

**Guidance for the Preparation of
Environmental Documentation
Related to the
Community Development Block Grant –
Infrastructure Funding Program**

**Division of Water Infrastructure
North Carolina Department of Environmental Quality
June 2020**

(This page intentionally left blank.)

Table of Contents

Table of Contents	i
List of Tables	iv
List of Figures	v
1.0 Introduction.....	1
1.1 CDBG-I Environmental Review Process.....	1
1.1.1 Environmental Program Basics.....	1
1.1.2 Expectations and Roles	1
1.1.3 Terminology.....	2
1.1.4 Schedule.....	3
1.1.5 Pre-Qualification Process.....	5
1.1.6 Documentation Preparation Process	5
1.1.6.1 Environmental Information Document	5
1.1.6.2 Final Environmental Document Preparation	6
1.1.6.3 Public Notification	9
1.1.6.4 Addressing Public Comments.....	11
1.1.6.5 When a Request for Release of Funds is Not Needed	11
1.1.6.6 The Request for Release of Funds and the Authority to Use Grant Funds.....	11
1.1.6.7 Objection Period	12
1.1.6.8 The Environmental Review Record.....	13
1.1.7 Certifying Officer Signatures and Process Order	15
1.2 CDBG-I Final Environmental Documents.....	15
1.2.1 Determination of Final Environmental Documents	15
1.2.2 Certification of Exemption	15
1.2.3 Categorical Exclusions.....	15
1.2.3.1 Categorical Exclusion not Subject to §58.5.....	16
1.2.3.2 Categorical Exclusion Subject to §58.5.....	16
1.3.4 Finding of No Significant Impact/Environmental Assessment	19
2.0 Environmental Impacts Basic Information	20
2.1 Introduction.....	20
2.2 Scope of Impacts.....	20
2.2.1 Direct Impacts	21
2.2.2 Secondary Impacts	21
2.2.3 Cumulative Impacts	22
2.2.4 Scope of Impacts.....	22
2.3 Mitigative Measures.....	23
3.0 Preparing the Environmental Information Document.....	24
3.1 Figures in the Environmental Information Document	25
3.2 Introduction to Existing Conditions and Environmental Impacts	26
3.2.1 Existing Conditions.....	27
3.2.2 Environmental Impacts and Mitigation	27
3.2.3 Sources Consulted.....	28
4.0 Environmental Information Document Resource Categories	28
4.1 Topography	29
4.1.1 Existing Conditions.....	29

4.1.2	Impacts and Mitigation	29
4.2	Floodplain Management [24 CFR 58.5(b)(1)]	29
4.2.1	Floodplains Existing Conditions [24 CFR 58.5(b)]	30
4.2.2	Impacts and Mitigation [24 CFR 58.5(b)]	31
4.3	Soils.....	31
4.3.1	Existing Conditions.....	31
4.3.2	Impacts and Mitigation	31
4.4	Prime and Unique Farmland (24 CFR 58.5(h))	32
4.4.1	Existing Conditions.....	32
4.4.2	Impacts and Mitigation	32
4.5	Land Use	33
4.5.1	Existing Conditions.....	33
4.5.2	Impacts and Mitigation	33
4.6	Wild and Scenic Rivers [24 CFR 58.5(f)]	34
4.6.1	Existing Conditions.....	34
4.6.2	Impacts and Mitigation	34
4.7	Executive Order 11990 Wetlands [24 CFR 58.5(b)(2)].....	34
4.7.1	Existing Conditions.....	34
4.7.2	Impacts and Mitigation	35
4.8	Streams and Water Resources.....	36
4.8.1	Existing Conditions.....	36
4.8.2	Impacts and Mitigation	37
4.9	Endangered Species [24 CFR 58.5(e)].....	38
4.9.1	Existing Conditions.....	38
4.9.2	Impacts and Mitigation	38
4.10	Wildlife, Natural Vegetation, and Forest Resources	38
4.10.1	Existing Conditions.....	39
4.10.2	Impacts and Mitigation	39
4.11	Community Facilities.....	39
4.11.1	Existing Conditions.....	39
4.11.2	Impacts and Mitigation	39
4.12	Historic Preservation (24 CFR 58.5(a))	40
4.12.1	Existing Conditions.....	40
4.12.2	Impacts and Mitigation	41
4.13	Air Quality [24 CFR 58.5(g)]	41
4.13.1	Existing Conditions.....	41
4.13.2	Impacts and Mitigation	42
4.14	Noise Levels and Noise Abatement and Control (24 CFR Part 51, Subpart B) ...	42
4.14.1	Existing Conditions.....	42
4.14.2	Impacts and Mitigation	43
4.15	Energy Consumption	43
4.15.1	Impacts and Mitigation	43
4.16	Site Safety [24 CFR Part 51, Subparts C and D, 24 CFR 58.6(d)].....	43
4.16.1	Airport Hazards.....	44
4.16.2	Explosive and Hazard Operations.....	44
4.16.3	Toxic Chemicals and Radioactive Materials	44

4.17	Coastal Resources [24 CFR 58.5(c), 24 CFR 58.6(c)]	44
	4.17.1 Coastal Zone Management Act [24 CFR 58.5(c)]	45
	4.17.2 Coastal Barrier Resources Act [24 CFR 58.6(c)]	45
4.18	Environmental Design	45
	4.18.1 Existing Conditions.....	46
	4.18.2 Impacts and Mitigation	46
4.19	Demographics, Employment & Income, and Environmental Justice [24 CFR 58.5(j)]	46
	4.19.1 Existing Environmental Justice Characteristics.....	47
	4.19.2 Potential Impacts from Project.....	47
4.20	References	47
List of Acronyms		49
Glossary		52
Index		55

Appendices

- A – HUD Regulations Applicable to the CDBG-I Program
- B – National Environmental Policy Act Regulations
- C – Agency Scoping Checklist
- D – Environmental Information Document Tables

List of Tables

1.1	Proposed Schedule for Environmental Documentation Process.....	4
1.2	Minimum Public Notification Time Periods.....	10
1.3	Proposed Steps to Address Objections	13
2.1	Scope of Impacts for Resource Categories	23

List of Figures

1.1	CDBG-I Environmental Review Process.....	7
1.2	Flowchart for Certifying Officer Signatures.....	
1.3	Flowchart for the Determination of Final Environmental Document.....	17

(This page intentionally left blank)

1.0 Introduction

1.1 CDBG-I Environmental Review Process

1.1.1 *Environmental Program Basics*

Since July 2013, administration of the Community Development Block Grant (CDBG) program in North Carolina is split between two departments, the North Carolina Department of Commerce (DOC) and the North Carolina Department of Environmental Quality (DEQ). While DOC has been tasked with administering the economic development portion of the CDBG program, the Division of Water Infrastructure (the Division) of DEQ administers the infrastructure portion of the program, which includes water and wastewater infrastructure only. The purpose of this guidance is to provide applicants with an understanding of the Division's environmental review process for the CDBG Infrastructure (CDBG-I) program only.

The CDBG-I environmental review process is built on an after-action monitoring approach. Under this type of review process, the applicant prepares the Environmental Review Record, including the Environmental Information Document (EID), the final environmental document, and supporting materials. The applicant is solely responsible for agency review and coordination, preparing a complete and accurate EID, and a complete and accurate environmental document. The Division provides oversight in the form of guidance preparation and monitoring once the funds are released. The U.S. Department of Housing and Urban Development (HUD) utilizes this type of approach for projects funded in entitlement cities and urban counties. In the CDBG-I program, the Engineering Report (ER) is reviewed by Division staff separately from the environmental process. Note that this process is very different from the real-time monitoring process that the Division uses for engineering and environmental review for other funding programs where documents are sent to the Division in draft form for review and comment. In the CDBG-I program, only final documents are submitted to the Division.

The only time the Division will have the opportunity to comment on a project during the environmental process is during the objection period.

1.1.2 *Expectations and Roles*

In order to make the after-action approach work, the Division has developed a schedule that must be met to release funds and complete project construction in a timely manner. Both the Division and applicant must meet specified deadlines in order to meet the schedule outlined in Section 1.1.4. The expectation and roles of both the applicant and the Division related to the environmental portion of the CDBG-I program are important to keep projects on schedule.

The applicant will be responsible for several items as part of the CDBG-I environmental review process. These items are as follows:

- The Recipient, the Responsible Entity, and Preparer must attend the environmental training related to the CDBG-I program and pass the required certification tests.
- The Responsible Entity must complete the appropriate agency coordination related to the project. This includes any surveys or studies that must be conducted as well as

contacting the appropriate agency. All agency responses must be incorporated into the EID, and all agency correspondence must be included in the environmental review record (ERR).

- The Responsible Entity must prepare a complete and accurate EID based upon the information supplied in Sections 3.0 and 4.0 of this guidance.
- The Responsible Entity must accurately prepare and distribute for public notification the final environmental document.
- The Responsible Entity must respond to any public comment related to the final environmental document and must assist the Division to address any objections related to the Request for Release of Funds.
- The Responsible Entity must maintain an accurate and complete ERR.

The Division has its own set of responsibilities related to the administration of the CDBG-I program.

- The Division must develop guidance that provides an accurate description of the requirements related to the CDBG-I environmental review process. Division staff review this guidance on an annual basis and update it as needed to account for any programmatic changes and to further clarify information.
- The Division must develop and administer both training and a certification test for the CDBG-I environmental review process.
- The Division must address any objections to the final environmental document from the public.
- The Division must ensure that all release of funds occurs in a timely manner.
- The Division must monitor CDBG-I projects once funds are released to determine that the EID, final environmental document, and Environmental Review Record were accurately completed.

1.1.3 Terminology

As with many government programs, the CDBG-I program has its own set of terminology that may be difficult to understand, especially if the applicant is new to the process. The terms below are a mini-glossary of those utilized in the CDBG-I program. The Glossary and Acronyms at the end of this guidance contain a complete set of terms and acronyms related to the program.¹

- **Certifying Officer** – The official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to appear in Federal court as required [see §58.2(a)(2)]. The Certifying Officer must attend the Division’s environmental training and pass the written test. (See Section 1.1.5) The Certifying Officer should be an elected official or high-level staff such as Mayor, Chairman of the Board, or Town/County Manager.

¹ Regulations pertaining to the information in this guidance document are found in 24 CFR Parts 51, 55, 58, and 570. Specific references are provided where needed.

- Environmental Information Document (EID) – The document that contains the environmental analysis and is the basis for the final environmental document (e.g., FONSI). The EID is included as part of the environmental review record.
- Environmental Review Record (ERR) – The official file of all environmental information related to the project including the EID.
- Final Environmental Document – A document that characterizes the environmental and human impacts of constructing a project. These documents include a Certificate of Exemption, a Categorical Exclusion Not Subject to §58.5 (CENST), a Categorical Exclusion Subject to §58.5 (CEST), a Finding of No Significant Impact/Environmental Assessment (FONSI/EA), and a Record of Decision/Environmental Impact Statement (ROD/EIS).
- Project – An activity or group of integrally related (e.g., aggregated) activities designed to accomplish, in whole or in part, a specific objective [see §58.2(a)(4)].
- Recipient – Any entity when they are eligible recipients or grantees such as a unit of local government [see §58.2(a)(5)].
- Request for Release of Funds (RROF) – A document completed and signed by the Certifying Officer to request the release of CDBG construction funds for a project.
- Responsible Entity – A UGLG, responsible for the preparation of the ER/EID [see §58.2(a)(7)(i-ii)]. Note that sometimes, the RE may differ from the Recipient.
- Unit of General Local Government (UGLG) – Any city, county, town, township, parish, village, or other general purpose subdivision of a state [see §570.03²].

