section 106 Checklist](#)

[National Park Service's National Register of Historic Places Database](#)

[State Historic Preservation Offices' \(SHPOs\) Listings](#)

[ATEC Site on Historic Preservation](#)

[Advisory Council on Historic Preservation's Section 106 Guidance](#)

[HUD's Tribal Directory Assessment Tool \(TDAT\)](#)

Provide the following:

- Any applicable Historic Preservation Programmatic Agreement(s)
- All correspondence and notes (including comments and objections received) from any prior or ongoing consultation relating to the project, including any letters from the State Historic Preservation Officer (SHPO)
- Information on any historic properties and districts within the Area of Potential Effect
- Any surveys of historic buildings and/or archaeological sites conducted as part of the project's review

Assess the effects of the project on historic properties and provide a recommendation:

- Project is exempted from Section 106 requirements by a Programmatic Agreement (attach)
- Project has No Potential to Cause Effects due to the nature of the activities involved
- No Historic Properties Affected
 - No historic properties present
 - Historic properties present but not affected
- No Adverse Effect
- Adverse Effect

Does this section and/or the attached documentation contain any confidential information⁸ that should not be released?

- Yes
- No

5. Endangered Species Act

Requirements: Section 7 of the Endangered Species Act (ESA) mandates that actions that are authorized, funded, or carried out by Federal agencies shall not jeopardize the continued existence of Federally listed plants and animals or result in the adverse modification or destruction of designated critical habitat. Where their actions may affect resources protected by the ESA, agencies must consult with the Fish and Wildlife Service and/or the National Marine Fisheries Service (“FWS” and “NMFS” or “the Services”).

Authority: The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); particularly section 7 (16 USC 1536). 50 CFR Part 402

References:

[ATEC Site on ESA Compliance](#)

[The Services’ Section 7 Consultation Handbook](#)

[FWS’s mapping tool: IPaC](#)

Provide the following:

- A list of threatened and endangered species in the project area
- Explanation of the project’s potential effects on listed species, if any

Assess the effects of the project on listed species and provide a recommendation:

- No Effect.
- May Affect, Not Likely to Adversely Affect
- May Affect, Likely to Adversely Affect

⁸ Examples of sensitive information include the locations of archeological sites, the locations, character, and use of traditional religious and cultural properties of significance to Indian tribes, and the locations of victim services facilities.

Does this section and/or the attached documentation contain any confidential information that should not be released?

Yes

No

6. Noise Abatement and Control

Requirements: HUD Noise regulations require a determination of whether the project site is affected by environmental noise and implementation of appropriate noise attenuation features. HUD encourages mitigation to reduce levels to acceptable compliance standards for rehabilitation projects. For major rehabilitation or conversion activities with noise generators within range, a noise analysis is required.

Authority: Noise Control Act of 1972. General Services Administration Federal Management Circular 75-2: "Compatible Land Uses at Federal Airfields." 24 CFR Part 51 Subpart B.

References:

[ATEC Site on Noise Abatement and Control](#)

[Noise Guidebook](#)

[Airport Noise Exposure Maps](#)

Provide the following:

- A mapped Preliminary Screening identifying potential noise generators in the vicinity (1000 feet from a major road, 3000 feet from a railroad, or 15 miles from an airport)
- If noise generators are found in the preliminary screening: a noise analysis and all data used to complete the analysis

Indicate the noise level of the project site:

No noise generators in the vicinity as documented on a map

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

Normally Unacceptable (Above 65 decibels but not exceeding 75 decibels)

Unacceptable (Above 75 decibels)

7. Airport Hazards

Requirements: It is HUD policy to apply standards to prevent incompatible development around civil airports and military airfields. Projects within 15,000 feet of a military airport or 2,500 feet of a civilian airport should be evaluated for the potential for airport hazards. Special restrictions apply to projects located within Runway Protection Zones/Clear Zones (RPZ/CZ), areas immediately beyond the ends of runways as defined by FAA regulations, and Accident Potential Zones (APZ), areas at military airfields beyond the Clear Zones as defined by Department of Defense.

