

Environmental Review Requirements for HUD-Assisted Projects

Virtual Training
September 8 – 10, 2021

Training Instructor: Rodney Clements



Slide 1

Introductions

- Name and tribe or organization
- Your experience in housing and environmental reviews
- Expectations: What do you want out of this training?



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Poll Question

- Is your organization the Tribe or a TDHE?
 - ✓ A) Tribe
 - ✓ B) TDHE (housing authority)
 - ✓ C) Other



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Poll Question

- How large is your housing stock?
 - ✓ A) 0. We don't have any housing stock.
 - ✓ B) 1-100
 - ✓ C) 101-500
 - ✓ D) 501+



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Poll Question

- Do you do new construction activities?
 - ✓ A) No. Rehab only
 - ✓ B) Yes. Scattered-site single-family homes
 - ✓ C) Yes. New housing developments



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'Raise Your Hand' if Yes

- Do you do property or land acquisition?
(Example: buying properties, lots, single-family homes)
 - ✓ A) Yes
 - ✓ B) No



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'Raise Your Hand' if Yes

- Do you do homeowner-assisted rehab?
(such as roof repairs, elder housing rehab)
 - ✓ A) Yes
 - ✓ B) No



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Course Objectives

- Identify and become oriented to the key steps in the HUD environmental review process
- Share advice, best practices, and common pitfalls across tribes
- Become familiar with online resources on environmental reviews
 - ✓ Federal/state databases
 - ✓ HUD Exchange and HEROS
- Apply this process to CARES Act activities



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Course Structure

- Agenda
- Slide presentation
- Exercises
- Online resources
- Walking through sample reviews



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Environmental Review 101

- Federal government provides assistance
- Compliance before performing activities or projects includes environmental reviews
- Choose which environmental 'form' to use based on activity/project type
- Complete review, public notice, and HUD approval if necessary



Then you can carry out project/activity

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NAHASDA, Other HUD ONAP Programs, and the National Environmental Policy Act (NEPA)



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Tribal Housing Funding



- HUD – IHBG (“NAHASDA”), ICDBG, Section 184, Title VI
- BIA – Home Improvement Program (HIP)
- USDA-Rural Development
- IHS – water/sanitation infrastructure
- Tax credits

Environmental review (ER) required for ALL federal assistance



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Statutes Authorizing HUD Assistance to Tribal Programs

- Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA)
 - ✓ Indian Housing Block Grant (IHBG)
 - ✓ Title VI Loan Guarantee Program
- Housing and Community Development Act of 1974
 - ✓ Indian Community Development Block Grant (ICDBG)
- Housing and Community Development Act of 1992
 - ✓ Section 184 Loan Guarantee



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Why Conduct Environmental Reviews?

- **Avoid or mitigate** environmental effects that may harm our clients and the surrounding environment
- **Preclude** successful legal action to stop project on environmental grounds
- **Prevent** time delays and cost overruns based on environmental conditions
- **Avoid** monitoring findings
- They are **REQUIRED** for federal assistance



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Goals of Environmental Review

- Ensure that the environmental impacts of federal actions are considered and that any concerns are identified and addressed before a project is undertaken
- Protect residents, communities, and the environment
- Enhance and preserve cultural and natural resources whenever possible
- Allow for public input in the decision making process



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National Environmental Policy Act of 1969

The **National Environmental Policy Act (NEPA)** is a United States environmental law that established a U.S. national policy promoting the enhancement and preservation of the environment.

Signed into law by President Nixon on January 1st, 1970.



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What is NEPA?

- National Environmental Policy Act of 1969
 - ✓ Basic national charter for protection of the environment
 - ✓ Established the White House Council on Environmental Quality (CEQ)
 - ✓ Federal agencies implement NEPA with their own regulations



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The NEPA Process

- A formal review that examines the potential negative or beneficial environmental effects that will result from an activity
- Ensures that environmental information is available to the public BEFORE decisions are made or actions are taken
- Requires a systematic, interdisciplinary approach



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Think of it like a Calorie Counter...

- NEPA is about disclosure and informed decision-making.
- Consumer/agency can still select the **most or least** calorie intensive alternative.



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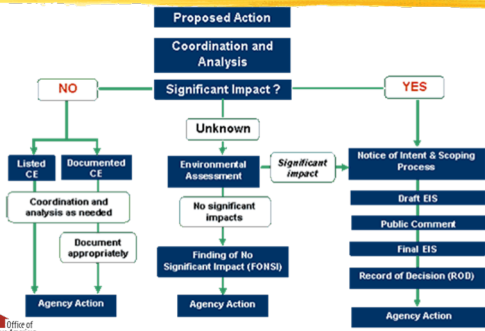
What NEPA Applies To

- All proposals for federal actions that have the potential to affect the quality of the human environment
- Federal actions - No threshold "trigger level" – all levels of federal assistance
 - ✓ Grants, loans, permitting, BIA leasing, leverage
 - ✓ Federal agencies perform environmental reviews when they are involved in projects



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The NEPA Documentation Process



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Relevant Laws and Authorities

The NEPA process requires that you look at ALL federal laws that address the environment:

- Air
- Water
- Land
- Flora
- Fauna
- Human health & safety



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Council on Environmental Quality (CEQ)

- NEPA established the basic framework
- Did not provide details of the *process* to follow...



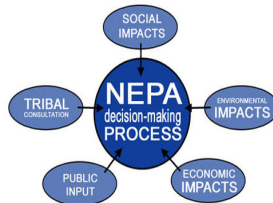
Council on Environmental Quality (CEQ) created and charged with interpreting and enforcing NEPA



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NEPA Regulations

- In 1978, CEQ issued regulations (procedural provisions of NEPA) **(40 CFR §§ 1500 -1508).**
- In 1980, *Forty Most Asked Questions on the CEQ Regulations.*
- In July 2020, CEQ updated NEPA regulations for the first time in 40 years.
- Continues to issue additional guidance relevant to the NEPA process.



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NEPA Implementing Regulations

40 CFR Part 1500 – 1508

1500.1 (c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action.



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In Sum: Our Objective under NEPA?

To document that our HUD funded projects are not harming the environment and that the environment is not impacting our projects

(Don't commit funds before you do it.)



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HUD's IMPLEMENTATION of THE NEPA PROCESS



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HUD's PROCESS

Part 50

24 CFR Part 50 --
PROTECTION AND
ENHANCEMENT OF
ENVIRONMENTAL QUALITY

Part 58

24 CFR Part 58 -- HUD
ENVIRONMENTAL REVIEW
PROCEDURES FOR
ENTITIES ASSUMING HUD
ENVIRONMENTAL
RESPONSIBILITIES



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§ 50.3 Environmental policy.

(a) It is the policy of the Department to reject proposals which have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality and minimize environmental harm.



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§ 50.3 (i) (1-4) Environmental policy.

For all property proposed for use in housing:

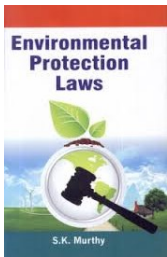
- ✓ Free of hazardous materials
- ✓ Evaluation of previous uses of the site and other evidence of contamination on or near the site
- ✓ Particular attention given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites or other locations that contain hazardous wastes.
- ✓ Shall require the use of current techniques by qualified professionals to undertake investigations determined necessary.



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§ 50.4 Related Federal laws and authorities.

Covering following areas:



- (a) *Historic Properties*
- (b) *Floodplain Management and Wetland Protection*
- (c) *Coastal Zone Management*
- (d) *Sole Source Aquifers*
- (e) *Endangered Species*
- (f) *Wild and Scenic Rivers*
- (g) *Air Quality*
- (h) *Farmlands Protection*
- (i) *HUD Environmental Standards*
- (j) *Environmental Justice*



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HUD's Environmental Regulations

- 24 CFR Part 50 -- HUD Review Requirements
 - Environmental review requirements for HUD staff
- 24 CFR Part 51 -- Manmade Hazards
 - » Noise
 - » Explosives and Thermal
 - » Runway Clear Zones
- 24 CFR Part 55 -- Floodplains & Wetlands
- 24 CFR Part 58 -- Local Government Review
 - Unit of Local Government accepts HUD responsibility



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Part 50

- HUD conducts the environmental review
- Tribe is not "off the hook"
 - ✓ Still must provide environmental information to HUD
 - ✓ Cannot take any action until HUD approval is received
- ONAP Notice PIH-2015-01 outlines the procedures for Part 50



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Using Part 50 or Part 58

- When tribes must assume Part 58
 - ✓ Indian Community Development Block Grant (ICDBG)
- When the Tribe may choose Part 50 or Part 58
 - ✓ Indian Housing Block Grant (IHBG)
 - ✓ Title VI Guarantees
 - ✓ Section 184 Guarantees
- Tribe agrees to accept Part 58 responsibilities by executing grant agreement
- Assistance under Part 50 must be requested in writing



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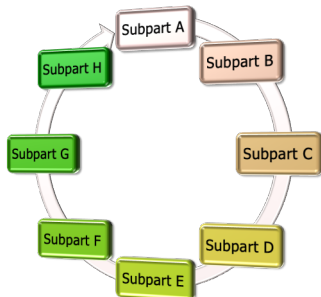
24 CFR PART 58

Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities



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24 CFR Part 58 – 8 Subparts



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Organization of 24 CFR 58

- Subpart A Purpose – Legal Authority
- Subpart B Responsible Entities
- Subpart C General Policy – Review Procedures
- Subpart D Environmental Review Process
- Subpart E Environmental Assessment Process
- Subpart F Environmental Impact Statement Determinations
- Subpart G Environmental Impact Statement Process
- Subpart H Release of Funds



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24 CFR Part 58.1

■ 58.1 Purpose and Applicability.