1.1.4 Schedule

The CDBG-I environmental review process takes an after-action monitoring approach. As a result, it is crucial that Recipients and Preparers gain an understanding of what is required not only in the EID but also what the review process entails. This section discusses the processes related to pre-qualification, documentation preparation, and the monitoring process.

As part of the funding process, Responsible Entities will be responsible for preparing the EID and final environmental document. Table 1.1 shows the proposed timelines and milestones related to the completion of the environmental process.

All milestones mentioned in the Letter of Intent to Fund must be met. Otherwise, the Division will take back the funding for use in future rounds.

² See also <https://www.hudexchange.info/community-development/cdbg-laws-and-regulations>

Table 1.1. Proposed Schedule For Environmental Documentation Process^{a,b}	
Task	Duration
Letter of Intent to Fund	1 Day
Environmental Certification training ^c	6-8 weeks
EID preparation	7 months
Public Notice (if required)	3 weeks
Response to Public Comments ^d	2 weeks
Submittal of RROF	2 weeks
Objection Period ^e	15 days
Responses to Objections ^d	2 weeks
Funds Released ^f	1 day
^a Milestones provided are when steps must be completed. Steps may be completed earlier if possible. ^b If the date listed falls on a weekend, then the first business day after the date will be the due date. ^c Environmental process certification training will be held early in the preparation process. ^d If the final environmental document must be re-noticed in response to public comments or objections, then that portion of the process will need to be repeated. See Figure 1.1. ^e Objection period will not begin until the RROF is received (applicable to CESTs and FONSI only). ^f The Funds Released date is a milestone date. If funds are not released by this date, then the Division will de-obligate the funding and utilize it in future funding rounds.	

1.1.5 Pre-Qualification Process

Since the environmental review process relies heavily on the knowledge and capabilities of the Responsible Entity to complete the EID and appropriate environmental document, it is critical that Responsible Entities and their Preparers gain a solid understanding of what is required and can demonstrate that understanding.

To do so, the Division requires training. This training will be scheduled after Letters of the Intent to Fund have been sent. It is mandatory that a Recipient representative who can act as the Certifying Officer for the project, at least one representative from each UGLG who will be a Responsible Entity and all Preparers attend this training. Due to the possibility of staff changes, having two Recipient representatives attend training is strongly encouraged.

The training consists of information related to the overall CDBG-I process but with a focus on the EID preparation process. It goes into depth related to what is required in the EID and how to prepare the appropriate environmental documentation and what is required in the ERR.

Once training is completed, participants must take an open-book certification test. This test will determine the knowledge the participant received. The participant must

Preparer – An entity such as a Council of Government or consultant that prepares the ER/EID and environmental documentation for the Responsible Entity.

Letter of Intent to Fund – Correspondence sent by the Division to all Recipients receiving funding that notifies them of the intent of the Division to award grant funding once the schedule is met.

Only those who take the training and pass the test will be allowed to prepare an EID and the final environmental documents.

pass this test in order to prepare an EID for the CDBG-I program. The Division will grade the tests and will issue certificates for those who pass. A copy of the certificate issued upon completion of the course must be maintained as part of the ERR.

It is important to note that only those who take the training and pass the test will be certified to prepare an EID and final environmental documents. Once Responsible Entity and its Preparer pass the certification test, they will be required to maintain the certificate in the ERR. The certification will be good for four years.

1.1.6 Documentation Preparation Process

Once a Preparer³ has completed the certification process, then they must prepare the EID as well as the final environmental document. The first step entails preparing the EID. The second step consists of preparing the final environmental document and notifying the public as applicable. The final step consists of requesting a release of funds. The following section goes into more detail related to each of these steps. Figure 1.1 shows a flowchart of these steps.

1.1.6.1 Environmental Information Document

The EID provides the basis for the final environmental document. Therefore, it is critical to understand the steps required to complete the EID in a timely manner. Failure to complete the EID accurately may result in findings during monitoring and a possible forfeiture of funds.

For projects that require a Certificate of Exemption or CENST as a final environmental document, no agency scoping is needed, and minimal tables in the EID are needed. Please see Section 1.3 for more information related to final environmental documents.

For projects that require a final environmental document that is a CEST or a FONSI, the Preparer will need to conduct an agency review. The Division highly encourages the Preparer to complete any necessary studies and surveys before contacting agencies so that the results may be submitted to the agencies. This will minimize comments that they may have. The Division has supplied a checklist in Appendix C for use in agency scoping. The agencies that need to be contacted are as follows:

- North Carolina Department of Natural and Cultural Resources
- Eastern Band of Cherokee Indian Nation (as applicable)
- Tuscarora Nation of New York (as applicable)
- Catawba Indian Nation
- Muscogee (Creek) Indian Nation
- U.S. Army Corps of Engineers (applicable field office)
- U.S. Fish and Wildlife Service (applicable field office)
- National Marine Fisheries Service (as applicable)

³ In some cases, the Preparer and RE may be the same. For simplicity's sake, Preparer for the rest of this guidance includes both the RE and the Preparer.

- North Carolina Department of Environmental Quality
 - Division of Water Resources
 - Wildlife Resources Commission
 - Natural Heritage Program
 - Division of Air Quality
 - Division of Coastal Management (as applicable)
- Other state, local, and Federal agencies as needed.

The Preparer should prepare the EID based upon the type of final environmental document needed. See Section 1.3 below for more information as to what types of projects result in which final environmental document. Note that not all environmental tables may be required. During this process, the Preparer should contact the Division regarding any questions. The Division will provide technical support either by answering the question or providing recommendations as to who to contact further.

Once the Preparer receives agency comments, then it should finalize the EID based upon the recommendations and requirements from the agencies. All recommendations and requirements from all agencies must be addressed, and mitigative measures suggested by the agencies incorporated into the EID.

Recommendation – Actions the agency suggests as ways to mitigate environmental impacts.

Requirement – Actions an agency states must be incorporated into the project to mitigate environmental impacts. These must be incorporated into the ER/EID as mitigation.

1.1.6.2 Final Environmental Document Preparation

Once the EID is complete and all agency concerns addressed, then the Preparer will draft the final environmental document and complete the proper public notification process.

When preparing a final environmental document, the Preparer must utilize the documents posted on the Division website.

The final environmental document required is usually based upon the type of project being constructed, not the amount of environmental impact. Therefore if a project starts out as a CEST, then it will remain a CEST and not convert to a FONSI even if it triggers compliance with at least one of the authorities listed in 24 CFR 58.5. There are two exceptions, though. A project that starts as a CEST may convert to exempt if the environmental review concludes that compliance with 24 CFR 58.5 is not triggered. The other exception is that if it is determined during agency scoping for a CEST or FONSI project that the proposed project may yield a potentially significant impact, then the project might require an EIS. See Section 1.3 for more detail as to what type of final environmental document a project may require.

- CENST – Categorical Exclusion Not Subject to 24 CFR 58.5
- RROF – Request for Release of Funds
- CEST – Categorical Exclusion Subject to 24 CFR 58.5
- NOI – Notice of Intent
- FONSI – Finding of No Significant Impact

When preparing a final environmental document, the Preparer must utilize the documents posted on the [Division's website](#), as this documentation has been approved by the HUD. Use of any

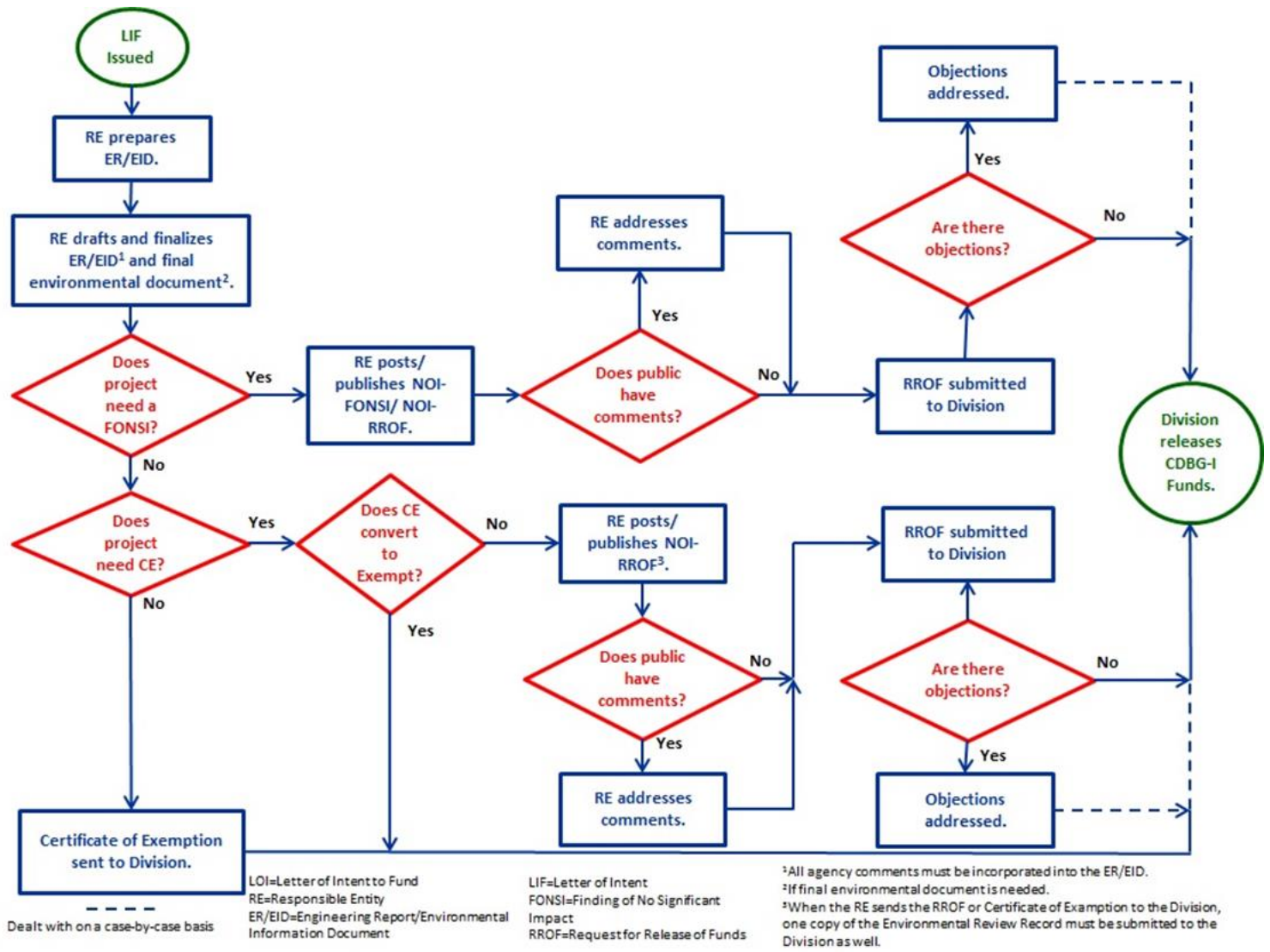


Figure 1.1. CDBG-I Environmental Review Process

(This page intentionally left blank.)

other documentation will result in a finding during the project monitoring process. Once the final environmental document is prepared, then the Certifying Officer for the RE is responsible for signing the document.

1.1.6.3 Public Notification

Once the final EID and final environmental document have been completed, then public notification may need to be completed.

If the final environmental document is a Certificate of Exemption, a CENST, or a CEST that converts to Exempt, then no public notification is needed.