Authority: 24 CFR Part 51 Subpart D

Resources:

[ATEC Site on Airport Hazards](#)

[FAA Advisory Circular on RPZs](#)
[DOD Land Use Compatibility Guidelines](#)
[Sample Notice to Prospective Buyers](#)

Provide the following:

- A map showing the site relative to any airports
- If within 15,000 feet of a military airport: Map showing the site relative to designated APZs
- If within 2,500 feet of a civilian airport: Map showing the site relative to designated RPZ/CZs
- Documentation of consistency with DOD Land Use Compatibility Guidelines, if applicable
- Signed copy of Notice to Prospective Buyers, if applicable

Is the project site within range of an airport hazard?

- Project is not within 15,000 feet of a military airport or 2,500 feet of a civilian airport.
- Project is within 15,000 feet of a military airport or 2,500 feet of a civilian airport but not in an RPZ/CZ or APZ.
- Project is in an APZ.

If project involves substantial rehabilitation or activities that would significantly increase the density or number of people at the site, assess whether project is consistent with [DOD Land Use Compatibility Guidelines](#) and provide a recommendation:

- Project is consistent with DOD Land Use Compatibility Guidelines
- Project as designed is not consistent with DOD Land Use Compatibility Guidelines
- Project is in an RPZ/CZ.

HUD assistance may NOT be used at this location if project involves substantial rehabilitation or activities that would significantly prolong the physical or economic life of existing facilities that will be frequently used or occupied by people.

HUD assistance may be used for existing properties proposed for acquisition or lease with or without minor rehabilitation or repair. Written notice must be provided to prospective buyers to inform them of potential hazards. (See [Sample Notice to Prospective Buyers](#).)

8. Coastal Zone Management Act (CZMA)

Requirements: Projects that may affect a coastal use or resource must be carried out in a manner consistent with the approved State coastal zone management program under Sec. 307 of the CZMA. The state or local government applicant is responsible for consulting with the state CZM agency.

The following states have Coastal Zones: Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina,

Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, Washington, Wisconsin

Authority: Coastal Zone Management Act (16 USC 1451-1464), particularly section 307(c) and (d) (16 USC 1456(c) and (d)). 15 CFR Part 930.

References:

[ATEC Site on CZMA Compliance](#)

[NOAA's CZM Page \(including state contacts\)](#)

If your project is **in a state with Coastal Zones**, complete the following section:

Provide the following:

- Map or other documentation showing project site relative to Coastal Zone as defined by the State Coastal Management Plan
- Documentation of consistency determination, if applicable

Assess whether the project is consistent with State Coastal Management Program and provide a recommendation:

- Project is not located in and will not affect a Coastal Zone
- Project is consistent with the State Coastal Management Program
- Project as defined is inconsistent with the State Coastal Management Program

9. Wetlands Protection

Requirements: Avoid direct or indirect support of new construction impacting wetlands⁹ wherever there is a practicable alternative. The Fish and Wildlife Service's National Wetlands Inventory can be used as a primary screening tool, but observed or known wetlands not indicated on NWI maps must also be processed. All activities in wetlands that are included in E.O. 11990's definition of "new construction" (including expansion of a building's footprint or ground disturbance) should be processed. Off-site impacts that result in draining, impounding, or destroying wetlands must also be processed.

Authority: Executive Order 11990. 24 CFR 55.20 may be used as general guidance regarding the 8 Step Process.

References:

[ATEC Site on Wetlands Protection](#)

[National Wetlands Inventory](#)

If your project includes **expansion of a building's footprint or any ground or hydrological disturbance**, complete the following section:

⁹ The definition of a wetland for E.O. 11990 purposes includes jurisdictional wetlands subject to Section 404 of the Clean Water Act (CWA) and non-jurisdictional wetlands not subject to the CWA.