Instructions and guidance to **recipients** and other **responsible entities** of HUD assistance:

1. How to conduct environmental review, and
2. How to obtain approval of a Request for Release of Funds (RROF).



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Part 58 - Key Environmental Review Terms

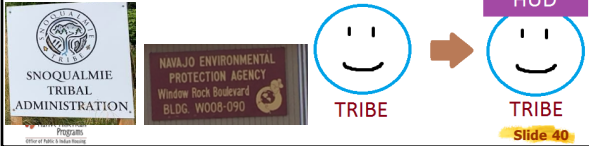
- Responsible Entity (RE)
- Certifying Officer
- Environmental Review Record



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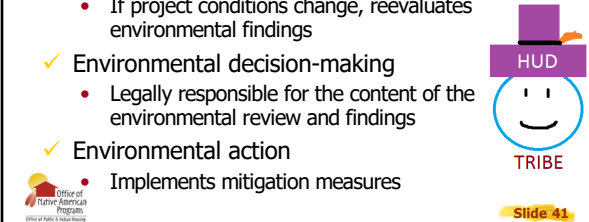
Part 58 - Key Terms: Responsible Entity (RE)

- Assumes federal responsibility for compliance with NEPA and related laws and authorities (sec. 58.4)
- RE = Tribal Government
 - ✓ NOT the housing authority



Part 58 - Key Terms: Responsible Entity (RE)

- RE (Tribe) assumes responsibility for:
 - ✓ Environmental review
 - Conducts the environmental compliance review
 - If project conditions change, reevaluates environmental findings
 - ✓ Environmental decision-making
 - Legally responsible for the content of the environmental review and findings
 - ✓ Environmental action
 - Implements mitigation measures



Part 58 - Key Terms: Responsible Entity (RE)

- The RE must have the technical capacity and administrative capability to conduct environmental review:
 - ✓ Technical capacity = environmental expertise, whether in-house or through consultants
 - ✓ Administrative capability = thorough record keeping and ability to maintain files



Part 58 - Key Terms: Certifying Officer

- Assumes the role of "responsible Federal Official" and has the legal capacity to carry out NEPA/Part 58 responsibilities
- Tribal official authorized by legislation to certify environmental reviews
 - ✓ Tribal Chairperson or other tribal official designee (with written delegation of authority from the governing body)




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Part 58 - Key Terms: Certifying Officer

- Accepts the jurisdiction of the federal courts for the RE in environmental matters
- Practically speaking:
 - ✓ Signs the environmental assessments
 - ✓ Signs the Request for Release of Funds



Head Honchos 

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Part 58 - Key Terms: Environmental Review Record (ERR)

- RE ensures all activities receiving HUD assistance have a **written environmental record**
- **Public document:** Whenever applicable, the RE must make available for public review a written record of the environmental review
- Includes a HUD-recommended form and all supporting documentation (letters, maps)
- See sample forms in training materials (also on HUD Exchange website)



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Exercise 1: Regulations Scavenger Hunt



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Exercise 1

■ Look up the following regulation citations

- ✓ 24 CFR 58.1(b)(10) ✓ 58.32
- ✓ 58.2(a)(2) ✓ 58.34(a)
- ✓ 58.4(c) ✓ 58.35(a)
- ✓ 58.5 ✓ 58.35(b)
- ✓ 58.6 ✓ 58.36
- ✓ 58.22(a)

■ For each, discuss what you think they mean or what they're talking about



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Environmental Review Procedures



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Limitations on Activities Prior to Clearance

- Before an environmental review is completed for an activity or project HUD assistance/funds cannot be committed or expended
 - ✓ No funds can be committed or expended for physical or choice-limiting actions
 - ✓ No activity can be undertaken without HUD approval (by any participant) if it has adverse environmental effects or is a choice-limiting action



[24 CFR 58.22]

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Limits on Activities Prior to Clearance

- Recipients considering applications from prospective subrecipients or beneficiaries must ensure actions are not taken prior to receiving HUD approval
- The following are allowed:
 - ✓ A statement of funding reservation (i.e., IHP, ICDBG Application)
 - ✓ A non-legally binding agreement (i.e., option agreement)
 - ✓ Soft costs for scoping for a larger development project



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Limits on Activities Prior to Clearance

- For land acquisition projects, an option agreement (to purchase land) is allowable prior to HUD approval only when:
 - ✓ It is subject to a RE determination of environmental desirability, and
 - ✓ It is of a nominal amount




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Examples of Commitments of Funds

Execution of legally binding agreements	Expenditure of ICDBG funds	"Choice-Limiting Actions" (using both HUD and non-HUD funds)
Awarding construction contracts	Purchase of materials by force account crews	Demolition, dredging, filling, and excavation
Entering into project agreements	Hiring a consultant to prepare a special study* *unless part of a larger environmental assessment	Real property acquisition, leasing, rehabilitation, site improvements, relocation of buildings, solicitation of bids, New construction activities

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Starting the Review




Starting the Review

Office of Native American Programs
U.S. Department of the Interior


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Project Description

- Should provide location-specific information and geographic boundaries and a delineation of all activities included in the overall scope of the project.
 - ✓ Maximum anticipated scope
 - ✓ All contemplated actions
 - ✓ Aggregation
 - ✓ Intended beneficiaries



Office of Native American Programs
U.S. Department of the Interior



Project Description

- Practically speaking, should include the following (as applicable):
 - ✓ Legal addresses, full boundaries of project site, year built, description of service area
 - ✓ Estimated timeline and timeframe
 - ✓ Estimated funding (HUD and other federal sources)
 - ✓ Photos of the site, site plan, map
 - ✓ Scope of work, including any ground disturbance



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Sensitive Information

- Three types of information can be withheld from the public environmental review record
 - ✓ Sensitive project descriptions
 - Domestic violence shelters
 - Meth remediation
 - ✓ Location of critical habitat/endangered species
 - ✓ Locations of archaeological artifacts or cultural resources



Project Aggregation (§ 58.32)



- RE must group together and evaluate as a single project all individual activities that are related.
- Related either on a:
 - ✓ geographical or
 - ✓ functional basis,
 - ✓ or are logical parts of a composite of contemplated actions.

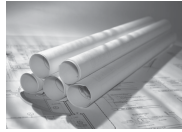


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Types of Project Aggregation

§ 58.32 (b)

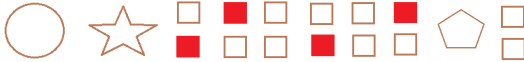
1. Functional Aggregation
2. Geographic Aggregation
3. Multi-year Aggregation



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Functional Aggregation

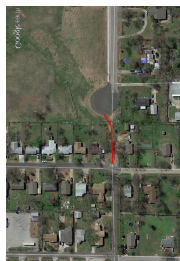
- Applies to a specific type of activity that is to take place in several locales or jurisdictions
- Group reviews for activities that will serve the same function and have the same potential impact regardless of the site
- Example: housing rehabilitation



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Geographic Aggregation

- Used to evaluate activities that are *functionally different* but are to be carried out within a limited *geographical area*.
- Goal is to assess the cumulative effect of all planned activities.
- Example: combination of water, sewer & street improvements & economic development activities



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Multi-Year Aggregation

- Used when project consists of a series of activities implemented over several years.
 - Goal is to address and evaluate cumulative environmental effects, regardless of funding source.
 - ER identifies total project cost and activities.
 - RE Certification and HUD approval covers entire project period.
- Example:**
- ✓ Year One - acquire land.
 - ✓ Year Two – conduct site development & infrastructure.
 - ✓ Year Three - construct 20 single family units.



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Project Descriptions – final point!



Inadequate Project descriptions are one of the major causes of violations of Part 58 process because it leads to the wrong determination of the level of review required...leading to actions taken prior to environmental clearance.



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Exercise 2: Project Descriptions and Aggregation



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Exercise 2

- Part I: Rehab Activities.** 20 single family units:
Addresses are listed in Appendix A (not included)
- Rehab and maintenance activities for the next five years starting in 2021
 - Interior/exterior rehab activities including possible roof replacement, windows, doors, bathroom/kitchen remodeling, plumbing, HVAC, and electrical upgrades
 - No ground disturbance (no landscaping or driveway work)



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Exercise 2

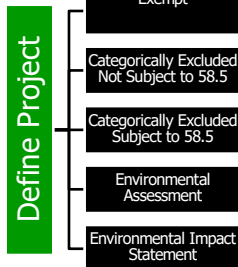
Part II: New Construction Activities.

- Procurement of architect and engineer services
- Acquisition of a 4-acre parcel
- Constructing an access road to this property
- Extending water/sewer lines
- Constructing 8 single family units
- Grading, underground utilities, paving for roads, driveways and parking



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Determine Level of Review



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Overview: Levels of Environmental Review

- Four levels of review:
 - ✓ Exempt
 - ✓ Categorical Exclusion
 - Not Subject To 58.5 (CENST)
 - Subject To 58.5 (CEST)
 - ✓ Environmental Assessment (EA)
 - ✓ Environmental Impact Statement (EIS)



If more than one activity or classification, go with activity having greatest potential for impact. **Slide 67**

Exempt Activities

- Exempt = exempt from NEPA and related laws and authorities at 58.5
- Activities which by their nature are unlikely to have environmental effects (e.g., planning activities or public services)
- Environmental review includes statements that the laws and authorities at 58.6 mostly don't apply to your activity.



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Categorical Exclusions

- Activities that do not require an EA or EIS under NEPA (except in extraordinary circumstances)
 - ✓ Categorically excluded, not subject to the authorities under 58.5 (CENST)
 - ✓ Categorically excluded, subject to the authorities under 58.5 (CEST)
- Compliance with 58.6 is always required



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24 CFR 58.6

- Flood Disaster Protection Act
 - ✓ Flood insurance coverage
- Coastal Barrier Resources Act
- Airport Hazards (24 CFR Part 51, Subpart D)
 - ✓ Disclosure statement for Runway Clear Zones



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Major Relevant Laws and Authorities (24 CFR Part 58.5)

- | | |
|--|---|
| ■ Safe Drinking Water Act <ul style="list-style-type: none">✓ Sole source aquifers | ■ National Historic Preservation Act <ul style="list-style-type: none">✓ Historic structures and archaeological sites |
| ■ Endangered Species Act | |
| ■ Wild and Scenic Rivers Act | |
| ■ Clean Air Act | ■ Clean Water Act <ul style="list-style-type: none">✓ Wetlands |
| ■ Farmland Protection Policy Act | ■ Coastal Zone Management Act |



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Relevant Executive Orders and HUD Environmental Standards

- 24 CFR Part 58.5 Cont.
 - ✓ EO 11988, Floodplain Management
 - ✓ EO 11990, Protection of Wetlands
 - ✓ EO 12898, Environmental Justice
 - ✓ Noise Abatement and Control (24 CFR Part 51, Subpart B)
 - ✓ Siting near Explosive or Flammable Operations (24 CFR Part 51, Subpart C)
 - ✓ Airport Hazards (24 CFR Part 51, Subpart D)
 - ✓ Toxic Substances and Radioactive Materials [sec. 58.5(i)(2)]

HUD Standards



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Environmental Assessment (EA)

- If not exempt or categorically excluded, an EA is required
 - ✓ Primarily projects that involve new construction, major rehabilitation, new infrastructure, or conversion of uses
 - ✓ Results in a formal finding
 - Finding of No Significant Impact (FONSI)
 - Finding of Significant Impact



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Environmental Impact Statements (EIS)

- Most involved level of review
- Must perform an EIS when a project
 - ✓ Will have a potentially significant impact on human environment
 - ✓ Is of a certain size – e.g., involves more than 2,500 housing units
 - ✓ Unacceptable noise level – e.g., housing new construction
- Extremely rare for HUD-funded projects