If the final environmental document is a CEST, then public notification for the RROF is needed (unless the CEST converts to Exempt). Using the forms provided on the [Division website](#), the Preparer will customize the NOI/RROF for the project and will mail the notice to interested parties as well as the Division, EPA Region 4, and all applicable state, local, and tribal agencies. It must either publish the NOI/RROF in a newspaper of general circulation in the affected community or prominently display in public buildings within the project area or in designated places as agreed upon during the citizen participation process.⁴ The Division also encourages the posting of the NOI/RROF on the Responsible Entity's and Recipient's websites if available.⁵

Public buildings may include the local post office, libraries, and recreational facilities owned by the Responsible Entity and/or Recipient.

If the final environmental document is a FONSI, the Division requires that the FONSI and RROF be noticed concurrently, which is permissible under HUD regulations and encouraged by the Greensboro HUD field office because it significantly decreases the time associated with the environmental review process and also simplifies the process the RE uses to respond to comments. This is due to the tight timelines required for the release of funds to complete the project.

Once the FONSI is finished, the Preparer will utilize the forms provided on the [Division website](#). When the NOI/FONSI-NOI/RROF is completed, the Preparer will mail the notices to interested parties as well as the Division, EPA Region 4, and all applicable state, local, and tribal agencies. It must either publish them in a newspaper of general circulation in the affected community or prominently display in public buildings within the project area or in designated places as agreed upon during the citizen participation process. The Division also encourages the posting of the NOI/FONSI-NOI/RROF on the Responsible Entity's and Recipient's websites if available.⁶

⁴ See 24 CFR 58.43(a).

⁵ Please note that posting on the RE's website is not mandatory and *does not* fulfill the public notification requirements on its own.

⁶ See Note 6 above.

A Note about Clearinghouse Review

As part of the new environmental review process, a North Carolina Clearinghouse review will not be required due to changes in the State Environmental Policy Act regulations. If you have any questions, please contact the Division for further information.

For the notification processes, timelines exist related to comment periods. Table 1.2 below provides a tabular flowchart to describe the minimum length of notification required.

Table 1.2. Minimum Public Notification Time Periods⁷			
If my environmental document is a/an...	Then I must prepare...	And if I notify via...	Then my minimum comment period is...
Exempt Certification	No NOI/RROF	_____	_____
CENST	No NOI/RROF	_____	_____
CEST converts to Exempt CEST	No NOI/RROF	_____	_____
	NOI/RROF	Mailing and Publishing	7 days
		Mailing and Posting	10 days
FONSI	NOI/FONSI-RROF ⁸	Mailing and Publishing	15 days
		Mailing and Posting	18 days

A Note about Exceptional Circumstances

On rare occasions, an exceptional circumstance related to a project requiring a FONSI may occur. These circumstances are: (1) if there is a considerable amount of controversy or interest related to the project; (2) if the proposed project is similar to other projects that normally require the preparation of an EIS; or (3) the proposed project is unique and without precedent. If any of these cases occur, then the FONSI must be available for public comment for 30 days before a RROF can be filed. This is the only case where the Division will allow a separate notification of the FONSI and RROF (see 24 CFR 58.46).

1.1.6.4 Addressing Public Comments

Once the public comment period has closed, the Preparer and RE must address any comments received. As noted in Section 1.2 above, the Preparer and RE have 14 days to address all public comments. This keeps the environmental review process moving. If the comments received are on a similar topic (e.g., five comments were received on floodplain impacts), then these comments may be grouped together with one response.

Responsible Entities have one of three options when reviewing and responding to public comments. First, if a comment is completely unrelated to the content of the CEST, FONSI or to the RROF, then the comment should be acknowledged. Second, if a comment is related to the content of the CEST, FONSI or RROF but does not require a change in the ER/EID, RROF, and/or CEST or FONSI, then the comment must be acknowledged and a rationale supplied as to why no revision to the RROF and/or CEST or FONSI was required. Last, if a comment was

⁷ See 24 CFR 58.45.

⁸ Combined into one document.

substantial enough to require revision of the CEST or FONSI as well as the EID, then the response should specify what revisions will be made and the appropriate revisions made in the EID and the CEST or FONSI. The RROF or FONSI/RROF will then be noticed again. If the RE has questions concerning the significance of public comments, it should contact the Division and schedule a meeting to discuss the comments.

1.1.6.5 When a Request for Release of Funds is Not Needed

There may be CDBG-I projects that are either exempt or require a final environmental document that is a CENST . If this is the case, then the Preparer should complete the appropriate final document for the project. These forms are available on the [Division's website](#) and must be utilized, as they have been approved by the Greensboro HUD office for use. Then, a copy of the Certificate of Exemption or CENST as appropriate for the project and one hard copy of the ERR must be submitted to the Division. These copies will be maintained in Division files.

In some situations, a CEST may convert to Exempt. This occurs when, at the end of the agency scoping and environmental review process, a determination can be made that compliance with 24 CFR 58.5 has not been triggered. If this is the case, then the CEST final environmental document on the [Division's website](#) would be used with the appropriate certification paragraph at the end of the document selected. See Section 1.2.3.2 for additional information for a CEST that converts to Exempt.

1.1.6.6 The Request for Release of Funds and Authority to Use Grant Funds

For a CEST that does not convert to Exempt or FONSI, once any public comments have been adequately addressed, then the RE must prepare a RROF and a certification. Both the RROF/certification form and directions for completing the form are located on the [Division's website](#). Follow the RROF/certification directions and submit the RROF/certification to the Division at 1633 Mail Service Center, Raleigh, NC, 27699-1633 along with one hard copy of the ERR (see Section 1.2.2.8 for more information as to what is required).⁹

If the Recipient is different than the Responsible Entity, then the Authorized Officer of the Recipient must sign the certification as well. If this is the case, then the Responsible Entity's Certifying Officer executes the certification form and then sends it to the Recipient along with any environmental conditions that must be adhered to.

During the time of environmental review, the Recipient must refrain from undertaking any physical activities or choice-limiting actions until the Division has approved the RROF.

1.1.6.7 Objection Period

Once the Division receives the RROF and certification, HUD regulations require a 15-day objection period. Anyone may object to a RROF and related certification,

During the 15-day objection period, HUD regulations require that no physical activities or choice-limiting actions related to a project may occur.

⁹ Certified mail or delivery tracking service is highly recommended.

but the bases for objections are limited. These are described below.¹⁰

- The certification was not executed by the RE’s Certifying Officer;
- The RE has failed to (1) make a Finding of No Significant Impact or a finding of significant impact; (2) a determination of Categorical Exclusion; (3) a re-evaluation of environmental assessments and other environmental findings; or (4) appropriately use a previous environmental impact statement;
- The RE omitted one or more of the steps related to the environmental assessments;¹¹
- The RE omitted one or more of the steps related to environmental impact statements;¹²
- The Recipient or other participants in the development process have committed funds, incurred costs, or undertaken activities not authorized before release of funds and approval of the environmental certification by the division; or
- Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Information on what is required in an official objection is found in the NOI/RROF found on the [Division’s website](#).¹³

During this time, the Division will also review the hard copy of the ERR.

If no objections are submitted and if the Division has none, then the Division will issue the Authority to Use Grant Funds to the Recipient so that the project can move forward.

If objections are received, then the manner in which the objection is addressed will vary depending upon the objection. Table 1.3 below lists each objection and the approach taken by the Division.

Table 1.3. Proposed Steps to Address Objections		
Objection	Regulatory Citation	Proposed Steps
The certification was not executed by the RE’s Certifying Officer	§58.75(a)	The Division will return the certification/RROF to the RE and have the Certifying Officer sign it. The objection period will restart upon resubmission of the RROF.
The RE has failed to (1) make a Finding of No Significant Impact or a finding of significant impact; (2) a determination of Categorical Exclusion; (3) a re-evaluation of environmental assessments and other environmental findings; or (4) appropriately use a previous environmental impact statement	§58.75(b)	The Division will contact the RE regarding further steps to take, which will be determined upon additional review of the project and the Responsible Entity.
The RE omitted one or more of the steps related to the environmental assessments.	§58.75(c)	The Division will require that the RE complete the steps that were missed, including public notification as needed. The objection period will restart upon submission of the RROF.

¹⁰See 24 CFR 58.75.

¹¹ See 24 CFR 58.40-47.

¹² See 24 CFR 58.52-60.

¹³ See 24 CFR 58.76.

Table 1.3. Proposed Steps to Address Objections		
Objection	Regulatory Citation	Proposed Steps
The RE omitted one or more of the steps related to environmental impact statements.	§58.75(d)	The Division will require that the RE complete the steps that were missed, including public notification as needed. The objection period will restart upon submission of the RROF.
The Recipient or other participants in the development process have committed funds, incurred costs, or undertaken activities not authorized before release of funds and approval of the environmental certification by the Division.	§58.75(e)	The Division will contact the RE regarding further steps to take, which will be determined upon additional review of the project and the RE.
Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.	§58.75(f)	The Division will transmit agency objections to the RE and Recipient and require that the objections be addressed. The project will then be re-noticed and the RROF resubmitted. The objection period will restart upon submission of the RROF.

Once the Authority to Use Grant Funds is sent, all mitigative measures set forth in the FONSI or CEST must be implemented as part of the project. Additionally, project inspectors during construction must enforce these mitigative measures. Last, any agency or member of the public seeking redress related to the environmental review covered by the approved certification must deal directly with the RE. This is why the training before preparation of the ER/EID is so critical so that the RE understands what is required in the environmental process.

1.1.6.8 The Environmental Review Record

The ERR is a project file that contains all information related to the environmental review process and is critical to maintain. When the Division and HUD monitor REs, the ERR will be one of the items that will be examined. Every ERR should contain the following information:

- A copy of the certification showing that the Preparer, RE, and Recipient completed and passed the training.
- A copy of the EID used to formulate the final environmental document.
- A copy of the final environmental document (Certificate of Exemption, CENST, CEST, FONSI/EA, EIS/ROD).
- Agency correspondence. (The Agency Scoping Check List in Appendix C is recommended to document agency correspondence.)
- Comment/response document to agency comments.
- Notifications related to FONSI and RROFs, including affidavits of publication if published or pictures of postings if posted.
- Mailing list for mailed notices
- Public comments if any were made.
- Comment/Response Document for addressing public comments (if applicable).
- Copies of any objections.
- Comment/Response document for addressing objections (if applicable).

While the ERR may be collected in a filing system such as an accordion file or file cabinet at the grant recipient's location, the Division requires Preparers to place all information related to the ERR in a three-ring binder for submittal to the Division. This is critical due to limited storage space at the Division's offices as well as because Division staff tend to receive multiple ERRs during the same time period.

The certificates related to training will be issued to the RE, Preparer, and Recipient after the training is finished and testing completed. Copies for all three must be kept in the ERR and included in the copy of the ERR submitted to the Division.

Since the EID is critical to the drafting of the final environmental document, it must be included as part of the ERR along with the final environmental document.

All agency correspondence and associated comment/response documents should be included as well. The comment/response document should be prepared before revising the EID. Responses should (1) include acknowledgements where agencies commented and where no changes were made; (2) responses to comments where no changes were made in the EI and final environmental document; and (3) responses where the changes were made in the EID (e.g., Section 5.4 was changed to address Agency X's comments).

The ERR should also include copies of the notifications. The Notification of Intent to Request Release Funds (NOI-RROF) should be utilized for CESTs, and the Notification of Finding of No Significant Impact/Request for Release of Funds (NOI-FONSI/NOI-RROF) should be utilized for FONSI.¹⁴ If the notices were published, then please include an affidavit of publication and copy of the ad as well as a hard copy of the signed notices. If notices were posted, please include a list of where they were posted as agreed to in the community participation plan and photographs showing them posted.

Include copies of any public comments made as well as a comment/response document that characterizes how the Responsible Entity responded to the comments. If no comments were received, provide a slip sheet stating as such.