Provide the following:

- A wetlands map with the project site marked
- If there is a wetland that may be impacted, a discussion of alternative sites outside the wetland and their practicability, identification of impacts of the proposed project on the wetland, appropriate mitigation to minimize wetland impacts, and a rationale for not selecting a non-wetland site including all documents used to make your determinations (Note that this information may be combined with that of EO 11988 “Floodplain Management.”) The recipient is also responsible for any publication costs for the required notices to be published at HUD’s direction.
- Any wetlands permit issued under Section 404 of the Clean Water Act.

Assess whether the project will result in disturbance of an on- or off-site wetland and provide a recommendation:

Yes No

10. Explosive and Flammable Hazards

Requirements: Blast overpressure and thermal radiation standards are used as a basis for calculating acceptable separation distances for HUD-assisted projects from specific, stationary hazardous operations which store, handle, or process substances of fire or explosive prone nature. HUD-assisted projects must meet Acceptable Separation Distances or mitigation measures must be undertaken.

Authority: 24 CFR Part 51 Subpart C

References:

[ATEC Site on Explosives and Flammables](#)
[Acceptable Separation Distance \(ASD\) Guidebook](#)
[ASD Calculator](#)

If your project includes **conversion, or rehabilitation activities that will increase residential densities**, complete the following section:

Provide the following:

- All documentation used to locate stationary aboveground storage containers within 1 mile of the project site
- All documentation used to determine separation distance of the assessed tank, including map(s) showing location of project site relative to tank, if applicable

Assess whether the project meets Acceptable Separation Distance guidelines and provide a recommendation:

- No stationary aboveground storage containers within 1 mile of the project site
- Distance between assessed tank and project site is acceptable
- Distance between assessed tank and project site is not acceptable as designed

11. Environmental Justice

Requirements: Under Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” adverse environmental impacts upon low income or minority communities should be mitigated to avoid disproportionate effects to those communities.

Authority: Executive Order 12898

References:

[ATEC Site on Environmental Justice Compliance](#)

[EPA’s Environmental Justice Site](#)

[EPA’S Environmental Justice Screening Tool: EJ View](#)

Provide the following:

- Documentation used to determine potential impacts on low-income and/or minority communities

Will this project have adverse environmental impacts disproportionately high for low-income and/or minority communities?

- Yes No

12. Sole Source Aquifers

Requirements: Development that may affect aquifers designated by the Environmental Protection Agency (EPA) must be reviewed for impact on such designated aquifer sources. Consultation with the EPA may be required to determine whether a proposed project may contaminate a sole source aquifer.

The National EPA Sole Source Aquifer Website has links to each EPA region. Most regions provide SSA maps online. For others, you may need to contact the regional EPA for a map.

Authority: Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300f et seq., and 21 U.S.C. 349). 40 CFR Part 149.

References:

[ATEC Site on Sole Source Aquifers](#)

[EPA’s Sole Source Aquifer Site](#)

Provide the following:

- Documentation of the project site's location relative to sole source aquifers (SSA), such as a map of the project in relation to the nearest SSA and its source area
- Any applicable Agreement with EPA governing HUD projects impacting SSAs in the project area (Please mark relevant sections(s))
- All documentation of consultation with the EPA, if applicable

Could the project contaminate an aquifer and create a significant hazard to public health?

Yes No

13. Wild and Scenic Rivers Act

Requirements: The Wild and Scenic Rivers Act provides Federal protection for certain free-flowing, wild, scenic and recreational rivers designated as components or potential components of the National Wild and Scenic Rivers System (NWSRS) from the effects of construction or development.

Authority: The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287), particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)). 36 CFR Part 297 "Wild and Scenic Rivers" (USDA).