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Time

- 🕒 Exempt reviews – less than one day
- 🕒 Categorical exclusions not subject to 58.5 – less than one day
- 🕒 Categorical exclusions subject to 58.5 – may take 2-4 months
- 🕒 EAs – 2-8 months to complete
- 🕒 EISs - 1 and 1/2 to 2 years to complete



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Cost of Performing the Review

- Grant funds can be used to pay for environmental review tasks
 - ✓ Funds are available upon execution of grant agreement (IHBG, ICDBG)
 - ✓ If hiring a consultant, the services must be procured according to the requirements of 2 CFR Part 200



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Exempt Activities

24 CFR 58.34(a)

- Exempt = exempt from NEPA and related laws and authorities at 58.5



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Exempt Activities

- Types of activities include:
 - ✓ Environmental studies, development of plans or strategies
 - ✓ Administrative and management services
 - ✓ Public services that will not have a physical impact or result in physical changes – employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation, welfare, or recreational needs



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Exempt Activities

- Types of activities include:
 - ✓ Inspections and testing of properties for hazards or defects
 - ✓ Purchase of insurance or tools
 - ✓ Engineering or design costs
 - ✓ Technical assistance and training
 - ✓ Payment of principal and interest on loans made or obligations guaranteed by HUD (i.e., Title VI loans)



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Exempt Activities

- Types of activities include:
 - ✓ Emergency actions limited to protection, repair, or restoration necessary to control or arrest the effects from disasters or *imminent threats to health and public safety*
 - Improvements that do not alter environmental conditions
 - Check with ONAP on whether activity qualifies



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Exempt Reviews

- Use Exempt form
 - ✓ Cite applicable reference of sec. 58.34(a)
 - ✓ Identify the specific activities
 - ✓ Identify the amount of funds involved
- Document that the sec. 58.6 regulations don't apply to your exempt activity:
 - ✓ Flood zones
 - ✓ Coastal resources
 - ✓ Runway clear zones
- Sign and you're done – spend \$\$



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Categorical Exclusions (sec. 58.35)

- A higher level of environmental review than exempt
- Activities that do not require an EA or EIS under NEPA, except in extraordinary circumstances



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Categorical Exclusions (sec. 58.35)

- Two groups of categorical exclusions:
 - ✓ Activities **NOT subject to** sec. 58.5 (CENST)
 - ✓ Activities that are **subject to** sec. 58.5 (CEST)

58.5 is the long checklist of federal laws and authorities (historic preservation, endangered species, etc.)



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Categorical Exclusions NOT Subject to sec. 58.5 (CENST)

24 CFR 58.35(b)



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CENST

- Certain categorically excluded activities are determined to not alter any conditions that would require compliance under federal laws & authorities cited at sec. 58.5
- No public notification, certification, or HUD approval required (sec. 58.2(a)(3) and sec.58.35(c)).



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Categorically Excluded from NEPA & Not Subject to 58.5 (CENST)

- Includes (listed at sec. 58.35(b)):
 - ✓ Tenant-based rental assistance (TBRA)
 - ✓ Supportive services (e.g., short-term rent/mortgage/utilities payments, placement services, etc.)



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CENST Activities

- Include (listed at sec. 58.35 (b)):
 - ✓ Operating costs (e.g., maintenance, security, equipment, staff training, supplies, etc.)
 - ✓ Economic development activities not associated with construction or expansion of existing operations (e.g., equipment purchase, inventory financing, operating expenses, etc.)



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Examples of Maintenance versus Rehabilitation

Maintenance	Rehabilitation
Repainting previously painted surfaces (incl. limited wet scraping & low pressure washing)	Cleaning masonry or stripping painted surfaces by sandblasting, acid wash, or high pressure washing
In-kind replacement of loose or missing shingles or tiles	Complete replacement of roof
Fixing broken windowpane(s), storm window(s) or damaged entry door	Replacement of windows and/or exterior doors
Interior walls- Patching or mending cracked plaster; fixing holes or cracks in drywall	Interior walls- Installation of new drywall or paneling
Replacing deteriorated toilet in occupied unit	Complete or substantial bathroom remodel
Servicing and maintenance of mechanical systems	Installation of new furnace or heat distribution system



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CENST Activities

- Also include:
 - ✓ Activities to assist homeownership of existing or new dwelling units under construction, such as closing costs and **down payment assistance**, principal or interest buy downs & similar activities
 - Must include transfer of title
 - ✓ Affordable housing predevelopment costs with no physical impact



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CENST Activities

- Also include:
 - ✓ Approval of supplemental assistance (including insurance or guarantee) to project previously approved as long as:
 - Approval is made by the same RE, *and*
 - Reevaluation of the original environmental finding is not required (sec. 58.47)



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Compliance with Section 58.6

- Flood insurance
- Coastal Barrier Resources Act
- Airport Hazards: Accident Potential Zones, Runway Protection Zones, and Clear Zones



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Compliance with Section 58.6

- Flood Insurance (Flood Disaster Protection Act of 1972; sec. 58.6(a))
 - ✓ Established the National Flood Insurance Program (NFIP)
 - Flood insurance coverage may be purchased through the NFIP administered by the unit of local government
 - ✓ Applies to areas mapped by FEMA as special flood hazard areas (SFHA) (zones A or V)



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Compliance with Section 58.6

- FEMA Map Service Center maps:
 - ✓ Zone A or V: 100-year floodplain (flood insurance **mandatory**)
 - ✓ Zone B, C or X: ~500-year floodplain (flood insurance **not required**)
 - ✓ Zone D: unmapped areas; flood insurance available and **optional**



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Compliance with Section 58.6

- Flood Insurance (cont.)
 - ✓ The Act requires that buildings acquired, rehabilitated or constructed with federal assistance & located within a SFHA designated by FEMA be covered by flood insurance
 - This requirement includes the contents of buildings and equipment purchased with HUD
 - \$10,000 cumulative deductible



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Compliance with Section 58.6

- Mandatory period for maintaining flood insurance coverage:
 - ✓ Loans - coverage must be maintained for the term of the loan
 - ✓ Other assistance (including grants) - coverage must be continued for the life of the property regardless of transfer of the property's ownership



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Compliance with Section 58.6

- Flood insurance coverage is from:
 - ✓ The community participating in NFIP, or
 - ✓ Property owner obtaining flood insurance as a condition of approval for using federal assistance
- Tribe is responsible for assuring flood insurance is obtained and maintained
 - ✓ Ask to be notified of changes in flood insurance coverage



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Compliance with Section 58.6

- Coastal Barrier Resources Act prohibition - Sec. 58.6(b)
 - ✓ Coastal Barrier Resources Act prohibits federal assistance that encourages development or modification of coastal barriers
 - Areas along the Atlantic Ocean, Gulf of Mexico and Great Lakes designated by U.S. Congress
 - ✓ Minimize loss of human life and damage to natural resources associated with coastal barriers



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Compliance with 58.6 Airport Hazards, 24 CFR 51, Subpart D

- HUD Standard for Runway Protection Zones, Clear Zones and Accident Potential Zones
 - ✓ RPZ, CZ and APZ - area designated at the end of runways where about 75% of airplane accidents occur
 - ✓ Determine if the project is within 15,000 feet of DOD military airfield (APZ) or 2,500 feet of FAA civil airport (RPZ/CZ)
 - If so, are those properties in the RPZ/CZ?
Check a map.



Slide 98

Compliance with 58.6 Airport Hazards, 24 CFR 51, Subpart D

- If project is within a Runway Protection Zone/Clear Zone
 - ✓ Inform buyer (and obtain a signed notice) if project involves purchase or sale of property in a RPZ
 - Implications of where the property is located, and
 - Property may be acquired later on by the airport operator
 - ✓ Use of HUD funds for new construction, major or substantial rehabilitation and modernization is prohibited in these zones
 - Follow DOD guidelines if the project is in APZ



Slide 99

CENST Reviews

ERR Documentation:

- Use CENST form
 - ✓ Cite applicable reference of sec. 58.34
 - ✓ Identify the specific activities
 - ✓ Identify the amount of funds involved
- Document compliance with section 58.6
- See example in manual
- Sign ERR and proceed with activities



Slide 100

Categorical Exclusions Subject to sec. 58.5 (CEST)

24 CFR 58.35(a)



Slide 101

What Activities are Covered?

- Type of activities include (listed at 58.35(a))
 - ✓ Acquisition/Rehabilitation of public facilities and improvements (other than buildings) when:
 - Facilities are in place,
 - Same use, and
 - No more than 20% change in size or capacity



Slide 102

What Activities are Covered?

- Type of activities include (listed at 58.35(a))
 - ✓ Special projects for removal of barriers that restrict mobility and accessibility of handicapped and elderly persons



Slide 103

What Activities are Covered?

- Type of activities include (listed at 58.35(a))
 - ✓ Rehabilitation of buildings and improvements - Single Family (1-4 units):
 - Unit density is not increased beyond the 4 units, and
 - No change in land use



Slide 104

What Activities are Covered?

- Type of activities include (listed at 58.35(a))
 - ✓ Rehabilitation of buildings and improvements - Multifamily:
 - No more than 20% unit density change,
 - No change in land use, and
 - Cost of rehabilitation is <75% of replacement cost



Slide 105

What Activities are Covered?

- Type of activities include (listed at 58.35(a))
 - ✓ Rehabilitation of buildings and improvements – Non-residential*:
 - No more than 20% change in size or capacity, and
 - No change in land use



* commercial, industrial, and public buildings

Slide 106

What Activities are Covered?

- Type of activities include (listed at 58.35(a))
 - ✓ Individual action on 1-4 family dwelling
 - "Individual action" = new construction, development, demolition, acquisition, disposition or refinancing
 - ✓ Individual action on 5 or more units
 - Scattered sites are more than 2,000 feet apart
 - No more than 4 single family units on any one site



Slide 107

What Activities are Covered?

- Type of activities include (listed at 58.35(a))
 - ✓ Acquisition (including leasing) or disposition of, or equity loans on an existing structure provided the structure remain in the same use
 - ✓ Acquisition (including leasing) of vacant land acquired, financed or disposed of provided the land remains vacant

Combinations of any of the previous



Slide 108

What Activities are Covered?