Finally, include any objections that the Division forwarded to the Responsible Entity as well as a comment/response document that characterizes how the Responsible Entity responded to these objections. If no objections were received, provide a slip sheet stating as such.

1.1.7 Certifying Officer Signatures and Process Order

As previously noted, documents must be signed by the designated Certifying Officer who attend the environmental training and passed the test. While the Division recommends that the RE send more than one person to training in case of future staff changes, it's important to note that **the same person must act as the Certifying Officer for all documents.** This person must sign the final environmental document, must be named as the Certifying Officer in the public notice, and must sign the RROF/Environmental Certification.

¹⁴If the project requires an EIS, please contact the Division for more information.

The order of events is also crucial. The Certifying Officer must sign and date the appropriate final environmental document before the public notice is published or posted. Then the public notice period must run with that same person listed as the Certifying Officer in the public notice. Finally, the RROF/Environmental Certification must be signed no sooner than the day after the public notice period ends by the Certifying Officer. See Figure 1.2 for a signature flow chart.

1.2 CDBG-I Final Environmental Documents

Once the EID is complete, the Responsible Entity must prepare a final environmental document. However, questions may arise as to which final environmental document to prepare. This section discusses how to make this determination. For any additional questions, please contact Division staff.

1.2.1 Determination of Final Environmental Documents

Unlike the State Environmental Policy Act (SEPA) minor construction activities and some National Environmental Policy Act (NEPA) minimum criteria, which are based upon the magnitude of environmental impact, HUD NEPA minimum criteria are based on project type. As a result, once a project is deemed to require a certain type of final environmental document, the final environmental document will not change.¹⁵

Figure 1.3 below shows a flowchart of how to determine what type of final environmental document is needed. Sections 1.3.2 through 1.3.5 provide more detail.

1.2.2 Certification of Exemption

Exempt status applies to activities that will have no impact on the environment.¹⁶ Related to infrastructure, if CDBG-I funds are to be used only for engineering costs or design costs, then it is considered Exempt. This is rarely used, due to what the Division prioritizes for CDBG-I funding. If this is the case, then Preparer and Responsible Entity will need to prepare a Certificate of Exemption and submit it to the Division along with one hard copy of the ERR. The Division will then release the funds via the Authority to Use Grant Funds. Once the RE receives this document, then the Recipient may begin drawing down funds.

¹⁵ The one exception may be for a CEST. Please see Section 1.3.3.2 below for more information.

¹⁶ See 24 CFR 58.34 for the complete list of what activities may be considered Exempt.



Figure 1.2. Flowchart for Certifying Officer Signatures

1.2.3 *Categorical Exclusions*

Categorical Exclusions (CEs) fall into two categories, those that are subject to the authorities listed in 24 CFR 58.5 and those that are not subject to the authorities listed in 24 CFR 58.5. Sections 1.4.3.1 and 1.4.3.2 below discuss these two types of CEs.

1.2.3.1 Categorical Exclusion Not Subject to §58.5

Categorical exclusions that are not subject to 24 CFR 58.5 cover activities that are minor in nature and will have a negligible impact on the environment.¹⁷ Related to infrastructure, it has been determined that only operations and maintenance costs would fall into this category. Therefore, it may be rarely used, if at all, due to what the Division prioritizes for CDBG-I funding. If a CENST is required, then the Preparer and Responsible Entity would submit the CENST to the Division along with one hard copy of the ERR. The Division will then release the funds via issuing the Authority to Use Grant Funds. Once the Recipient receives this document, then the Recipient may begin drawing down funds.

1.2.3.2 Categorical Exclusion Subject to §58.5

Categorical Exclusions that are subject to 24 CFR 58.5 cover projects that are replacement and rehabilitation projects that would increase capacity by 20 percent *or less* and, in the case of replacement, located in the same right-of-way or site place as the existing infrastructure. When creating these criteria, the HUD determined that such projects would have a relatively minor impact on the environment. However, to ensure that the impact is minor, they made it subject to the requirements found in 24 CFR 58.5.

The RE and Preparer would have to complete certain tables in the EID as well as appropriate agency scoping. Once the EID is completed, then they should determine via the results of the EID whether or not the project would trigger compliance with 24 CFR 58.5.

Conversion of a CEST to Exempt. *Only if* no compliance with 24 CFR 58.5 is triggered would a project be able to convert to Exempt. Determining whether compliance is triggered considers factors including, but not limited to, receiving agency comments with required mitigation, presence of floodplains or wetlands, or potential impacts to threatened or endangered species. For example, if a pipe were being rehabilitated in an urban area that has recent residential land uses, then the results recorded in the EID might show that no impacts were anticipated and that compliance with 24 CFR 58.5 was not triggered. If this is the case, then the project would convert to Exempt. The RE and Preparer would still prepare the CEST as the final environmental document and will choose the language on the last page that indicates that the project converts to exempt. This document should be submitted to the Division along with one hard copy of the ERR, including the EID tables. The Division will then release the funds via the Authority to Use Grant Funds. Once the Recipient receives this document, then they may begin drawing down funds.

The Certificate of Exemption should NOT be used for CEST projects that convert to exempt.

¹⁷ See 24 CFR 58.35(b) for a complete list of what activities require a CENST.

Note that the Certificate of Exemption should not be prepared for a project that is a CEST converting to Exempt. The language in the Certificate of Exemption is not correct for these types of projects.

A project might trigger compliance with at least one of the authorities listed in 24 CFR 58.5. For example, if the project includes work in a floodplain or wetland area, then the 8-step process is required and compliance with 24 CFR 58.5 is triggered. If this is the case, then the public notification requirements would be triggered, and proper notification would have to occur. Please see Section 1.2.2.3 for more information related to the notification requirements. If this is the case, then after the public notification period is complete and all public comments are addressed, the RE and Preparer would complete the CEST and send it to the Division along with the RROF and one hard copy of the ERR. The Division would then complete the 15-day objection period, resolve any objections, and then release the funds via the Authority to Use Grant Funds.¹⁸

1.2.4 Finding of No Significant Impact/Environmental Assessment

In several situations, a project will require a FONSI based on the HUD minimum criteria, whose bright lines are very low. When a FONSI is needed, the potential for significant impact exists. In these situations, the environmental assessment determines the significance of the impact and lists what mitigation is needed to minimize these impacts. A FONSI coupled with an EA is needed (FONSI/EA) to document the findings.

When preparing a project for submission, beware of the impacts of joint funding. For example, if a CDBG-I funds were utilized to fund a water line to 1,000 homes and additional funds were used to fund more length to the line to supply water to 2,600 homes, then the project in aggregate would be considered a ROD/EIS.

Related to infrastructure, any new collection lines or water lines would require a FONSI/EA, as would any rehabilitation activity that would increase capacity by ***greater than*** 20 percent. Replacement activities will require a FONSI if any part of the project extends to a different right-of-way or project site than the existing infrastructure. Additionally, any water treatment plant or wastewater treatment plant expansion would require a FONSI/EA if the capacity increases more than 20 percent. **Note that capacity relates to the number of accounts rather than flow.** See Section 1.3.5 below as to what would trigger an environmental impact statement (EIS).

If a FONSI/EA is required, then the RE and Preparer would complete an EID as prescribed in Sections 3.0 and 4.0 and then would prepare a FONSI/EA based on that EID. Once the FONSI/EA and RROF are noticed concurrently, the RE and Preparer would address any public comments before submitting the FONSI/EA and RROF to the Division along with one hard copy of the ERR. The Division would then complete the 15-day objection period, resolve any objections, and release the funds via the Authority to Use Grant Funds.¹⁹

¹⁸ If particular objections arise, the Division reserves the right to stop the project and withdraw funds. These situations will be handled on a case-by-case basis (see Table 1.3).

¹⁹ Ibid.

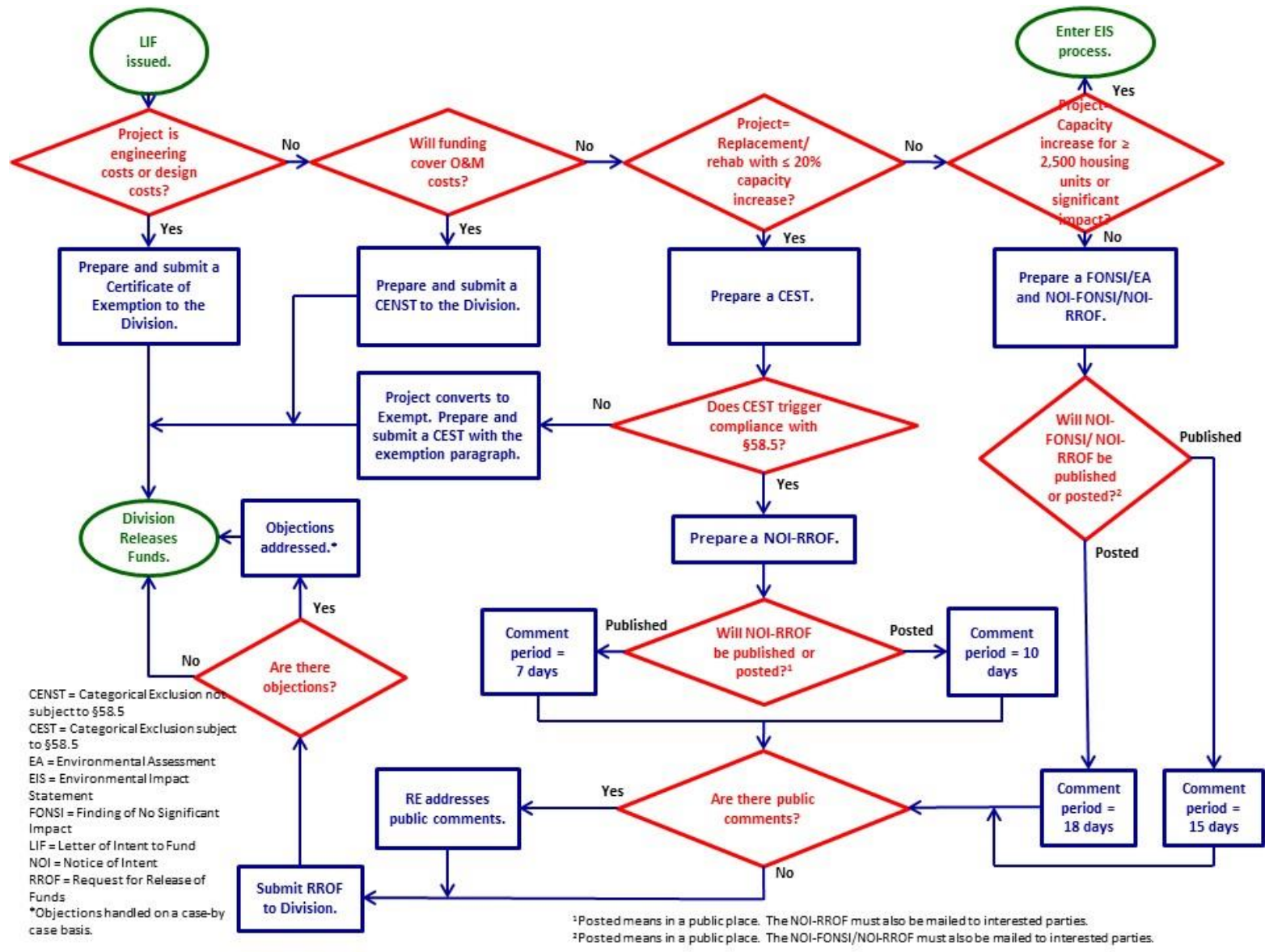


Figure 1.3. Flowchart for the Determination of Final Environmental Document

(This page intentionally left blank.)