References:

[ATEC Site on Wild and Scenic Rivers](#)

[National Park Service's WSR Site](#)

[Wild and Scenic Rivers Listing](#)

[Study Rivers Listing](#)

[Nationwide Rivers Inventory](#)

Provide the following:

- Documentation of the project site's location relative to NWSRS river(s), such as a map identifying the project site and its surrounding area or a list of rivers in the region
- All documentation of consultation with appropriate federal, state, local, or tribal managing agency(s), if applicable

Will the project have an adverse effect on a river listed in the NWSRS?

Yes No

14. Clean Air Act

Requirements: The Clean Air Act prohibits federal assistance to projects that are not in conformance with the State Implementation Plan (SIP). Conversion projects, when located in "non-attainment" or "maintenance" areas as defined by the EPA, may need to be modified or mitigated to conform to the SIP.

Authority: Clean Air Act (42 USC 7401 et seq.) as amended particularly Section 176(c) and (d) (42 USC 7506(c) and (d)). 40 CFR Parts 51 and 93.

References:

[ATEC Site on Clean Air Act Compliance](#)

[EPA Clean Air Act Site](#)

[EPA Green Book Nonattainment Areas for Criteria Pollutants](#)

[EPA Conformity Determination Thresholds at 40 CFR 93.153\(b\)](#)

If your project includes **conversion** of land use facilitating the development of public, commercial, or industrial facilities, or five or more dwelling units, complete the following section:

Provide the following:

- All documentation used to determine attainment status of air quality management district or county
- If project's air quality management district or county is in non-attainment or maintenance status for one or more criteria pollutants: de minimis emissions levels¹⁰ for all pollutant(s) for which the district is in non-attainment or maintenance
- If project's air quality management district or county is in non-attainment or maintenance status for one or more criteria pollutants: estimated project emissions levels¹¹ for all pollutant(s) for which the district is in non-attainment or maintenance

Is your project's air quality management district or county in non-attainment or maintenance status for one or more criteria pollutants?

Yes

No

15. Farmlands Protection

Requirements: The Farmland Protection Policy Act (FPPA) discourages Federal activities that would convert farmland to nonagricultural purposes. Projects involving any activities, including new construction, acquisition of undeveloped land, or conversion, that could convert agricultural land to a non-agricultural use, should be analyzed to determine whether the FPPA may apply.

The FPPA protects "important farmland" including prime farmland, unique farmland, and/or land of statewide or national importance. 7 CFR 658.2(a).

Authority: Farmland Protection Policy Act (FPPA) of 1981 (7 U.S.C. 4201 et seq.). 7 CFR Part 658.

References:

[ATEC Site on Farmland Protection](#)

[USDA Natural Resources Conservation Service's \(NRCS\) Web Soil Survey](#)

¹⁰ See [EPA Conformity Determination Thresholds at 40 CFR 93.153\(b\)](#).

¹¹ Emissions modeling sites, such as www.caleemod.com, as well as [EPA Conformity Determination Thresholds at 40 CFR 93.153\(b\)](#), may assist in this determination. You may also wish to contact your Air Quality District for assistance. Note that correspondence with the Air Quality District may serve as documentation for purposes of this section.

[USDA Service Center](#)

Does “important farmland” regulated under the FPPA occur on the project site?

Yes No

If “important farmland” regulated under the FPPA occurs on the project site, provide the following:

- [Form AD-1006](#), “Farmland Conversion Impact Rating”
(Complete Parts I, III, VI, and VII of form AD-1006. NRCS will complete Parts II, IV, and V of the form. Part VII combined scores over 160 points require the evaluation of at least one alternative project site. NRCS has 45 days to make a determination. NRCS will return form AD-1006 to you.)

Part II: Environmental Assessment Factors

Requirements: An Environmental Assessment (EA) is required for compliance with the National Environmental Policy Act (NEPA) and the related laws and the implementing regulations of the Council on Environmental Quality for activities that are not categorically excluded under 24 CFR 50.20(a). It is HUD policy to reject proposals that have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality.