- Important key points
 - ✓ Maintenance (CENST) versus single family rehab (CEST)—refer to 2016 guidance
 - ✓ Demolition/reconstruction is NOT rehab
 - Single family rehab is CEST under 58.35(a)(3)(i)
 - Demo/reconstruction for up to 4 single family units or scattered sites (>2,000 ft apart) can be classified as an individual action, CEST under 58.35(a)(4)
 - When more than 4 units are involved within 2,000 ft of each other, then an EA applies



Slide 109

Determine Compliance with Related Laws and Authorities (sec. 58.5)

- For categorically excluded activities that are subject to sec. 58.5, complete the CEST form
 - ✓ Determine compliance with related federal laws and authorities
 - 58.5
 - 58.6



Slide 110

Exercise 3: IHP Activities and Level of Review



Exercise 3

Maintenance housing units – 50 units
Modernization of housing units – 15 units
Homebuyer counseling
Elder home rehab (homeowner) – 10 units
Nationwide rental assistance – 5 households
Planning and administration
Down payment assistance – 5 households
New construction of 8 units in a subdivision
Converting a schoolhouse into a duplex
Lead-based paint testing



Slide 112

Exercise 3

- Maintenance of housing units
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 113

Exercise 3

- Modernization of housing units
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 114

Exercise 3

- Homebuyer counseling
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 115

Exercise 3

- Elder rehab (homeowner assistance)
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 116

Exercise 3

- Nationwide rental assistance program
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 117

Exercise 3

- Planning and administration ("P&A")
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 118

Exercise 3

- Down payment assistance
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 119

Exercise 3

- New construction of 8 subdivision units
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 120

Exercise 3

- Converting a schoolhouse into a duplex
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 121

Exercise 3

- Lead-based paint testing
 - ✓ A) Exempt
 - ✓ B) CENST
 - ✓ C) CEST
 - ✓ D) EA



Slide 122

Day 1 Wrap-up

- Environmental Review Basics
 - ✓ Project descriptions
 - ✓ Levels of review
- Types of activities under
 - ✓ Exempt reviews
 - ✓ CENST and CEST reviews
- 58.6 compliance



Outstanding questions?

Slide 123

Day 2 Agenda

- Summary of Day 1
 - ✓ Environmental Review Basics - Overview and Regulatory structure
 - ✓ Environmental Review Procedures
 - ✓ Exemptions and Categorical Exclusions
 - Types of Activities
 - Compliance with 58.6
- Outstanding Questions



Slide 124

Day 2 Agenda

- Day 2 Topics
 - ✓ Compliance with 58.5 laws and authorities
 - ✓ Environmental assessments



Slide 125

Compliance with 58.5



Slide 126

Determine Compliance with Related Laws and Authorities (cont.)

- Documentation must be credible, traceable and supportive of the environmental findings - becomes part of the ERR (public record)
- Acceptable sources: Chapter 3 in the materials provides guidance on credible sources of information for environmental reviews



Slide 127

Acceptable Sources of Documentation

- Field observation
- Personal contact
- Printed materials
- Databases
- Reviewer's experience
- Special studies



Slide 128

Acceptable Sources of Documentation

- Acceptable sources:
 - ✓ Field observation of the general site conditions
 - ✓ Databases - e.g., NEPAassist, EJScreen, ECHO, NWI, Web Soil Survey
 - ✓ 'Printed' materials - e.g., studies, land use plans, maps



Slide 129

Acceptable Sources of Documentation

- Reviewer's experience - professional judgment by staff with relevant expertise about the compliance issue
 - ✓ Knowledge gained from reviewing other projects in the same area
 - ✓ Reviewer has professional expertise in a specific environmental area



Slide 130

Acceptable Sources of Documentation

- Contact relevant authorities - e.g., designated authorities or oversight agencies
 - ✓ Provide authority contact a brief project description (purpose, scope, location & any further relevant material)
 - ✓ Bring concerned agencies into the process as early as possible to ensure timely response
 - ✓ Establish a relationship with authorities who will be called upon again in the future
 - ✓ Request a documented decision from the authority



Slide 131

Historic Preservation

- National Historic Preservation Act (Section 106)
 - ✓ Take into account the effect of the undertaking on historic properties
 - ✓ Afford the Advisory Council on Historic Preservation an opportunity to comment on controversial cases



Slide 132

Historic Preservation (cont.)

- Historic properties include:
 - ✓ Any site, building, structure or object that possesses integrity of location, design, materials, workmanship or association related to:
 - Events significant in our history
 - Persons significant in our past
 - Distinctive architectural characteristics
 - Yielding information important to our history or prehistory



Slide 133

Historic Preservation (cont.)

- Historic properties also include:
 - ✓ Sites of cultural or religious significance to tribes (can be on or off reservation land)
 - Sacred/ceremonial sites
 - Burial grounds and archaeological sites



Slide 134

★ Historic Preservation (cont.)

- Consult with SHPO/THPO
 - ✓ **Non-tribal land:** Consult with State Historic Preservation Officer (SHPO)
 - ✓ **Tribal land:** Consult with Tribal Historic Preservation Officer (THPO); if the tribe has no THPO, consult with the SHPO and the tribe.
 - Consult with other tribes that have a historic interest in the area if there is ground disturbance
- See HUD's Tribal Directory Assessment Tool (TDAT)



Slide 135

Historic Preservation (cont.)

- Consultation letter
 - ✓ Describe the undertaking
 - ✓ Identify the area of potential effects (APE) – location, legal description
 - ✓ Include photos or maps as appropriate
 - ✓ Make a finding based on information gathered about all properties within the APE
 - ✓ Request consulting party's concurrence with your finding or input on the project location



Slide 136

Historic Preservation (cont.)

- Possible consultation outcomes
 - ✓ No Historic Properties Affected: SHPO/THPO/tribes respond with no concerns, do not respond within 30 days, or have a Programmatic Agreement in place
 - ✓ No Adverse Effect: a historic property is involved, but extensive consultation has resulted in a mitigation plan that will result in no adverse effects
 - ✓ Adverse effect: requires a Memorandum of Agreement with SHPO/THPO after extensive consultation and involvement of the Advisory Council on Historic Preservation



Slide 137

Historic Preservation (cont.)

- "Are mitigation measures or conditions required?"
 - ✓ No historic properties involved: **No**
 - "No Historic Properties Affected"
 - ✓ A historic property is involved: **Yes**
 - "No Adverse Effect" – mitigation helped
 - "Adverse Effect" – major disagreements



Slide 138

Floodplain Management

- Floodplain Management = Executive Order 11988, 24 CFR 55
- Its purposes are:
 - ✓ To avoid adverse impacts associated with the occupancy or modification of floodplains
 - ✓ To avoid floodplain development whenever there are "practicable" alternatives



Slide 139

Floodplain Management (cont.)

- What is "practicable"?
 - ✓ "Capable of being done within existing constraints" (U.S. Water Resource Council, 43 FR 6030, 2/10/78)
- E.O. 11988 requires that each agency shall:
 - ✓ Reduce the risk of flood loss
 - ✓ Minimize the impacts of floods on human safety, health and welfare
 - ✓ Restore and preserve the beneficial values served by floodplains



Slide 140

Floodplain Management (cont.)

- Applicable to:
 - ✓ Acquisition, management & disposition of lands and facilities
 - ✓ Construction & improvements
 - ✓ Other activities affecting land use



Slide 141

Floodplain Management (cont.)

- 24 CFR 55: HUD Procedure for Implementation of E.O. 11988
 - ✓ Applicable to special flood hazard areas designated by FEMA
 - **100-year floodplain** - i.e., 1% chance of a flood event occurring in a given year (Zones A or V)
 - **500-year floodplain for critical actions** - i.e., 0.2% chance of a flood event occurring in a given year (Zones B, C, or shaded X)



Slide 142

Identifying Floodplains

- Additional HUD guidance on mapping floodplains can be found on HUD Exchange at: <https://www.hudexchange.info/resource/5834/floodplain-maps-for-hud-projects/>



Slide 143

Floodplain Management (cont.)

- Implementation of E.O. 11988 for unmapped flood hazard areas
 - ✓ Utilize the "best available information":
 - U.S. Army Corps of Engineers
 - Community Flood Administrators
 - U.S. Geological Survey Maps
 - USDA Natural Resource Conservation Service
 - State departments of water resources



Slide 144

Floodplain Management (cont.)

- Implementation of E.O. 11988 for unmapped flood hazard areas (cont.)
 - ✓ Utilize the "best available information":
 - County public works
 - Local flood control or levee districts
 - Contracted special study
 - Elevation data (such as Google Earth)



Slide 145

Floodplain Management (cont.)

- Floodways - areas of the floodplain where the flood hazard is greatest - highest water depth and velocity
- No HUD financial assistance may be approved for use in a floodway (except for functionally dependent uses)
- Linear infrastructure projects (water and sewer, powerlines) can be approved if designed to pass entirely over or under the floodway



Slide 146

Floodplain Management (cont.)

- Is your project in a Special Flood Hazard Area?
 - ✓ Zone A or V: 100-year floodplain
 - ✓ Shaded Zone X: 500-year floodplain for critical actions
- Do any exceptions apply?
- If no exceptions apply, complete the 5-step or 8-step process (outlined in next slides).
- Zone D or unmapped?
 - ✓ Use best available information (e.g., elevation maps) to determine the risk of flooding



Slide 147

Does an 'exception' apply? Section 55.12(b) and (c)

- Acquisition and/or "minor repair/improvement" of existing single family (1-4 unit) buildings: no decision-making process is required
- Restoring and preserving the floodplain (e.g., property dedicated for use as open space)
- Projects with an "incidental portion" in the floodplain
- All other projects: 8-step or 5-step decision process is required (sec. 55.20) unless an 'exception' applies
 - ✓ 5-step process removes steps 2, 3, and 7



Slide 148

Floodplain Management (cont.)

- Decision-making process under E.O. 11988 and 24 CFR 55.20
 - ✓ Step 1. Determine if the proposed action is located in a floodplain
 - ✓ Step 2. Publish notice of the proposal to consider an action in the floodplain (15 calendar days for comment)
 - ✓ Step 3. Evaluate practicable alternatives to locating the proposed action in a floodplain
 - ✓ Step 4. Identify the potential impacts associated with occupancy and modification of the floodplain



Slide 149

Floodplain Management (cont.)

- Decision-making process under E.O. 11988 and 24 CFR 55.20 (cont.):
 - ✓ Step 5. Design or modify the action to minimize adverse impacts and preserve the beneficial values of the floodplain
 - ✓ Step 6. Reevaluate whether the proposed action is practicable
 - ✓ Step 7. Publish notice of decision - why there's "no practicable alternative", alternatives considered & mitigation measures (7 calendar days for comment)
 - ✓ Step 8. Implement proposed action & mitigation measures



Slide 150

Floodplain Example

Project involves the rehabilitation of a single family home including exterior painting, siding repair, a new roof, new windows, and a new HVAC, system.

- What would be the first step?



Slide 151

Step 1: Do any Exceptions apply?