1.2.5 Record of Decision/Environmental Impact Statement

In rare cases, a project may trigger a ROD and EIS. If a project will increase capacity by at least 2,500 housing units, then a ROD/EIS is required and must follow the procedures found in EPA regulations related to the Council of Environmental Quality. Additionally, if a project is deemed through the EID preparation process for a FONSI to contain significant impacts, then the project will shift to a ROD/EIS.

When preparing project applications for use with CDBG-I funds, avoid project scopes that state the addition of a number of new housing units close to the bright line (e.g., 2,500 new housing units). This is because future flow determinations may not be precise and can be debated (e.g., a project extending sewer to 2,495 homes).

The Division anticipates that a ROD/EIS will be extremely rare and encourages Recipients to carefully consider the work involved with an EIS before committing CDBG-I funds to a project. However, if a Recipient decides to move forward with a project that would require a ROD/EIS, the RE and Preparer must contact the Division to coordinate closely during EIS development.

2.0 Environmental Impacts Basic Information

2.1 Introduction

A project²⁰ funded through the CDBG-I program is subject to the HUD NEPA compliance process outlined at 24 CFR Part 58. The EID is part of the ERR, which is a project file that contains the EID, final environmental documents, and other documentation required during the environmental review process. More information on the ERR may be found in Section 1.2.2.8.

For additional information, refer to EPA's [NEPA Homepage](#) and [associated regulations](#) and [HUD's Environmental Review Requirements](#).

The remainder of this section provides information related to the scope of impacts and how to prepare the EID. Section 3 will then discuss specifics related to each resource category.

2.2 Scope of Impacts

When constructing a project, three types of impacts must be documented in the EID. These impacts are as follows:

Benefits – Environmental impacts that result in a positive outcome

- Direct impacts
- Secondary impacts
- Cumulative impacts

²⁰ A project is an activity, or a group of integrally related activities designed by the recipient to accomplish, in whole or in part, a specific objective (24 CFR 58.2(a)(4)). An activity is an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether the cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program (24 CFR 58.2(a)(1)). When completing an environmental review, the responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions (24 CFR 58.32).

Secondary and cumulative impacts (SCI) are often assessed jointly. The different types of impacts, as well as the scope of impacts that must be considered, are discussed in this section. Environmental impacts can be both positive (hereafter known as benefits) and negative (hereafter known as impacts). The EID should include a discussion of both impacts and benefits. The DEQ’s [Guidance for Preparing SEPA Documents and Addressing Secondary and Cumulative Impacts](#) is a resource with additional information on SCI and it provides guidance that may assist with completion of EIDs prepared under NEPA; however, it should be noted that compliance with SEPA is not a substitute for compliance with NEPA. Additionally, when considering cumulative impacts under NEPA, review and implement the information in [Considering Cumulative Effects under the National Environmental Policy Act](#), which is published by the Council of Environmental Quality.

2.2.1 Direct Impacts

Direct impacts are those effects on the environment that occur at the same time and place as the project. They are the most certain and predictable of the impacts. Direct impacts include impacts from construction-related activities as well as impacts related to operation of a newly constructed or modified facility upon completion of construction. The EID must address direct impacts. Direct impacts are typically the easiest to identify. Examples of direct impacts include the following:

- Displacement of wildlife due to forest clearing associated with construction projects.
- Air emissions from open burning during construction.
- Aquatic habitat degradation from installation of a sewer pipe crossing a stream.
- Increased nutrient loading in a river from a wastewater treatment plant discharge.
- Odors from a wastewater treatment plant.

2.2.2 Secondary Impacts

Secondary impacts are effects to the environment and natural resources that are more removed in time and distance from a project’s construction and operation activities. Secondary impacts are also called “indirect impacts” and are often thought of as chain reaction processes where one action or result leads to another action or result. NEPA regulations (40 CFR 1508.8) define secondary impacts as

...indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect impacts may include growth inducing effects and other effects related to induced changes in

Direct Impacts – Those effects on the environment that occur at the same time and place as the project.

Direct impacts include impacts from construction activities as well as operational impacts that continue when the construction is completed and the project is functional.

Construction impacts include such things as air emissions from construction vehicle traffic, soil disturbance, sedimentation and erosion, and land clearing activities.

Operational impacts include such things as increased noise from generators or other equipment in use after construction is completed, odors associated with pump stations, increased effluent discharge to a stream from a plant expansion, and improved water quality due to a stream restoration project.

Secondary impacts (indirect impacts) – Effects to the environment and natural resources that are more removed in time and distance from a project’s construction and operation activities.

the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Secondary impacts associated with infrastructure projects are often related to residential, commercial, and industrial growth that the infrastructure project supports. For example, after sewer service is extended into an unsewered area, a subdivision might be built. The paved roads and other impervious services in the new subdivision may increase the level of pollutants in a nearby stream due to runoff. The decreased water quality that results in the stream is not directly related to the construction or operation of the sewer system, but it is indirectly related to the project because the expanded sewer system supported development of the new subdivision.

2.2.3 *Cumulative Impacts*

Cumulative impacts are those effects that result from the project's direct impacts when added together with impacts from other past, present, and future projects that can be reasonably predicted. NEPA regulations define cumulative impacts as *“the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”*

Cumulative impacts – Those effects that result from the project's direct impacts added together with impacts from other past, present, and future projects that can be reasonably predicted.

Evaluating cumulative impacts requires analysis of the “big picture” in terms of time and space. Consider the following example: run-off from parking areas surrounding a single shopping center might not be a significant stressor to the receiving stream, but the combined run-off from multiple shopping centers located in the same watershed can become a significant stressor. Another example would be where a combination of wastewater infrastructure projects in the same river basin could create nutrient issues downstream. Cumulative impacts are an issue that must be considered any time that growth is anticipated in the project area, even if that growth is not facilitated by or connected to the proposed project. If impacts from a proposed project are minor and limited to construction only, they are less likely to contribute to cumulative impacts in the broader project area. Note, however, that even minor impacts may be significant to a cumulative impacts analysis if those impacts are permanent in nature because minor permanent impacts from multiple projects can become significant when considered together.

Cumulative impacts must be considered and discussed for any project that takes place in an area experiencing growth and development, even if the proposed project is not an expansion project.

Benefits: In some cases, cumulative impacts may be positive. For example, if, in a watershed, several stream and wetland restorations are implemented in the headwaters of the watershed, then nutrient loadings and siltation may be reduced downstream. Projects that repair leaking sewer lines or replace failing septic tanks also have benefits.

In some cases, cumulative impacts may be positive. These project benefits should also be considered when evaluating overall environmental impact of a project.

2.2.4 *Scope of Impacts*

The other factor to consider when evaluating impacts of the project is the scope of impacts. The scope of impacts is the area that should be investigated to identify impacts to various resources that are included in the impact analysis. The scope of impacts for direct impacts is more narrowly focused because it deals with impacts that occur in close proximity to the project. The scope of impacts for SCI is typically broader and will include areas that will be impacted by future growth/development in areas surrounding the project site. Table 2.1 below identifies the scope of impacts that should be considered for direct impacts and SCI for each resource category. Note, however, that related activities must be properly aggregated and the “project site” may be expanded to include all construction areas for the aggregated project.

Scope of impacts – The area that should be investigated to identify impacts to various resources that are included in the impact analysis.

Service area – The area served by the collection system and/or wastewater treatment plant and/or the water distribution system and/or water treatment plant.

Resource Category	Direct Impacts	SCI
Topography and Flood Plains	Project Site	Existing and expanded Service Area
Soils	Project Site	Existing and expanded Service Area
Prime and Unique Farmland	Project Site	Existing and expanded Service Area
Land Use	Project Site	Existing and expanded Service Area
Forest Resources	Project Site	Existing and expanded service area
Wetlands	Project Site and Subbasins/watershed downstream of the project	Subbasin/watershed containing the existing and expanded service area as well as areas downstream
Streams and Water Resources	Subbasin/Watershed containing the project and downstream (for surface water) and aquifer below the project (for groundwater)	Subbasin/Watershed containing the project and expanded service area as well as areas downstream (for surface water) and aquifer below the project and expanded service areas (for groundwater)
Shellfish or Fish and Their Habitats	Subbasin/Watershed containing the project and downstream	Subbasin/Watershed containing the existing and expanded service areas
Wildlife and Natural Vegetation	Project Site and T&E species adjacent to site	Existing and expanded service area
Public Lands, Scenic & Recreational Areas	Project site and areas immediately adjacent to the project site	Existing and expanded Service Area
Areas of Archaeological or Historical Value	Project Site and areas immediately adjacent to the project site.	Existing and expanded Service Area

Resource Category	Direct Impacts	SCI
Air Quality	Area immediately adjacent to site and area downwind of the project (area downwind of the project is included for operational impacts, not construction impacts)	Region containing the project site
Noise Levels	Project Site and area adjacent to the project (area adjacent to the project is included for operational impacts, not construction impacts)	Existing and expanded service area
Introduction of Toxic Substances	Project Site	Not applicable

2.3 Mitigative Measures

For any potential impacts identified in the sections above, mitigative measures must be discussed. Mitigative measures may include actions specifically taken or actions deliberately avoided or limited in order to minimize impacts. Mitigative measures may also include actions taken to repair or compensate for damage done. Some specific examples of mitigative measures that might be applicable to a project include the following:

Mitigative measures – Actions taken to minimize or eliminate impacts to the environment and natural resources.

- Adhering to the requirements of a sedimentation and erosion control permit.
- Conducting construction activities during daytime hours only to minimize impacts from noise on residential areas.
- Constructing wetland habitats in a nearby area to replace wetlands that are filled.
- Maintaining buffers that exceed regulatory requirements.
- Installing an air pollution control device to minimize odors.

3.0 Preparing the Environmental Information Document

The EID must include the existing environmental characteristics, predicted environmental effects, environmental justice, and mitigative measures. Many of the requirements for the EID are based on the North Carolina Department of Administration’s (DOA’s) [Environmental Assessment Guidelines](#) and [HUD's Environmental Review](#). The EID will consist of tables and related appendices. It will be part of the ERR. Each item that must be included is discussed in further detail below.

The EID will include a series of tables for different environmental resources and regulatory requirements. All of the tables must be completed for projects that require a FONSI or EIS. Only certain tables must be completed for Categorical Excluded projects, even those that convert to Exempt. The top of each table indicates which types of project must have the table completed. Many of the tables have a similar format to summarize information regarding the existing environment, anticipated impacts, mitigative measures, and documentation of sources

that were consulted for information, but each table is adapted to collect the appropriate information for that category. The EID includes the following resource categories:²¹

- Table 1.1 Topography
- Table 2.1 Floodplain Management and Flood Disaster Protection Act
- Table 2.2 Floodplains – 8 Step Process
- Table 3.1 Soils
- Table 4.1 Prime and Unique Farmland
- Table 5.1 Land Use
- Table 6.1 Wild & Scenic Rivers
- Table 7.1 Wetlands
- Table 7.2 Wetland Crossings
- Table 7.3 Wetlands – 8 Step Process
- Table 8.1 Streams and Water Resources
- Table 8.2 Stream Crossings
- Table 9.1 Endangered Species
- Table 10.1 Wildlife, Natural Vegetation, and Forest Resources
- Table 11.1 Community Facilities
- Table 12.1 Historic Preservation
- Table 13.1 Air Quality
- Table 14.1 Noise Levels and Noise Abatement and Control
- Table 15.1 Energy Consumption
- Table 16.1 Site Safety
- Table 17.1 Coastal Resources
- Table 18.1 Environmental Design
- Table 19.1 Demographics, Employment & Income, and Environmental Justice Analysis

3.1 Figures in the Environmental Information Document

When appropriate, utilize figures to help describe the project. They are helpful for those who are visually oriented to gain a quick understanding of the project. Figures are also an easy way to describe the project and convey the location of associated resources and potential impacts.