Authority: The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). 40 CFR Parts 1500-1508.

If your project includes **activities – such as conversion and some major rehabilitation – which are not categorically excluded under 24 CFR 50.20(a)**, complete the following section:

Identify any potential impacts of the proposed project on the surrounding area as well as the potential impact of the surrounding area on the proposed project. Identify any adverse and beneficial impacts in terms of:

- (1) Unique natural features and areas
- (2) Site suitability, access, and compatibility with surrounding development
- (3) Soil stability, erosion, and drainage
- (4) Nuisances and hazards (both natural and built)
- (5) Water supply/sanitary sewers
- (6) Solid waste disposal

- (7) Schools, parks, recreation, and social services
- (8) Emergency health care, fire and police services
- (9) Commercial/retail and transportation
- (10) Other:
 - (i) project's conformance with the locality's comprehensive plans and zoning;
 - (ii) proposed displacement of residents or structures by the project; and
 - (iii) energy conservation measures proposed for the project.

REPLY TO ESG RECIPIENTS REGARDING HUD APPROVAL

[Type on HUD Field Office stationery]

Dear Recipient:

We have reviewed the information that you supplied to us in your letter of (month, day, year) requesting environmental processing under the HUD Emergency Solutions Grants (ESG) Program. Our determination for the property (or neighborhood area) listed in your submission is as follows:

[Type the appropriate option]

[Option 1: HUD approval – no environmental review required]

The following property (or neighborhood area) listed in your submission does not exceed any of the thresholds that activate the Federal environmental laws and authorities. Therefore HUD approves the use of this property (or neighborhood area) in your local ESG program. You may proceed to commit or expend ESG grant funds (to the extent allowable under 24 CFR Part 576) and non-HUD funds to undertake property acquisition, rehabilitation, conversion, demolition, leasing, repair or construction for this property (or properties within this neighborhood area).

[Option 2: HUD environmental approval with or without special conditions]

The following property (or neighborhood area) listed in your submission exceeds one or more of the thresholds that activate the Federal environmental laws and authorities, and it was necessary for us to perform a compliance review. We approve the use of this property (or neighborhood area) in your local ESG program. You may proceed to commit or expend ESG grant funds (to the extent allowable under 24 CFR Part 576) and non-HUD funds to undertake property acquisition, rehabilitation, conversion, demolition, leasing, repair or construction for this property (or properties within this neighborhood

area) under the following specified conditions: (explain the specified conditions if any are required).

[Option 3: HUD request for additional information to perform either the threshold determination or the compliance review, or both]

The following property (or neighborhood area) appears to exceed one or more of the thresholds that activate the Federal environmental laws and authorities. Therefore, (we request that you provide the following necessary information so that we may perform the threshold determination) or (a compliance review is required and significantly more time will be needed for us to complete this review). You are prohibited from committing or expending HUD and non-HUD funds to undertake property acquisition, rehabilitation, conversion, demolition, leasing, repair or construction with respect to any eligible property (or neighborhood area), until HUD approval is received for the specific property (or neighborhood area). If you wish to remove this property (or neighborhood area) from further consideration, please call us as soon as possible. For this property (or neighborhood area), the following action is required (explain action required).

[Option 4: HUD disapproval]

The following property (or neighborhood area) exceeds one or more of the thresholds that activate the Federal environmental laws and authorities, and for the following reasons HUD disapproves the use of this property (or neighborhood area) in your ESG program. You are prohibited from committing or expending ESG funds to undertake property acquisition, rehabilitation, conversion, demolition, leasing, repair or construction with respect to this property (or neighborhood area). For this property (or neighborhood area), the specific reasons for this disapproval are the following: (explain reasons).

For further information regarding this review, please

phone _____, at _____ or

e-mail: _____.

Yours truly,

Director

Community Planning and Development Division

cc:

HQ ESG Program Coordinator

Field ESG Program Coordinator

Field Environmental Officer