2

Possible Exceptions

- Is the rehabilitation considered "substantial" per 55.2(b)(10)(i)?
 - ✓ Cost of the rehabilitation equals or exceeds 50% of market value before repair is started or damage occurred
- Is the project site "incidental" to the floodplain per 55.12(c)(7)?
 - ✓ Construction activities do not occupy or modify the floodplain
 - ✓ Must include provision for site drainage, and
 - ✓ A permanent deed restriction is placed on property's continued use to preserve the floodplain (or wetland, if applicable)
- Go to FEMA Flood Map Service Center to verify site location at: <https://msc.fema.gov/portal/search>



Slide 153

Step 1: Is the site in the Floodplain?

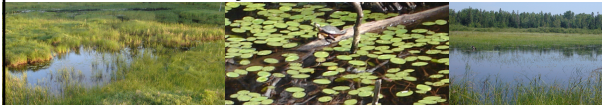
- If no exceptions apply and the **site is in the floodplain**, the 5-step or 8-step decision-making process is required
 - The abbreviated 5-step process would be allowed **if**:
 - ✓ The community is participating in the NFIP
 - ✓ Footprint of structure and paved areas is not substantially increased
- If not, the full 8-step is required



Slide 154

Wetland Protection

- Wetland Protection governed by E.O. 11990 and § 404 of the Clean Water Act
 - ✓ The E.O. discourages federally assisted construction in wetlands whenever there is a practicable alternative (sec. 55.20 process)
 - ✓ Filling wetlands requires a Section 404 permit from the U.S. Corps of Engineers where they have wetland jurisdiction



Wetland Protection

- Two-part analysis:
 - ✓ Is there a wetland nearby? *Start with National Wetlands Inventory mapper and a qualified wetland scientist*
 - ✓ Will the activity impact the wetland?
 - New construction
 - Expansion of a building footprint
 - Ground disturbance



If yes, then the 8-step process applies*.

Slide 156

Coastal Zone Management

- Any HUD-funded activity that could affect a coastal zone covered by a coastal zone management plan must be consistent with that plan
- Consult with State Coastal Zone Management Plan (or agency/coastal commission) to ensure compliance or verify consistency
 - ✓ Trust land is excluded from coastal zone, but you may still need to consult if the project is near fee simple coastal land



Slide 157

Sole Source Aquifers

- HUD-assisted activities that might contaminate an EPA-designated sole source aquifer are prohibited under the Safe Drinking Water Act of 1974
 - ✓ A sole source aquifer is an underground water source that provides 50% or more of a community's drinking water
- Consult with U.S EPA
 - ✓ Verify presence of a designated aquifer
 - ✓ Regional Sole Source Aquifer Coordinator



Slide 158

Endangered Species [50 CFR 402]

- Endangered Species Act (ESA)
 - ✓ Projects cannot harm listed species (or species proposed for listing) or their habitat
 - ✓ U.S. Fish and Wildlife Service (FWS) and U.S. National Marine Fisheries Service (NMFS) have oversight role



Slide 159

Endangered Species (cont.)

- Determine if the proposed action will alter or destroy native habitat or if it could affect species that may be present
- Consult with FWS or NMFS to determine if the project has a potential to affect species or habitat
 - ✓ "informal" consultation if unlikely to adversely affect
 - ✓ "formal" consultation if likely to adversely affect
- Prepare a biological assessment if warranted



Slide 160

Endangered Species (cont.)

- If likely to adversely affect a species:
 - ✓ Submit a biological assessment to FWS or NMFS for review and comment
 - ✓ FWS/NMFS will prepare a biological opinion to conclude the consultation process
 - Usually includes mitigation requirements



Slide 161

Wild & Scenic Rivers Act

- Wild and Scenic Rivers Act
 - ✓ Any HUD-assisted activity that might affect rivers included in the Nationwide Inventory must preserve the designation of the river under the Act
 - Entire rivers or just segments of rivers may be designated as wild, scenic, or recreational
 - Some rivers are under study for future designation
 - ✓ Check rivers.gov for designated and study rivers near your communities



Slide 162

Wild & Scenic Rivers Act

- If the river is designated, consult with the agency managing the river to determine whether the activity would adversely impact the river's designation
 - ✓ U.S. Forest Service
 - ✓ National Park Service
 - ✓ Bureau of Land Management
 - ✓ State agency



Slide 163

Clean Air Act

- Clear Air Act
 - ✓ Applies to new construction or conversion that would lead to increased air pollution and are located in areas in non-attainment with National Ambient Air Quality Standards (NAAQS)
 - Lead, carbon monoxide, nitrogen dioxide, ozone, sulfur dioxide, and particulate matter
 - Determine if the project is in conformance with the State Implementation Plan (SIP) or Tribal Implementation Plan (TIP)



Slide 164

Clean Air Act (cont.)

- Consult with U.S. EPA or state/tribal agencies if air quality might be an issue
- Also pertains to asbestos removal above threshold amount from multi-family and non-residential buildings (ask for help if this is you)
 - ✓ Facility contains at least 260 linear feet of pipe, 160 sq. ft. other building components, and/or 35 cubic feet off-building components of regulated asbestos-containing materials (RACM)
 - RACM - containing more than 1% asbestos
 - ✓ RACM is friable and/or non-friable RACM will be made friable because of rehab/demo activities



Slide 165

Farmland Protection

- Farmland Protection Policy Act
 - ✓ Discourages federally funded activities that would unnecessarily and irreversibly convert farmland to nonagricultural uses
 - ✓ Applies to new construction or conversion of undeveloped land only
 - Consult inventory maps to determine if the land has been classified as prime or unique by USDA Natural Resource Conservation Service (NRCS)



Slide 166

Farmland Protection (cont.)

- Inventory maps are available on a county level through NRCS
- If designated farmland will be converted, complete & submit form AD-1006 to NRCS for comment
 - ✓ Form (with instructions) is available from NRCS Web page



Slide 167

Noise Abatement & Control

- HUD Standard for Noise Abatement and Control (24 CFR 51, Subpart B)
 - ✓ Determine if the proposed activity is a noise-sensitive land development activity
 - ✓ If so, is it near any of the following?
 - 1000 feet of a major roadway
 - 3000 feet of a railroad
 - 15 miles of civil or military airfield
 - Other noise generators



Slide 168

Noise Abatement & Control

- If noise-generators are nearby, do research!
 - ✓ Distance from the project
 - ✓ Major roadway: traffic count data (AADT – annual average daily traffic), speed, etc.
 - ✓ Railroad: train count data, speed, etc.
 - ✓ Airport: operations count for tiny airports, and noise contour maps otherwise
- Input data into HUD’s DNL Calculator



Slide 169

Noise Abatement & Control (cont.)

Noise level	Classification	Implications
<65 decibels	Acceptable	Proceed
Between 65 and 75 decibels	Normally Unacceptable	Attenuate for rehab. Do an EA and mitigation for new construction.
> 75 decibels	Unacceptable	Reject project in most cases.



Slide 170

Explosive/Flammable Hazards

- HUD Standard for Siting Projects Near Flammable or Explosive Hazards (24 CFR 51 Subpart C)
 - ✓ Properties located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature are subject to HUD safety standards
 - ✓ Focuses on preventing injury to occupants of HUD-assisted projects and preventing damage to property because of industrial accidents.



Slide 171

Explosive/Flammable Hazards

- **Applicability:** development, construction, or rehabilitation/modernization/conversion that will increase residential densities
- **Process:** Are any aboveground storage tanks >100 gallon in size located within 1 mile of the project location?
 - ✓ Conduct site visit
 - ✓ Consult maps & photos
 - ✓ Contact local fire dept.



Slide 172

Explosive/Flammable Hazards

- **Process (cont.):**

If a hazard is present, calculate the acceptable separation distance (ASD)

 - ✓ Use HUD tool: **ASD Calculator**
- If the ASD cannot be met, a barrier must be constructed. Consult a licensed engineer.
- If constructing a barrier is not feasible, cancel the project at the location.



Slide 173

Explosive/Flammable Hazards

- **Updated regulation (February 2020)**
- Propane tanks (or liquefied nitrogen gas) up to 1,000 gallons in size that are compliant with the 2017 (or later) National Fire Protection Association Code 58 standard are exempt from Part 51C.
 - ✓ <125 gallons: no minimum distance
 - ✓ 126-500 gallons: 10 feet from house
 - ✓ 501-1000 gallons: 25 feet from house



Slide 174

Site Contamination

- HUD standard for Toxic Substances and Radioactive Materials is 24 CFR 58.5(i)
 - ✓ Ensure the project site is free of contamination and chemical that could:
 - affect the health and safety of occupants, or
 - conflict with the intended use of the property



Slide 175

Site Contamination

- Determine if project site is contaminated or affected by off-site contamination
- Utilize best available information and consultation with U.S. EPA or state regulators, as applicable
 - ✓ For multifamily and nonresidential property, also investigate previous uses of the site and other nearby sites (e.g., Phase I ESA)
- Determine if there is a pathway for human exposure (i.e., surface water, ground water, air, soil) to contaminants



Slide 176

Site Contamination

- External hazards
 - ✓ Soil contamination
 - ✓ Groundwater contamination
 - ✓ Radioactivity
 - ✓ Air pollution
- Internal hazards (from within the home)
 - ✓ Lead-based paint (pre-1978 homes)
 - ✓ Asbestos (pre-1978 homes)
 - ✓ Radon (naturally occurring, radioactive element)
 - ✓ Methamphetamine
 - ✓ Mold



Slide 177

Site Contamination

- Site visit
 - ✓ Take photos, look for red flags
 - ✓ Can use Site-Specific Field Contamination Checklist
 - ✓ Inspections/testing as necessary
- Database search
 - ✓ EPA databases – NEPAassist, ECHO
 - ✓ Leaking underground storage tanks (LUST)
- Investigation of past uses
 - ✓ Deeds, titles, land use maps, or Phase I ESA



Slide 178

Site Contamination

- If there is a hazard, mitigate to EPA/state/tribal standards
- Depending on the type of hazard, clean-up can be expensive (so you'd cancel the project at that location)
- For existing hazards that are not being disturbed (asbestos and lead-based paint), mitigation may not be necessary



Slide 179

Lead-Based Paint

- IHBG regulations address lead-based paint (LBP) at 24 CFR Part 1000.40
- 24 CFR Part 35 has six subparts reflecting various program within HUD assisted housing and the related requirements
- Lead hazard information is provided through the guide books, informational pamphlets and PIH Notice 2017-13



Slide 180

24 CFR Part 1000.40

- Lead-based paint poisoning prevention requirements apply to affordable housing activities under NAHASDA.
- 24 CFR Part 35 – Subparts:
 - ✓ A: Disclosure of LBP and hazards
 - ✓ B: General requirements
 - ✓ H: Project-based assistance
 - ✓ J: Rehabilitation
 - ✓ K: Acquisition, leasing, support services, operation
 - ✓ M: Tenant-based rental assistance



Slide 181

Environmental Justice (E.O. 12898)

- Is there a disproportionate, adverse impact to low-income or minority communities?
 - ✓ Site or surrounding neighborhood suffers from disproportionate adverse environmental effects relative to the community at large
 - ✓ Activity that would aggravate an existing negative environmental impact:
 - Worsening the source of impact
 - Moving people closer to the impact
 - Exposing more people to the impact



Slide 182

Environmental Justice (cont.)