A title, North Arrow, scale, and either a legend or labels to present information must be included in each figure. Each figure must also show the project components.

Figures should not be embedded in the text of the EID but rather shown on a page a minimum size of 8.5 x 11 inches. Make sure that the figure is at an appropriate scale to show the required information. For example, a project vicinity map would be at a greater scale than a project location map that shows the details. If a project is a large project such as a major interceptor or water distribution line, multiple maps may be required. If this is the case, provide an index map that shows the location of the different tiles in respect to the entire project. When preparing mapping, utilize 8.5 x 11-inch or 11 x 17-inch paper rather than larger sizes because larger maps have to be folded, may fall out, and may become lost during the review of the project.

²¹ Table numbering may be altered as needed depending upon the type of final environmental document required. For example, fewer tables are needed for a CEST than an EA/FONSI.

When preparing figures, utilize the following tips:

- **Show Project Location.** Be sure to mark the project location on all figures in the EID.
- **Consistent basemapping.** Throughout all of the figures in the EID, utilize a basemapping set that is easy to read. For example, if a set of roadway mapping is utilized as basemapping, carry out that basemapping throughout the remainder of the EID.
- **Good color contrasts.** Make sure that all features on the figures have good contrast so that they are easy to discern. Use colors that are discernible. For example, do not use blue and green and then a blue-green, as it may be difficult to determine the individual features. Utilize shapes that have contrasts as well such as circles and triangles rather than circles and octagons.
- **Aerial photography.** If aerial photography is used as basemapping, it is recommended that black and white photography be used instead of color photography. This will allow any features shown in color to be easily discernible.
- **Good labeling.** Make sure to utilize good labeling or a good legend to differentiate between the different features of the figures.

Project Vicinity Map. One of the required maps is the project vicinity map. The project vicinity map allows the reviewer to gain a general understanding of the project area and is critical to the review of the project since the reviewer most likely is not familiar with the area. The vicinity map should be at an appropriate scale and should show the project, county/municipal limits as appropriate, major highways, and major waterbodies with the highways and waterbodies labeled. Please note that the project vicinity map may be used for environmental documents prepared by the RE for public notification and for agency scoping purposes.

Project Location Map. The second required map is the project location map. This map should be at a closer scale than the project vicinity map. It should show the following:

- Individual project components
- Waterbodies
- Roadways
- County/Municipal limits

If a roadway or waterbody is mentioned in the text, then it should be appropriately labeled on the figure for appropriate reference. The preferred format for a project location map is a United States Geological Survey (USGS) topographic map with the project location and each component (e.g., WWTP expansion and collection system improvements) clearly marked. However, if other mapping would better suit showing the project, then it may be used so long as the above-stated components are shown.

At a minimum, the EID must contain a project vicinity map, a project location figure, and an Environmental Features figure(s). Additionally, other figures may be required depending upon the project type. The sections specific to project type will contain requirements for these specific figures.

Environmental features must be shown on one or more figures as part of the Existing Environment section of the EID. For some projects, a single Environmental Features Figure may be used to show the project area and components as well as any key environmental items that are relevant to the specific project. In other cases, the features may be more clearly shown by using separate figures for each type of feature rather than combining everything onto one figure.

Either option is acceptable as long as all key environmental features are clearly labeled. The most recent data must be used to create these figures.

Labeling of project location, roadways, and water bodies is crucial for all figures.

Example items to include on the figures include location of parks or public areas, wetlands and streams, identified locations of threatened and endangered (T&E) species, areas of archaeological or historical value, or any other feature deemed important. All figures must include a figure number and title, scale, North Arrow, and a legend or labeling to clearly identify the various components included on the figure.

3.2 Introduction to Existing Conditions and Environmental Impacts

For each resource category described in Section 4.0, provide information on the existing environmental conditions and anticipated impacts as directed in each table. If there are no existing resources within a particular category, state as such rather than skipping the section.

3.2.1 Existing Conditions

The existing conditions sections should describe the immediate project site and surrounding project area as it currently exists. Two mistakes that are commonly made with the existing conditions section are (1) describing only the resources that will be impacted by the project, and (2) describing only the immediate project site. All resources must be addressed, whether impacted by the project or not, and the surrounding project area must be included. Refer to Table 2.1 for additional information on Scope of Impacts that should be addressed.

All resource categories must be described under existing conditions regardless of anticipated impacts. “Not Applicable” or “No Impacts” are not acceptable responses for existing conditions descriptions.

3.2.2 Environmental Impacts and Mitigation

The expected environmental impacts sections are the most critical part of the EID. As discussed in Section 2.0, the EID must address direct impacts, secondary impacts, and cumulative impacts. For each resource category, mark the appropriate impact code for each impact type as follows:

- **No Impact Anticipated:** The project is not expected to have any impacts; therefore, no additional analysis of impacts or identification of mitigation efforts is needed
- **Potentially Beneficial:** The project is anticipated to have environmental benefits and does not require additional analysis of impacts or identification of mitigation efforts
- **Potentially Adverse:** Quick review indicates that adverse impacts are possible. Note whether additional analysis is needed
- **Requires Mitigation:** The project has the potential for adverse impacts. Mitigative measures must be clearly described.
- **Requires Project Modification:** There is an opportunity to identify needed changes in the project during development of the EID. Such changes should be identified prior to

finalization. (This category may be checked in draft documents, but changes should be made and appropriate mitigation identified prior to finalization.)

All resource categories discussed in Section 4.0 must be addressed in the EID. In the discussion for each resource, explain the rationale for the chosen impact code. For example, if there will be no impacts to land use, briefly explain why that is the case. “N/A” or “No Impact” is not an acceptable response for an impact discussion. At a minimum, the discussion must state that the resource is not present based upon review of or consultation with qualified data sources. Consider the scope of impacts as discussed in Section 2.2.4 in preparing the discussion for each resource. For SCI, utilize the [Guidance for Preparing SEPA Documents and Addressing Secondary and Cumulative Impacts](#) for the basis of the discussion and tailor the information in the guidance to fit each category. Refer to Table 2.1 for additional information on Scope of Impacts that should be addressed.

Keep in mind that a project can produce both environmental impacts and benefits. The focus of many EIDs tends to be on potentially negative impacts, but benefits should be discussed as well. Note, also, that temporary impacts related to construction activities must be described as well as any permanent impacts.

For any potential impacts identified in the sections above, mitigative measures must be discussed. Mitigative measures may include actions specifically taken or actions deliberately avoided or limited in order to minimize impacts. Mitigative measures may also include actions taken to repair or compensate for damage done. Some specific examples of mitigative measures that might be applicable to a project include the following:

Mitigative measures – Actions taken to minimize or eliminate impacts to the environment and natural resources.

- Adhering to the requirements of a sedimentation and erosion control permit.
- Conducting construction activities during daytime hours only to minimize impacts from noise on residential areas.
- Constructing wetland habitats in a nearby area to replace wetlands that are filled.
- Maintaining buffers that exceed regulatory requirements.
- Installing an air pollution control device to minimize odors.

Requirements

Use the tables provided in Appendix D to identify clearly the potential impact and the associated mitigative measure(s). If additional explanation is needed, include text discussion in addition to the table. Quantify impacts whenever possible. If no impacts have been identified, indicate “none” for impacts and “not applicable “N/A” for mitigative measures.

If correspondence has been received from review agencies indicating that concurrence with the project is dependent upon certain mitigative measures, be sure to include such measures in this table and/or discussion.

3.2.3 *Sources Consulted*

For each table, provide a list of sources that were consulted for information needed to complete the table including the date of consultation and/or correspondence. Also provide the appendix or other reference information for documentation in the ER/EID.

4.0 **Environmental Information Document Resource Categories**

The EID contains 19 resource categories that must be analyzed as part of the EID. Each section will contain in bold print the type of document (e.g., CEST, FONSI) for which the tables are found in Appendix D. All tables for the appropriate final environmental document must be completed in accordance with the information below.

4.1 **Topography**

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 1.1 in Appendix D and place in the body of the EID.
- Include any additional information in an appendix to the EID. List the appendix reference in the table.
- Provide a list of sources consulted for completing the table.

4.1.1 *Existing Conditions*

Check the appropriate box for the Physiographic Province of the project and provide the minimum and maximum elevation of the project site in the appropriate boxes.

Briefly describe the topography of the project site and area, including landforms, slopes, and elevations. Include a brief description of the geology of the area. Note any significant geological features

4.1.2 *Impacts and Mitigation*

For direct construction impacts, describe how the project will change existing topography on the project site. Note whether changes, if any, will be temporary or permanent.

For SCI, discuss the changes in topography in the existing and expanded service area which will be impacted by the project.

If “Requires Mitigation” or “Requires Modification” are checked, clearly describe all mitigation efforts that will be mitigated and explain how the project will be modified, if needed.

4.2 **Floodplain Management [24 CFR 58.5(b)(1)]**

Requirements

- Complete Table 2.1 in Appendix D and place in the body of the EID.

- If Table 2.2 in Appendix D is required, please complete that and add it to the EID as well to show that the 8-step process as delineated in the table was completed.
- Include floodplain location on a figure. List the figure number in the table.
- Include any additional information in an appendix to the EID. List the appendix reference in the table.
- Provide a list of sources consulted for completing the table.

4.2.1 Floodplains Existing Conditions [24 CFR 58.5(b)]

100-year Floodplain – The areas that are expected to be inundated by the 1% annual chance flood (100-year flood).

Floodway – The channel of a stream, plus any adjacent floodplain areas, that must be kept free from encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.

Note: This section applies to projects requiring the following: CEST, FONSI.

Answer the questions related to the project’s location in relation to the floodplain. If the project, as determined by review of the appropriate data sources identified at 24 CFR 55.2(b)(1), is within or near the 100-year or 500-year floodplain, provide a map showing the location of the project relative to the 100-year or 500-year floodplain. The map must clearly delineate where the project is located in relation to the floodplain. The map must also have a scale, legend, number and title, and North Arrow. The North Carolina Flood Risk Information System (FRIS) has [digital flood plain data](#) available for possible use in analysis.

If construction will occur in the 100-year floodplain, or for critical actions the 500-year floodplain, the 8-step Review Process is required. Critical actions include any activity for which even a slight chance of flooding is too great. Examples include, but are not limited to, hospitals, hazardous waste treatment facilities, schools, and housing for the elderly. In determining critical actions, the emphasis is on increased hazard to life and health rather than property damage.

Utility lines (water, sewer, electric, etc.) and appurtenances are not considered functionally dependent uses as defined at 24 CFR 55.2(b)(6); therefore, CDBG funds cannot be used for construction of utility lines or appurtenances in floodways or coastal high hazard areas [See 24 CFR 55.1(c)]. Note, however, that HUD has released guidance explaining their interpretation that vertically, the floodway is limited to the area between ground level/stream bed and the base flood elevation within the horizontal limits of the floodway. This interpretation allows for linear infrastructure such as sewer or water lines to be constructed underneath the floodplain so long as directional drilling or similar technology is used and the 8-step process is followed. Complete Table 5.2.2 with the details of the process including dates of public review, consideration of alternatives, discussion of impacts, and measures to minimize impacts. Additional information on the 8-step process is available on [HUD's Environmental Review](#) webpage.

Note that 8-step process requires two public notices: an early notice at the beginning of the review process, and a final notice before the project is implemented. The notices for the 8-step process must be published rather than posted. The final notice can be combined with the NOI-RROF. If combining, the combined notice must be published. If the notices are not combined, the public comment period for the final 8-step notice must be concluded before the NOI-RROF is published or posted. Separate notices may not be run concurrently.

