

# Toxic Chemicals and Radioactive Materials

24 CFR Part 58

| General requirements   | Legislation  | Regulation     |
|--|--|----------------|
| All property proposed for use in HUD programs must 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. | Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by Superfund Amendments and Reauthorization Act | 24 CFR 58.5(i) |

**You are required to consider all hazards that could affect the health and safety of occupants and use current techniques by qualified professionals to undertake investigations determined necessary. This checklist tool is intended as guidance only and does not cover all possible hazards. This document is subject to change. Legislation and Regulations take precedence over any information found in this document.**

## 1. Is the project for acquisition, new construction or rehabilitation of a one-to-four family residential property?

- Yes: PROCEED to #3 to determine the likelihood of hazardous conditions existing nearby or on the property which could affect the health and safety of proposed occupants.
- No: PROCEED to #2

## 2. Is the project for multifamily housing with 5 or more dwelling units (including leasing), or non-residential property?

- No: PROCEED to #3
- Yes: The environmental review **must** include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to assure that the occupants of proposed sites are not adversely affected by hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. **For acquisition and new construction projects, HUD strongly advises that the review include an ASTM Phase 1 assessment or equivalent analysis, including an update if the assessment is over 180 days old, in order to meet real estate transaction standards of due diligence.** If you do obtain a Phase I review, it is suggested that you include consideration of the regulations at 24 CFR Part 58.5(i) as an additional purpose in the subsection on “purpose” in the Phase I. Your review should cover the information in the questions below (if you have a Phase I it will already cover the information below). **PROCEED to #3.**

## 3. Is the answer Yes to any of the following questions?

- **Is the property or surrounding neighborhood listed on an EPA Superfund National Priorities, the CERCLA List, or equivalent State list?**

An internet site that may be helpful is [www.epa.gov/superfund/sites/npl](http://www.epa.gov/superfund/sites/npl).

- No       Yes

- **Is the property located near a toxic or solid-waste landfill site?**

An internet site that may be helpful is <http://www.epa.gov/emefdata/em4ef.home>. Maps, site inspections and documentation from the local planning department may also be useful in making your determination.

- No       Yes

- **Are there any underground storage tanks (not including residential fuel tanks) on or near the property?**

For projects in Washington State, visit: [www.ecy.wa.gov/programs/tcp/ust-lust/tanks.html](http://www.ecy.wa.gov/programs/tcp/ust-lust/tanks.html).

For projects in Oregon, visit: <http://www.deq.state.or.us/lq/tanks/index.htm>

For projects in Idaho, visit <https://www.deq.idaho.gov/waste-mgmt-remediation/storage-tanks/leaking-underground-storage-tanks.aspx>

For projects in Alaska, visit: <http://www.dec.state.ak.us/spar/ipp/tanks.htm>

Consider past uses of the property when making your determination.

No  Yes

- **Is the property known or suspected to be contaminated by toxic chemicals or radioactive materials?**

No  Yes

HUD's "Choosing an Environmentally 'Safe' Site" provides guidance in considering potential environmental issues: <https://www.onecpd.info/resource/83/choosing-an-environmentally-safe-site/> In considering the site the guidance suggests that you:

- Make a visual inspection of the site for signs of distressed vegetation, vents or fill pipes, storage/oil tanks or questionable containers, pits, ponds or lagoons, stained soil or pavement, pungent, foul or noxious odors, dumped material or soil, mounds of dirt, rubble, fill etc.
- Research the past uses of the site and obtain a disclosure of past uses from the owner. Certain past and present uses such as the following signal concerns of possible contamination and require a more detailed review: gasoline stations, vehicle repair shops, car dealerships, garages, depots, warehouses, commercial printing facilities, industrial or commercial warehouses, dry cleaners, photo developing laboratories, hospitals, junkyard or landfills, waste treatment, storage disposal, processing or recycling facilities, agricultural/farming operations (including hog and poultry operations) and tanneries.
- Identify adjoining properties in the surrounding area for evidence of any facilities as described above.
- Research Federal, State and local records about possible toxins and hazards at the site.

Yes to any of the above questions: PROCEED to #4

No to all questions: The toxic chemicals and radioactive materials review is complete, unless there are other hazards that could affect the health and safety of occupants. Record your determination on the Statutory Worksheet and maintain appropriate documentation in the ERR.

#### 4. Could nearby toxic, hazardous or radioactive substances affect the health and safety of project occupants or conflict with the intended utilization of the property?

Gather all pertinent information concerning any on-site and nearby toxic hazards. Consider, at a minimum, each of the areas identified in Question 3. Consider if your ASTM Phase 1 or equivalent analysis identifies any Recognized Environmental Conditions (RECs) or conditions that could impact the health or safety of the occupants. If appropriate and/or required, obtain independent professional reviews of the site (e.g., an ASTM Phase 2 or equivalent analysis). Contact appropriate Federal, State and Local resources for assistance in assessing exposure to health hazards.

Yes: PROCEED to #5.

No: The toxic chemicals and radioactive materials review is complete, unless there are other hazards that could affect the health and safety of occupants. Record your determination that there are no hazards that could affect the safety of occupants or impact the intended use of the project and maintain appropriate documentation in the ERR.

#### 5. Can the adverse environmental condition be mitigated?

Yes: Mitigate according to the requirements of the appropriate Federal, State or local oversight agency. Record your determination that there are no hazards that could affect the safety of occupants or impact the intended use of the project and maintain appropriate documentation in the ERR. HUD assistance should be conditioned on completion of appropriate mitigation. Deny HUD assistance if, after mitigation, the property is still determined to be unsafe or unhealthy. For more details please refer to HUD's "Choosing an Environmentally 'Safe' Site."

No: Do not provide HUD assistance for the project at this site.

**DISCLAIMER:** This document is intended as a tool to help Region X HUD grantees and HUD staff complete environmental requirements. This document is subject to change. This is not a policy statement. Legislation and Regulations take precedence over any information found in this document.