- Identify and address all negative impacts
- If susceptible populations will be impacted, the public participation process must involve them in the decision-making process
 - ✓ Public notice on the project and potential impacts
 - ✓ Public meetings with the community



Slide 183

Categorically Excluded Subject to sec. 58.5 – ERR

- Complete laws and authorities chart, including "yes"/"no" findings
- Document site visit
- Include a summary of findings and conclusions
- Complete CEST form
 - ✓ Determination of finding
 - ✓ Signature by Responsible Entity



Slide 184

Categorically Excluded Subject to sec. 58.5 – Finding

- "Are formal compliance steps or mitigation required?" – Yes/No column
 - ✓ If everything under 58.5 section is marked "No," then the project converts to exempt
 - ✓ If any item under 58.5 is marked "Yes," then the review stays CEST, and HUD approval must be obtained (more on this later).
 - Public notice, public comment, release of funds
 - ✓ The project can still convert to exempt if a 58.6 item is marked "yes"
 - For example, flood insurance



Slide 185

Preparing an Environmental Assessment (EA)



Slide 186

What Activities are Covered?

Activities that are not exempt or categorically excluded but that do not require an EIS

- New construction
 - ✓ New housing (>4 units or adding infrastructure)
 - ✓ Non-residential (warehouses, community centers)
 - ✓ Infrastructure
- Major rehabilitation activities
- Demolition/reconstruction (>4 units in one area)
- Conversion of one type of land use to another



Slide 187

Procedures to Follow

- Additional requirements:
 - ✓ Include brief discussion of the need for the proposal
 - ✓ Identify existing trends and environmental conditions
 - ✓ Identify all potential impacts of the project (regional and local as well as national)
 - EA Checklist in addition to 58.6 and 58.5 checklists
 - ✓ Discuss alternatives



Slide 188

Statement of Purpose and Need

Bad/Wrong

This document is the environmental review for this project.

Incomplete

Building housing for low-income tribal members

Good

The Sheneck Housing Authority has a waiting list of over 200 families. The average turnover time for one family on the waiting list is 1-2 years. There is a shortage of housing stock in the community for low-income tribal members.



Slide 189

Existing Conditions and Trends

Incomplete

The Sheneck Housing Authority has acquired a 7-acre parcel of land to develop into homes to address the housing need.

Good

The Sheneck Housing Authority has acquired a 7-acre parcel of vacant land to address the housing need. The proposed location is undeveloped with some shrubbery and grass. Existing utility lines are present on the adjacent property to the east and can be extended to the project location.

Currently, due to the shortage of affordable housing, tribal members are living in overcrowded conditions (10 people to a 3-bedroom home in some cases), and many people are homeless (10-20 sleeping under the I-90 overpass).



Slide 190

EA Factors Checklist

■ Ratings

- ✓ 1: Minor beneficial impact
- ✓ 2: No impact anticipated
- ✓ 3: Minor adverse impact
- ✓ 4: Potentially significant impact

- HUD's online WISER training provides useful information on how to assess these factors



Slide 191

EA Factors

■ Land development

- ✓ Conformity with plans, compatible land use, scale and urban design
- ✓ Soil suitability, erosion, slope, drainage, stormwater runoff
- ✓ Hazards and nuisances including site safety and noise



Slide 192

EA Factors

- Socioeconomics
 - ✓ Employment and income patterns
 - ✓ Demographic character changes
 - ✓ Displacement
- Community facilities and services
 - ✓ Educational and cultural facilities
 - ✓ Commercial facilities
 - ✓ Healthcare and social services
 - ✓ Parks, open space, and recreation
 - ✓ Transportation and accessibility



Slide 193

EA Factors

- Materials management/O&M
 - ✓ Solid waste disposal/recycling
 - ✓ Wastewater/sanitary sewers
 - ✓ Water supply
 - ✓ Energy consumption
- Public safety
 - ✓ Medical, fire, and police



EA Factors

- Natural features
 - ✓ Unique natural features, water resources
 - ✓ Vegetation and wildlife
- Other
 - ✓ Sustainable materials management
 - ✓ Livability: public health and safety
 - ✓ Regional concerns
 - Climate—fires, blizzards, drought
 - ✓ Telecommunications



Slide 195

Alternatives

- Briefly discuss alternatives considered. They should include:
 - ✓ No action
 - ✓ Variations of the project type - e.g., single-family versus duplexes versus apartment buildings; versus vouchers
 - ✓ Variations on the location of the project



Slide 196

Preparing an EA (cont.)

- Cumulative impacts
 - ✓ What else is going on in that area (aside from your project)?
 - ✓ What are the cumulative impacts of all of the activities occurring in that area?
 - E.g., air quality, noise, floodplain
 - Future industrial/commercial development



Slide 197

Preparing an EA (cont.)

- Summarize findings and conclusions
 - ✓ Discuss the results - positive and negative
 - Effects on human environment (EA checklist)---social, economic, natural resources
 - In the context of the related federal laws & authorities (58.5 checklist)
 - Benefits of the project



Slide 198

Preparing an EA (cont.)

- Examine and recommend mitigating measures - Mitigation measures include:
 - ✓ Avoiding the impact by not taking certain actions
 - ✓ Minimizing the impact by modifying the extent of an action or mitigating for the environmental factor
 - ✓ Rectifying the impact by repairing or restoring the affected environment



Slide 199

Preparing an EA (cont.)

- RE makes a finding
 - ✓ Finding of No Significant Impact (FONSI) when:
 - Project will not result in a significant impact on the quality of the human environment, and
 - Compliance with the related federal laws and authorities is achieved



Slide 200

Preparing an EA (cont.)

- RE makes a finding (cont.)
 - ✓ Finding of Significant Impact - Project may significantly affect the environment or result in noncompliance
 - Contact ONAP Area Office
 - Advise ONAP Area Office of a decision whether or not to continue with the project



Slide 201

Environmental Impact Statements (EIS)

- The culmination of environmental responsibilities under NEPA
- Extremely rare for HUD-assisted projects
- If you think an EIS is required:
 - ✓ Check in with the ONAP Area Office.
 - ✓ Think about choosing an alternate site or terminating the project



Slide 202

Day 2 Wrap-Up

- Questions
- Summary of Day 2
 - ✓ Complying with the federal laws and authorities at 58.5
 - ✓ Environmental assessments



Slide 203

Day 3 Agenda

- Summary of Day 2
- Day 3 Topics
 - ✓ HUD approval and the release of funds process
 - ✓ Other environmental guidance
 - ✓ Changes due to COVID pandemic
 - ✓ Program administration and monitoring
 - ✓ HEROS Summary
 - ✓ Wrap-up: Key stumbling points and best practices



Slide 204

Review of 58.5

- What is the overriding authority for floodplain maps?
 - ✓ A) FEMA
 - ✓ B) U.S. Geological Survey (USGS)
 - ✓ C) State environmental agency
 - ✓ D) U.S. Fish and Wildlife Service



Slide 205

Review of 58.5

- Which is not a source for wetlands maps?
 - ✓ A) FEMA Flood Insurance Rate Maps
 - ✓ B) USDA Natural Resource Conservation Service
 - ✓ C) U.S. Fish and Wildlife Service National Wetlands Inventory
 - ✓ D) U.S. Army Corps of Engineers
 - ✓ E) local and state maps



Slide 206

Review of checklists

- HUD's noise regulation **versus** the noise hazard in the EA checklist
- Where and why do we look at airports twice?
- Floodplain management **versus** flood insurance
- Clean Air Act **versus** air quality (hazards and nuisances) in the EA



Slide 207

Exercise 4: Reviewing an Environmental Assessment



Slide 208

HUD Approval and Release of Funds Process



Slide 209

When are Public Notices Required? (sec. 58.43, 58.45, and 58.70)



Slide 210

- Categorical exclusions subject to sec. 58.5 (CEST)(when they do not convert to exempt)
- Tiered CEST reviews (*more on this later*)
- Environmental Assessments (EA)
- Environmental Impact Statements (EIS)

Issuing Public Notices (sec. 58.43 and 58.45)

- These legal notifications are issued as follows:
 - ✓ Published in newspaper of general circulation in the affected community, OR
 - ✓ Displayed in public buildings and within the project area (posting) and distributed according to local public involvement procedures (e.g., mailing)



Slide 211

Notifications for CEST reviews

- *Notice of Intent to Request Release of Funds (NOI-RROF)*(sec. 58.45 and 58.70)
- Period for receiving public comments
 - ✓ 7 calendar days when published, or
 - ✓ 10 calendar days when posted and mailed
 - The first day of the comment period begins the day following publication or posting/ mailing



Slide 212

Notifications for the Environmental Assessment

- Combined *Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds* (Combined FONSI Notice and NOI-RROF)
- (sec. 58.43, 58.45 and 58.70)
- Make inclusions required for a combined notice. Indicate that:
 - ✓ Notice is intended to satisfy two separate procedural requirements
 - ✓ Public comments should specify which part of the notice they are referring to
- Use the sample combined notice (Attachment 7.3)



Slide 213

Notifications for the Environmental Assessment (cont.)

- Period for receiving public comments
 - ✓ 15 calendar days when published, or
 - ✓ 18 calendar days when posted and mailed
 - The first day of the comment period begins the day following publication or posting/ mailing



Slide 214

Notifications for the Environmental Impact Statement

- Notice of Intent to Prepare an EIS*: A simple announcement in the Federal Register
- Notice of Availability of a Draft EIS*: 45-90 days*
- Notice of Availability of a Final EIS*: 30 days
- Notice of Intent to Request Release of Funds
 - ✓ 7 days if published; 10 days if posted/mailed

* Appear in Federal Register (requires ONAP assistance)



Slide 215

Dissemination of FONSI* Notice

- Disseminate FONSI notice to interested persons and agencies (sec. 58.43)
 - ✓ Interested individuals and groups
 - ✓ Local news media
 - ✓ Appropriate local, state and federal agencies
 - ✓ U.S. EPA Regional Office
 - ✓ HUD Area Office



*Applies to environmental assessments

Slide 216

Receiving Comments on Notifications

- Plan internal procedures for conducting the comment period
 - ✓ Ensure availability of documents to the public for their review
 - ✓ Review and consider comments received
 - Carry out additional investigation if warranted
 - Respond to individuals or agencies
 - Include comments and RE responses in ERR



Slide 217

Request for Release of Funds

- Submit certification and RROF
 - ✓ RE completes RROF (Part 1 of Form 7015.15)
 - ✓ Certifying Officer 'executes certification' (Part 2 of Form 7015.15)
 - ✓ TDHE completes Part 3 of Form 7015.15 and submits it to HUD
 - Also submit a copy of an affidavit of publication from the newspaper or the posted/mailed notice
 - If request is faxed to HUD, then original documents must also be mailed



Slide 218

Release of Funds (cont.)