8-Step notices must be published, not posted. They can be combined with other published notices but cannot be run concurrently with separate notices.

4.2.2 *Impacts and Mitigation [24 CFR 58.5(b)]*

Note: This section applies to projects requiring the following: CEST, FONSI.

For direct construction impacts, describe how the project will impact floodplains. Note whether changes, if any, will be temporary or permanent. Identify encroachments of the project on floodplains and floodways. Discuss whether the construction of the proposed project will impact the 100-year floodplain, and discuss how any buildings or infrastructure built in the floodplain will be protected.

CDBG-I funds cannot be used to fund projects where water and sewer lines will be installed in the floodway with open cutting. Installation methods that go underneath the floodway without disturbing it, such as directional drilling, are allowed.

For projects funded through the CDBG-I programs where there are proposed impacts to the 100-year floodplain (see [Executive Order 11988](#)), alternatives to the impact must be provided in the alternatives analysis. Impacts to the floodplain are only allowed where there is no practicable alternative. Clearly explain why alternatives that would not impact the floodplain were rejected.

For SCI, note if there is a local floodway regulation program in place for the service area. Specify whether any local ordinances restrict building in the floodplain or the floodway.

If “Requires Mitigation” or “Requires Modification” are checked, clearly describe all mitigation efforts that will be mitigated and explain how the project will be modified, if needed.

4.3 Soils

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 3.1 in Appendix D and place in the body of the EID.
- Include a [Natural Resources Conservation Service](#) (NRCS) map as discussed in Section 4.3.1. List the appropriate figure reference in the table.
- Include any additional information in an appendix to the EID. List the appendix reference in the table.
- Provide a list of sources consulted for completing the table.

4.3.1 Existing Conditions

Describe the characteristics of the dominant soil units in the project area (do not simply list the soil types) and note whether any soil types present a constraint to the project. This would include any fill, wetland soil types, etc. Note any soil contamination that exists. Provide the [NRCS](#) Soil Survey map of the project area. It must include a clear differentiation of each soil type via a legend or labeling. The map must also include a scale, number and title, and North Arrow. The [North Carolina Center for Geographic Information and Analysis](#) (NCCGIA) has links to digital layers of soils information. The [NRCS](#) also has large amounts of soil information available.

4.3.2 Impacts and Mitigation

For direct construction impacts, discuss whether the project will involve soil disturbance or contamination. Discuss the extent to which soil will be disturbed. If soil will be moved, identify the location to which it will be moved if known, or discuss contractor responsibilities with regard to moving or disposing of soil. Note whether soil is expected to be contaminated, and describe the contamination if it is expected. Provide quantitative information (i.e., square feet to be disturbed or cubic yards to be moved) if known, but a qualitative discussion is also acceptable.

For SCI, describe how soils will be impacted in the existing and expanded service area, especially in terms of past, present, and future soil erosion due to the proposed project. For example, if a WWTP were being built that would expand the service area, then the discussion of SCI would need to detail historical soil erosion trends as well as discuss the impacts that the project will have on soil erosion in the future. Discuss any turbidity stream violations that have occurred in the project area.

If “Requires Mitigation” or “Requires Modification” are checked, clearly describe all mitigation efforts that will be mitigated and explain how the project will be modified, if needed.

4.4 Prime or Unique Farmland [24 CFR 58.5(h)]

Note: This section applies to projects requiring the following: CEST, FONSI.

Requirements

- Complete Table 4.1 in Appendix D and place in the body of the EID.

- Define any prime or unique farmlands on the [NRCS](#) map discussed in Section 4.4.1.
- If the project will convert prime or unique farmlands, complete and attach the appropriate USDA’s Farmland Conversion Impact [Form 1006](#) and submit it to the NRCS.
- Provide a list of sources consulted for completing the table.

4.4.1 Existing Conditions

Respond to the questions pertaining to farmland in the project area. Note whether any lands designated as prime or unique farmland by NRCS are in the project area or if drainage from the project will impact farmland. If such lands are located in the area, indicate whether they are currently in agricultural use or other land use. If prime or unique farmland exists in the area, note the location on the figure. Information from the [NRCS](#) may be helpful.

4.4.2 Impacts and Mitigation

Describe any benefits or impacts to farmlands resulting from project construction or operation. Note whether impacted lands are currently in agricultural use. If the project will convert prime or unique farmlands, complete Form 1006 and submit it to the NRCS. Complete the section of the table related to this form.

For SCI, discuss past trends related to prime or unique farmland being taken out of agricultural production. For the future, discuss the impacts of the proposed project on any prime or unique farmland in the existing and expanded service area, especially in terms of land being currently used for agricultural production. If possible, provide a quantitative estimate of the amount of land currently in agricultural production that will be lost.

If “Requires Mitigation” or “Requires Modification” are checked, clearly describe all mitigation efforts that will be mitigated and explain how the project will be modified, if needed.

4.5 Land Use

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 5.1 in Appendix D and place in the body of the EID.
- If possible, provide a land use figure as discussed in Section 4.5.1. List the figure reference in the table.
- Place any supporting information in an appendix of the EID. List the appendix reference in the table.
- Provide a list of sources consulted for completing the table.

4.5.1 Existing Conditions

Describe the current land use at the project site and in the project area. Discuss how the current land use of the project site fits into the land use of the region in terms of conservation, development, and ecological function. Provide the current zoning classification of the project site if applicable. A land use figure is not required but is recommended if relevant for the specific project. If a figure is included, be sure that it includes clear differentiation of each land

use type via a legend or labeling. The figure must also contain a scale, number and title, and North Arrow. If utilizing a geographic information system (GIS), check with the county or UGLG’s planning department for further information.

4.5.2 *Impacts and Mitigation*

For direct construction and operational impacts, discuss how land use on the project site will change, and how the new use fits into the intended land use of the entire area in terms of conservation, development, ecological function and quality of life. Identify whether local zoning or land use plans need to be changed.

For SCI, explain how land use in the existing and expanded service area is expected to change as a result of the project. Discuss whether new uses fit the intended land use of the entire area in terms of conservation, development, ecological function, and quality of life. Note whether local zoning or land use patterns will be changed as a result of the project.

Secondary and cumulative impacts often come into play with projects that are driven by growth.

If “Requires Mitigation” or “Requires Modification” are checked, clearly describe all mitigation efforts that will be mitigated and explain how the project will be modified, if needed.

4.6 Wild and Scenic Rivers [24 CFR 58.5(f)]

Note: This section applies to projects requiring the following: CEST, FONSI.

Requirements

- Complete Table 6.1 in Appendix D and place in the body of the EID.
- Include any supporting information in an appendix to the EID. List the appendix reference in the table.
- Provide a list of sources consulted for completing the table.

4.6.1 *Existing Conditions*

Utilize the website for [National Wild and Scenic Rivers System](#) to determine if any designated streams are located in the project area.

4.6.2 *Impacts and Mitigation*

If there are designated Wild and Scenic Rivers within one mile of the project site, describe any construction and operational impacts. If impacts are anticipated, you must consult with the U.S. Fish and Wildlife Service to determine if mitigation is required.

Discuss any mitigation that will be implemented as determined by the U.S. Fish and Wildlife Service.

4.7 Executive Order 11990 Wetlands [24 CFR 58.5(b)(2)]

Note: This section applies to projects requiring the following: CEST, FONSI.

Requirements

- Complete Table 7.1 in Appendix D and place in the body of the EID.
- Complete Table 7.2 in Appendix D and place in the body of the EID if the project includes any wetland, even if crossings will not have any net impact.
- Complete Table 7.3 in Appendix D and place in the body of the EID if the 8-step process is required.
- Show any wetlands impacts in a figure. List the figure reference in the table.
- List any supporting information for either table in an appendix of the EID.

4.7.1 Existing Conditions

Conduct a site visit to the project area, and note in Table 7.1 the date of the site visit. If wetland delineations occurred, check the appropriate box and note the date as well.

Note whether any Executive Order 11990 wetlands are present in the project area and identify if and when delineations occurred, if applicable. Discuss the type, quality, function (e.g., flood control, wildlife habitat, groundwater recharge), and relative importance of wetlands in the project area to the total wetland resources of the area.

Be aware that the NWI database is limited to remotely sensed wetlands, thus it does not provide specific site boundaries, or include all wetlands. It is strongly encouraged that a preliminary survey be conducted to flag areas of concern. If wetlands impacts appear to be likely to occur, delineations will be required for permitting.

If new construction, as defined by Executive Order 11990, will affect any Executive Order 11990 wetlands, the 8-step Review Process is required. New construction includes draining, dredging, filling, impounding, channelizing, and other actions. Complete Table 7.3 with the details of the process including dates of public review, consideration of alternatives, discussion of impacts, and measures to minimize impacts. See Section 4.7.2 of this guidance for more information on this process.

Note the location of wetlands on a figure showing the locations of wetlands and streams identified in this section. [NCOneMap](#)²² has a digital layer of the National Wetland Inventory (NWI) maps available for download, as does the [U.S. Fish and Wildlife Service](#) (FWS).

4.7.2 Impacts and Mitigation

For direct construction impacts, discuss the impacts to wetlands and streams as a result of project construction and long-term operation. If the project will result in new construction, as defined by Executive Order 11990, that affects a wetland, then indicate how many acres are involved and note the location on the figure. *Crossings that will have no or minimal impacts such as direct bore must be included.* As part of mitigative measures, discuss the type of authorization/permit

Streams and wetlands must be shown on a figure with all crossings labeled.

²² Note that the NWI map is a static map and not updated. This is why a site visit is required.

that will be required for the project and document consultation with U.S. Army Corps of Engineers.

For projects that involve the construction of collection systems or reclaimed water distribution lines, complete Table 7.2 with the following information for each crossing:

- The wetland crossing identified by a number
- The diameter and type of line that will be installed
- The installation method
- The acreage (wetlands) impacted (Total the impacts at the bottom of the table.)

For direct operational impacts, discuss whether the operation of the project will have any impacts or benefits on subbasins or watersheds downstream of the proposed project. For example, expanding a WWTP might remove a discharge upstream of an impaired stream, which would improve the quality of a stream not in the vicinity of the proposed project by reducing the nutrient loading.

For projects funded through the CDBG-I program where new construction, as defined by Executive Order 11990, will occur in Executive Order 11990 wetlands (see [Executive Order 11990](#) and 24 CFR Part 55), alternatives to the impacts must be provided in the alternatives analysis. Describe how impacts to wetlands have been avoided and minimized, and discuss why alternatives that would have lesser impacts to wetlands have been rejected.

For SCI, consider the long-term impacts to wetlands that may result from diversion from, discharge to, or withdrawal from surface waters upstream of wetlands areas. Additionally, discuss past trends related to the loss/gain of wetlands in the subbasin(s) or watershed(s) for the existing and expanded service area. Describe any potential losses or gains in the future as a result of the proposed project. If possible, provide an estimate of the wetlands that may be gained or lost.

4.8 Streams and Water Resources

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 8.1 in Appendix D and place in the body of the EID.
- Complete Table 8.2 in Appendix D and place in the body of the EID if the project includes any wetland, even if crossings will not have any net impact.
- Show any stream crossings impacts in a figure. List the figure reference in the table.
- Place any supporting information in an appendix to the EID. List the appendix reference in the table.
- List any supporting information for either table in an appendix of the EID.

4.8.1 Existing Conditions

Discuss surface water and groundwater resources in the project area and surface waters downstream. For surface waters, include the name, classification, and use support ratings. Also identify the river basin where the project is located. If there are unnamed streams in the project

area, briefly describe them. Note the location of surface waters identified in this section on a figure. The North Carolina Division of Water Resources ([DWR](#)) has information that is helpful for this section.