- HUD actions on RROF (7015.15)
 - ✓ Approves RROF 15 days after receiving request (providing no objections were received)
 - Issues Authority to Use Grant Funds (7015.16)
 - ✓ Rejects RROF
 - ✓ Imposes remedies or sanctions if a 58.22 violation occurred (funds committed before HUD approval of the project)



Slide 219

Release of Funds (cont.)

- HUD can reject the Request for Release of Funds for the following reasons (58.75)
 - ✓ Inaccurate RROF or RROF not signed by the Certifying Officer (or official designee)
 - ✓ Incomplete public notice or incorrect timing of the public comment period
 - ✓ A step was missing in the preparation of the environmental review
 - ✓ Recipient or other participants committed funds, incurred costs or initiated activities prior to receiving HUD approval
 - ✓ Another federal agency submits a written finding that the project is unsatisfactory (environmentally)



Slide 220

Release of Funds (cont.)

- Once HUD issues the AUGF (7015.16), the project can proceed
- Notify participants
 - ✓ Maintain contact with participants throughout environmental review process on its status
 - ✓ Inform participants that funds may be committed and spent



Slide 221

Exercise 5: Preparing RROF and Public Notices for Submission to HUD



Slide 222

Exercise 5

The Mintum Tribe has completed an environmental review for rehabilitation of several multifamily rental units owned by the Mintum Housing Authority. The Tribe determined the project to be *categorically excluded subject to § 58.5*. As a result of the review, the Tribe found the project could not be converted to exempt. The Tribe will publish a notice in the newspaper on June 28, 2020 (Sunday).

- What type of notice is required?
- When does the comment period start and end?



Slide 223

Exercise 5

The Mintum Tribe has completed an environmental review for rehabilitation of several multifamily rental units owned by the Mintum Housing Authority. The Tribe determined the project to be *categorically excluded subject to § 58.5*. As a result of the review, the Tribe found the project could not be converted to exempt. The Tribe will publish a notice in the newspaper on June 28, 2020 (Sunday).

- What happens if the tribe receives comments?
- When can the Tribal Leader and Executive Director sign the RROF?



Slide 224

Exercise 5

A combined *Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds* (FONSI/NOI-RROF) for construction of a new daycare was posted and mailed on June 22, 2020.

- When does the public comment period begin and end?

The Tribe did not receive any comments. The RROF was signed by the tribal chairperson after the public comment period ended, and it was delivered to HUD on the same day before close of business.

- When should the Tribe expect to receive the Authority to Use Grant Funds from HUD?



Slide 225

Other Environmental Guidance



Slide 226

Projects Funded from Multiple Federal Sources (HUD & non-HUD)

- You may:
 - ✓ Use another entity's environmental review for documentation (must be current and relevant) or
 - ✓ "Adopt" the review document after independently evaluating the information and taking responsibility for its scope and content or
 - ✓ Establish lead/cooperating agency partnership
- However, you must still issue a public notice (FONSI/NOI-RROF) and receive HUD approval



Slide 227

Projects Funded from Multiple HUD Sources

- Ex. IHBG funds used with other HUD programs:
 - ✓ The RE completes environmental review concerning all project activities
 - ✓ Public notice(s) should identify all sources of HUD program funds to be used
 - ✓ The Request for Release of Funds (RROF) submitted to HUD must identify all sources of HUD program funds
 - ✓ Approval must be received from HUD on all sources of its program funds before project commitments and expenditures can be made



Slide 228

Multiple HUD Funding Sources/ Projects in Process

- For projects started with HUD funds:
 - ✓ When an additional funding source is added to a project after the environmental review has been completed
 - ✓ Complete a CENST review for supplemental assistance (58.35(b)(7))
 - ✓ No new CEST, EA, or RROF required



Slide 229

Projects in Process (cont.)

- Reevaluation of environmental findings (sec. 58.47)
 - ✓ Required for a change in project scope or environmental conditions
 - ✓ Reevaluate environmental findings to determine if original findings are still valid
 - ✓ Publish notice and submit RROF if CEST project can no longer convert to exempt



Slide 230

Projects in Process (cont.)

- Complete a new review
 - ✓ If a project hasn't been completed within five years
 - ✓ If the scope of the project has significantly changed



Slide 231

ICDBG Imminent Threat Grant

- Set-aside of ICDBG funds (maximum amount varies from year to year)
 - ✓ Tribes don't complete for these funds; first come, first served
 - ✓ Requires independent third party verification of the existence, immediacy and urgency of threat (i.e., BIA or IHS)
 - ✓ Threat is not recurring in nature
 - ✓ Must impact an entire service area
 - ✓ Funds are not available from other local, state, or federal sources, including IHBG



Slide 232

Emergency Projects

- Emergency = Presidentially declared disaster or local emergency declared by chief elected official of RE
 - ✓ If CEST review, may publish/disseminate NOI-RROF at the same time as submission of the RROF (sec. 58.33(b))
 - ✓ If EA, may publish/disseminate combined FONSI/NOI-RROF at the same time as submission of the RROF



Slide 233

COVID Provisions

- Check HUD Exchange website for current guidance and latest updates.
- Consultation by email/phone/online submission. Do not mail hard copies.
- E-signature (PDF) or scan and email submission of RROF to HUD.



Slide 234

Common CARES Act activities

CENST

- Purchase PPE
- Purchase teleworking office supplies
- Rental, mortgage, or utilities assistance or relocation
 - ✓ Do not look at maps. See Exempt example for language.

EA

- Converting/constructing a building for quarantine facility or daycare



Slide 235

Tiering

- Tiering can be used for actions occurring over a period of time within a given geographic area WHEN
 - ✓ The actions will occur at multiple locations and have the same function and level of impact regardless of their location, AND
 - ✓ The specific locations of all project sites are not yet known
 - Example: homeowner-occupied rehab



Slide 236

Tiered 58.5 checklist

- Broad-level (Tier 1)- Complete the sections that apply to the whole area
 - ✓ Sole Source Aquifers, Coastal Zones, Farmlands, Etc.
- Site-specific (Tier 2) – Complete the remaining sections as the property is identified
 - ✓ Historic Preservation, Contamination, Noise, etc.



Slide 237

Basics of a Tiered Review

Tier 1

- Identify all activities (i.e., aggregation), funding sources, and the targeted geographic area
- Prepare a written compliance strategy for site-specific reviews
- Publish and disseminate notice for the entire project
- Submit a RROF for the entire project and receive HUD approval
- Complete site-specific reviews as locations become known

Tier 2



Slide 238

Tiering

- Caution!
 - ✓ Tiered reviews can only cover 5 years
 - ✓ Don't spend/commit funds on individual homes until the Tier 2 for that home is completed
- For more information
 - ✓ Webinar:
<https://www.hudexchange.info/trainings/courses/heros-tiered-environmental-review-webinar/1936/>
 - ✓ Website:
<https://www.hudexchange.info/programs/environmental-review/tiered-environmental-reviews/>



Slide 239

Program Income

- Applicability of Part 58 to program income generated by individually funded projects
 - Only applicable if the program income is subject to federal requirements – varies by program
- Environmental review requirements do not apply to non-federal funds



Slide 240

Waivers

- In cases of 58.22 violations, HUD may for good cause and with appropriate conditions approve waivers of Part 58 compliance:
 - ✓ To the extent permitted by NEPA regulations and related federal laws and authorities
 - ✓ Requires joint approval by the Asst. Sec of Public and Indian Housing, and Asst. Sec. of Community Planning and Development



Slide 241

Program Administration and Monitoring



Slide 242

A Program Administration Strategy

- Develop policies and procedures to ensure environmental compliance
 - ✓ Inform all stakeholders of process
 - ✓ Establish a standard record-keeping system
 - ✓ Develop a compliance checklist to ensure applicable requirements were completed prior to commitment of funds
 - ✓ Identify staff responsibilities throughout process - planning, compliance, implementation, staying connected with local partners, interagency coordination



Slide 243

Program Admin Strategy (cont.)

- Develop procedures – ER process
 - ✓ Communicate process with staff and be clear about responsibilities
 - Actions prohibited by Part 58 prior to approval
 - Requesting staff to assist with gathering information (photos, scope of work)



Slide 244

Staffing Environmental Reviews

- RE staff
- TDHE staff
- Qualified consultants



Slide 245

RE Staffing for Environmental Reviews

- Qualified staff to supervise and manage the environmental review process
- Keep staff trained in Part 58 requirements
- Consultation with other federal agencies technically should be done by the tribe



Slide 246

TDHE Staff Preparing Environmental Reviews

- TDHE may carry out some environmental review tasks on behalf of the RE
 - ✓ Gather information
 - ✓ Develop relationships with federal oversight agencies as appropriate
 - ✓ Assist the RE with preparation of public notices and responding to comments received



Slide 247

What to Look for in an Environmental Consultant

- Experience
 - ✓ Preparing NEPA Documents
 - ✓ Real estate/land development
 - ✓ Tribal environmental issues
 - ✓ Knowledge of HUD's rules
- Education
- References – Check them!



Slide 248

Compiling Databases to Facilitate Environmental Reviews

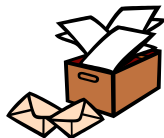
- Social and Land Use Data
 - ✓ Airports: clear zone maps and noise contour maps
- Site-Specific Data
 - ✓ Maps, aerial photographs
 - ✓ Guidebooks and technical reports
 - ✓ Previous ER documents
- Regional information
 - ✓ Maps of sole source aquifer boundaries
 - ✓ Letters from or agreements with federal/state oversight agencies



Slide 249

Recordkeeping

- Why?
 - ✓ Better decision-making
 - ✓ Reduce liability
 - ✓ It's required!
- Accessibility
- Retention



Slide 250

Monitoring Responsibilities

- ONAP oversight responsibilities
 - ✓ Approving RE requests for release of funds unless a violation of Part 58 procedures has occurred
 - ✓ Periodically monitor RE project ERRs and inspect project sites (post-review monitoring)
 - ✓ Impose remedies or sanctions for violations discovered following approval of the release of funds



Slide 251

ONAP Point of Contact

- Office of Native American Programs
 - ✓ Grants Management
 - ✓ Grants Evaluation
- Provides RE with guidance on:
 - ✓ HUD rules and regulations
 - ✓ Contact with other agencies
 - ✓ Forms and documentation required by HUD



Slide 252

Monitoring Responsibilities

- RE's oversight responsibilities
 - ✓ Ensure any special conditions, procedures, and/or requirements related to projects are implemented
 - ✓ Maintain contact with local partners to ensure changes haven't occurred in the scope of work or environmental conditions
 - ✓ Ensure local partners do not undertake actions prior to completion of Part 58 requirements
 - RE advises them when to proceed



Slide 253

RE Self-Monitoring of Performance

- Monitoring goals
 - ✓ Ensure applicable requirements were completed prior to commitment of funds
 - ✓ Ensure conditions for approval were implemented
- Monitoring strategies
 - ✓ Identify special staff needs - e.g., technical assistance, administrative capability, etc.
 - ✓ Monitoring frequency and the level of detail
 - ✓ Keep a log!
 - 2013 IHBG Recipient Self-Monitoring Guidebook
 - ONAP Guidance 2005-4



Slide 254

Exercise 6: Responsible Entities and TDHEs



Slide 255

Exercise 6

- Who is the Responsible Entity?
 - ✓ A) Mintum Tribal Housing Authority
 - ✓ B) Mintum Tribal Community and Economic Development Bureau
 - ✓ C) Mintum Tribe
 - ✓ D) HUD ONAP



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Exercise 6

- Who is responsible for preparing the environmental review?
 - ✓ A) Tribal housing authority/TDHE
 - ✓ B) Tribe
 - ✓ C) Either



Slide 257

Exercise 6

- Who is responsible for consulting with the SHPO/THPO and other federal agencies on 58.5 laws and authorities?
 - ✓ A) Tribal housing authority/TDHE
 - ✓ B) Tribe
 - ✓ C) Either



Slide 258

Exercise 6

- Who is responsible for signing the environmental review and certifying to compliance?
 - ✓ A) Tribal housing authority/TDHE
 - ✓ B) Tribe
 - ✓ C) Either



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Exercise 6

- The chief executive officer of which organization assumes the role of "responsible federal official"?
 - ✓ A) Tribal housing authority/TDHE
 - ✓ B) Tribe
 - ✓ C) Either



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Exercise 6

- Who publishes and disseminates public notices and receives and responds to public comments?
 - ✓ A) Tribal housing authority/TDHE
 - ✓ B) Tribe
 - ✓ C) Either



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Exercise 6

- Who may not commit or expend project funds until authorized to do?
 - ✓ A) Tribal housing authority/TDHE
 - ✓ B) Tribe
 - ✓ C) Either



Slide 262

Exercise 6

- Who maintains the environmental review record?
 - ✓ A) Tribal housing authority/TDHE
 - ✓ B) Tribe
 - ✓ C) Either



Slide 263

HEROS Summary



Slide 264

What is HEROS?

HEROS is a HUD system that replaces HUD's current paper-based environmental review process:

- Form 4128
- Form 7015.15
- Form 7015.16
- Worksheets and paper formats

HEROS walks users through the entire environmental review process from beginning to end, including compliance with related laws and authorities.

It works for Part 50 and Part 58 environmental reviews in all HUD programs.



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2018 HEROS Pilot Participants

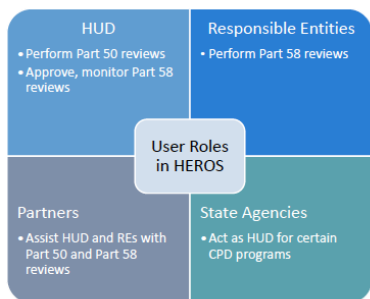
Northern Circle Indian Housing Authority
 Cherokee Nation
 Chickasaw Nation
 Metlakatla Regional Housing Authority
 Tlingit Haida Regional Housing Authority Knik Tribe
 Interior Regional Housing Authority
 Choctaw Nation
 Rosebud Sioux Tribe

Aleutian Housing Authority with Agdaagux Tribe of King Cove
 Confederated Tribes of Siletz Indians
 Hannahville Indian Community
 Aroostook Band of Micmacs
 Department of Hawaiian Homelands
 Eastern Shoshone Housing Authority
 Paiute Indian Tribe of Utah
 Crow Tribe



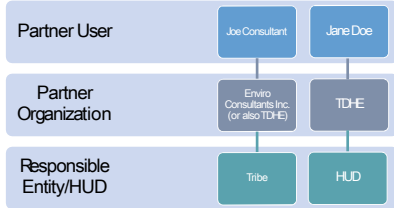
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HEROS has Four Basic User Roles



Slide 267

Partner Users and Organizations



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HEROS Summary

User Roles

- RE
- Partner
 - TDHE
 - Consultant
- HUD

User Privileges

- Preparer
- Approver
- Certifying Officer
- Administrator



Slide 269

Tips for Recording ERs in HEROS

- When you're ready to input info into HEROS
 - ✓ Copy and paste text from a document
 - Especially long paragraphs.
 - ✓ Upload supporting documentation in corresponding sections
 - ✓ Save often! HEROS will log you out after 20 minutes of not clicking to another screen.



Slide 270

Tips for Recording ERs in HEROS

- Preparation
 - ✓ Conduct all consultation/analysis as before
 - HEROS does not make this part easier
 - Save supporting documentation in separate files as you do the analysis
 - ✓ Keep template language in your own files
 - Yes/No checkboxes regarding mitigation
 - ✓ ONLY the Tribe (and not the TDHE) can complete this step
- Don't use HEROS without staff from the Tribe



Slide 271

HEROS Summary

- Advantages of using HEROS
 - ✓ Standardized walk-through of analysis
 - ✓ 'Text tips' with guidance
 - ✓ Electronic submission of 7015.15
 - ✓ Electronic approval
 - ✓ Printing paper copies unnecessary
 - ✓ Automatic public posting of review to HUDEXchange website
- Monitoring easier for HUD



Slide 272

Get HUD Exchange Updates: Get critical deadlines, policy changes, and upcoming trainings in your inbox.

Subscribe to Email Updates

Home News HUD Publishes HEROS Quick Guides and an Update to the HEROS User Guide

HUD Publishes HEROS Quick Guides and an Update to the HEROS User Guide

July 26, 2019

Print Share This

HUD Environmental Review Online System (HEROS) is a web-based system for Responsible Entities (REs) to prepare and manage their Environmental Review Records (ERR). HEROS applies to all environmental reviews for HUD-assisted projects. The latest version of the HEROS User Guide as well as HEROS Quick Guides are now available.

Since the August 2016 HEROS User Guide update, HUD has issued five HEROS system updates and these releases have introduced new features and modifications to HEROS. The HEROS User Guide is updated to reflect changes on the following topics from the HEROS 11.14 release:

1. Implementation of the Partner User Roles:
 - Implemented the Partner User role to allow partners to access HEROS and assist HUD and Responsible Entities with the preparation of environmental reviews. These partners include consultants, contractors, public housing authorities, nonprofits, applicants, lenders, third-party providers, and others.
 - Provided additional guidance on the role of the Partner Users.
2. Addition of the Assign Review Features:
 - Added the Assign Review feature to HEROS. Each environmental review is only assigned to one user, and only that assigned user can edit the review.



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Navigating a Part 58 Review

Starting a New Review

To start a new Part 58 environmental review, click <Start a new environmental review> on the My Environmental Reviews Dashboard.

My Environmental Reviews (50/58)

HEROS integrates guidance and assistance into the environmental review format, but it is not a substitute for learning and understanding. Responsible Entities are encouraged to attend regular environmental trainings led by HUD staff and ensure that they are familiar with the review process and that their review records are accurate and complete.

Show All Show Reviews Assigned to Me



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HEROS Resource

S

Training materials on the HUD Exchange include:

- User Guide
- How-To Videos
- FAQs
- HUD Exchange "Ask A Question"
- Live Q&A Webinars
- HEROS Worksheets



Materials are available at:
<https://www.hudexchange.info/environmental-review/heros>



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Environmental Resources

HUD EXCHANGE Programs Resources Trainings Program Support Grantees

Home Programs Environmental Review

Environmental Review

Welcome to the official website for the Department of Housing and Urban Development's (HUD's) Office of Environment and Energy. The Office of Environment and Energy (OEE) manages the environmental review process for HUD.

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. The environmental review process is required for all HUD-assisted projects to ensure that the proposed project does not negatively impact the surrounding environment and that the property site itself will not have an adverse environmental or health effect on end users. Not every project is subject to a full environmental review (i.e., every project's environmental impact must be examined, but the extent of this examination varies), but every project must be in compliance with the National Environmental Policy Act (NEPA), and other related Federal and state environmental laws.

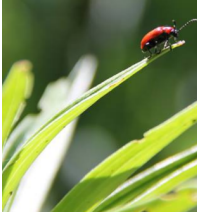
Orientation to Environmental Reviews
Explore the components of an environmental review. The section contains information pertaining to both Part 50 and Part 58 reviews.
Learn about the Environmental Review Process

Related Federal Environmental Laws and Authorities
Learn about the environmental requirements covered by related federal laws and authorities and referenced in HUD's environmental review process.

Featured Topics
Office of Housing Environmental Review Resources
Web-Based Instructional System for Environmental Review (WSEIR)
HEROS (HUD Environmental Review Online System)
HUD Environmental Regulation

Office of
<https://www.hudexchange.info/programs/environmental-review/>

For more information on HEROS



- Lauren Hayes
- ONAP Liaison
- Lauren.E.Hayes@hud.gov

Ask a Question
<https://www.onecpd.info/get-assistance/my-question/>

Office of Native American Programs
Slide 278

Wrap-up: Key Stumbling Points and Best Practices

Office of Native American Programs
Slide 279

Key Stumbling Points

- Project funds are obligated or expended prior to completing the ER process
- Vague/outdated project descriptions
 - ✓ Failure to aggregate activities properly
- Public notices inaccurate or public comment periods counted wrong
- Checklists missing documentation



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Best Practices

- Clarity on policies and procedures for local environmental review process and which staff is responsible for which part of the process
- Staff stability, designated staff, reliable consultants
- Bookmark useful websites
- Working with other agencies:
 - ✓ Start talking with them early
 - ✓ Maintain contact list and communicate often



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Best Practices (cont.)

- Become familiar with HUD resources
 - ✓ ONAP's Codetalk website
 - Contacts, news, training opportunities
 - ✓ HUDEXchange Environmental Review
 - Environmental guidance
 - WISER modules
 - HEROS training videos



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Wrap-Up: Key Concepts

- Have an environmental review on file
- Obtain HUD approval on the release of funds when required
- Have the review signed by the tribe
- Don't leave any box blank or say "N/A"
- Attach supporting documentation



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Thanks for coming!

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