For groundwater, discuss the use, quantity, quality, depth, and recharge of groundwater in the project area, and identify the primary aquifer(s) in the project area. Specifically discuss any capacity use areas in the project area. Identify the primary source(s) of drinking water in the project area. This information must be included even if groundwater impacts are not anticipated.

Provide the UGLG water supply, including the source from which water is drawn.

Note the location of streams on a figure showing the locations of streams identified in this section. [NCOneMap²³](#) has a digital layer of the NWI maps available for download, as does the [FWS](#).

As noted in the table, North Carolina does not have Sole Source Aquifers, so no action is required.

4.8.2 *Impacts and Mitigation*

Describe the direct construction impacts to surface waters in the subbasin/watershed containing the project and downstream of the project in terms of *water quality and quantity* and whether there is the potential for stormwater runoff increases due to an increase in the amount of impervious surface. Identify the amount of impervious surfaces increase. Discuss any construction impacts to groundwater quality and quantity.

Note that water resources impacts may be both negative and positive.

Also, characterize the direct long-term operational impacts of the project. Be sure to consider issues such as increased sedimentation and stormwater runoff as well as impacts to surface water and groundwater quality and quantity. For example, a stormwater project might create erosion concerns while it is being built, but once constructed, it would reduce the amount of turbidity in a nearby stream.

For projects that involve the construction of collection systems or reclaimed water distribution lines, complete Table 8.2 with the following information for each crossing:

- The stream crossing identified by a number
- The diameter and type of line that will be installed
- The installation method
- The linear feet (streams) impacted (Total the impacts at the bottom of the table.)

For SCI, consider changes to water quality within the subbasin/watershed containing the proposed project and expanded service area, including impacts on erosion rates, sedimentation, and eutrophication. Note past and future trends related to water quality and stormwater runoff

²³ Note that the NWI map is a static map and not updated. This is why a site visit is required.

(e.g., increase in impervious surfaces). If possible, estimate the expected percent impervious surfaces area increase or decrease in the area.

For example, constructing a collection system to take failing septic systems offline could cause potential adverse construction impacts related to erosion and sedimentation entering nearby waterways. However, the operational impacts would reduce the amount of fecal coliform entering nearby surface waters. For SCI, the new collection system could fuel growth in the service area, meaning that the subbasin/watershed containing the current and expanded service area could experience an increase in impervious surfaces area and stormwater runoff due to growth.

If “Requires Mitigation” or “Requires Modification” are checked, clearly describe all mitigation efforts that will be mitigated and explain how the project will be modified, if needed.

4.9 Endangered Species [24 CFR 58.5(e)]

Note: This section applies to projects requiring the following: CEST, FONSI.

Requirements

- Complete Table 9.1 in Appendix D and place in the body of the EID.
- Place the approximate location of any threatened and endangered (T&E) species on a figure. List the figure reference in the table.
- Place any supporting information in an appendix to the EID including a Biological Survey. List the appendix reference in the table.
- Provide a list of sources consulted for completing the table.

The NHP database will not provide precise locations of T&E species due to concerns with species disturbance, so all locations will be approximate.

4.9.1 Existing Conditions

Determine whether federally listed T&E species (aquatic or terrestrial) or habitats for such species are located in the project area or downstream of the project site. Start by determining whether listed species are present in the county and, if so, prepare a biological survey to aid in determining whether listed species are potentially present in the project area. The U.S. Fish and Wildlife Service has [guidelines for preparing a biological survey](#). If T&E species or their habitats are present or potentially present in the project area, list the species name, status (threatened or endangered) and approximate location in Table 8.1. The [U.S. Fish and Wildlife Service](#), or [National Marine Fisheries Service](#) if marine species could be affected, must be consulted. The [North Carolina Natural Heritage Program](#) may also have data available related to federally protected T&E species.

4.9.2 Impacts and Mitigation

Consult with Fish and Wildlife Service, [National Marine Fisheries Service](#) (if marine species could be affected), the NC Wildlife Resources Commission, and the Natural Heritage Program to determine if federally protected T&E species will be impacted by the

Any impacts to T&E species must be specifically noted.

project. Consider and describe any impacts including construction impacts, operational impacts, and SCI. Provide mitigation measures that will be implemented to minimize impacts.

Document consultation with wildlife agencies and include any correspondence in an appendix of the EID.

4.10 Wildlife, Natural Vegetation, and Forest Resources

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 10.1 in Appendix D and place in the body of the EID.
- Place any supporting information in an appendix to the EID. List the appendix reference in the table.

4.10.1 Existing Conditions

Identify terrestrial and aquatic wildlife habitat that exists on or near the project area. List specific species of dominant plants and animals that are indicative of the kind of habitat present. Describe forest resources, unique or rare habitats, or rare species (including state listed) if present.

4.10.2 Impacts and Mitigation

Describe the construction and operational impacts to wildlife, natural vegetation, and forest resources. Quantify in acres the amount of natural vegetation and forest resources that will be disturbed or destroyed by the project and note whether such impacts will be short-term or permanent. Note whether wildlife will be displaced, either temporarily or permanently, and identify surrounding areas or areas nearby that may provide similar habitat for relocation.

For SCI, discuss past trends related to wildlife and natural vegetation within the existing and expanded service area. Then discuss future trends. If possible, provide an estimate of the potential loss of wildlife habitats.

Describe any mitigation measures that will be implemented to minimize impacts.

4.11 Community Facilities

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 11.1 in Appendix D and place it in the body of the EID.
- Place any community facilities on the Environmental Features Figure. List the figure reference in the table.
- Place any supporting information in an appendix to the EID. List the appendix reference in the table.

4.11.1 Existing Conditions

Community facilities include educational facilities, commercial facilities, health care, social services, solid waste, wastewater, storm water, water supply, public safety (police, fire, emergency health), and open space, recreational, and cultural facilities. Describe any community facilities that are located within two miles of the project area or that are located outside of that radius but will be potentially impacted by the proposed project. If such areas exist, include them on the Environmental Features Figure. [NCOneMap](#) has some of this information available digitally.

Show and label any identified community facilities on a figure.

4.11.2 Impacts and Mitigation

Discuss whether the project will impact community facilities on or adjacent to the project site due to the construction and operation of the proposed project. Quantify any expected losses or areas of impaired use and discuss the significance of such losses or impairments. Of particular importance is maintaining student access to schools. Consider whether the project will increase the number of residents with school-aged children, whether area schools can accommodate the increased number of students, and whether the project will impact physical access to schools. Respond to the questions in Table 10.1 appropriately and include any additional information as needed.

For example, a project might consist of a pump station, force main, and collection system constructed next to a hospital to take existing septic systems offline. Direct construction impacts to the baseball field might consist of noise and exhaust. Operational impacts could include odors and noise from emergency generator usage and testing.

For SCI, discuss past trends of impacts to public lands and scenic, recreational, and state natural areas within the existing and expanded service areas. Characterize potential future trends as well.

Discuss any mitigative measures that will be implemented to minimize impacts to community resources and guarantee access to schools.

4.12 Historic Preservation [24 CFR 58.5(a)]

Note: This section applies to projects requiring the following: CEST, FONSI.

Requirements

- Complete Table 12.1 in Appendix D and place in the body of the EID.
- Place the location of any archaeological or historical sites on the Environmental Features Figure. List the figure reference in the table.²⁴
- Place any supporting information in an appendix to the EID. List the appendix reference in the table.

²⁴ Note that during their review, the North Carolina Department of Cultural Resources will show only approximate locations of archaeological sites.

4.12.1 Existing Conditions

Identify and discuss any archaeological sites or historical resources that are located within five miles of the project site or that are located outside of that radius but will be potentially impacted by the proposed

Show and label any identified archaeological or historical resources on a figure.

project. Identify any historic buildings located on the project site and their approximate age. Consult with the Division of Natural and Cultural Resources' State Historic Preservation Office (SHPO) for assistance. SHPO will provide [project review](#) through mail or e-mail. If National Register listed or eligible properties are present, note the locations on a figure. Include references to studies regarding archaeological or historical resources as applicable. If no studies are available, discuss if and how the site has been previously disturbed. Include correspondence with SHPO and/or any agencies consulted for this review.

For ground-disturbing activities, which include all wastewater and water infrastructure projects, Native American tribes must also be consulted for their input on impacts to cultural resources. The Catawba Indian Nation must be contacted for ground-disturbing activities located in any county within the state. The Eastern Band of Cherokee Indians must be contacted for projects located in the following counties: Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Jackson, Lincoln, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, Wilkes and Yancey. The Tuscarora Nation of New York must be consulted for projects located in the following counties: Beaufort, Bertie, Craven, Edgecombe, Greene, Halifax, Johnston, Jones, Lenoir, Nash, Northampton, Pitt, Wayne and Wilson. The Muscogee (Creek) Indian Nation must be consulted for projects located in the following counties: Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, and Yancey.

4.12.2 Impacts and Mitigation

Discuss the construction impacts of the proposed project on areas of archaeological or historical value on or adjacent to the site. State whether any historic buildings will be destroyed or disturbed and, if so, note the location of such buildings on a figure. Include photographs of the relevant buildings on the site. For operational impacts, discuss if any areas adjacent to the project site contain archaeological or historical resources. If they do, then describe potential impacts.

For example, a pump station, force main, and collection system may be constructed with the pump station being located at the edge of a cemetery. Direct construction impacts will occur in terms of construction noise and exhaust being generated. Operation could impact the cemetery if visitors had to listen to emergency generators and equipment testing or could smell any odors.

For SCI, consider the existing and expanded service area. Describe past trends related to the loss/gain of archaeological or historical resources and detail what may occur in the future.

For the cemetery example above, SCI would occur if historic buildings and cemeteries were removed to accommodate growth in the future service area.

Describe any mitigative measures that will be taken, as needed, to minimize impacts to historic resources.

4.13 Air Quality [24 CFR 58.5(g)]

Note: This section applies to projects requiring the following: CEST, FONSI.

Requirements

- Complete Table 13.1 in Appendix D and place in the body of the EID.
- Contact the Division of Air Quality to determine the area's attainment status.
- Place any supporting information in an appendix to the EID. List the appendix reference in the table.

4.13.1 Existing Conditions

Discuss the ambient air quality and identify current sources of emissions from the project site and surrounding area. The [United States Environmental Protection Agency](#) (EPA) and [DEQ's Division of Air Quality](#) (DAQ) provide information related to air quality issues within the state. Determine whether the project is located in a non-attainment or maintenance area and, if so, if the project is in conformance with the state's implementation plan. Be sure to include documentation of correspondence with DAQ.

Discuss any previous odor problems or complaints due to existing facilities.

4.13.2 Impacts and Mitigation

Discuss any expected direct construction or operational impacts to air quality at the project site and in the project area. Note whether impacts are expected to be temporary (related to construction) or long-term (related to operation). Discuss whether open burning will occur and, if so, describe what will be burned. Consider whether general air quality degradation will occur as a direct construction or operational impact.

For SCI, characterize any potential air quality degradation in the region containing the proposed project. Discuss any past air quality trends and how SCI will affect future trends.

Discuss any mitigative measures that will be implemented. Be sure to consider and discuss emission controls on construction equipment.

4.14 Noise Levels and Noise Abatement and Control (24 CFR Part 51, Subpart B)

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 14.1 in Appendix D and place in the body of the EID.
- Based on responses in the table, determine whether Day/Night Noise Level calculations are required.
- If required, prepare the calculations in accordance with procedures in HUD's Noise Guidebook.

- Place any supporting information in an appendix to the EID. List the appendix reference in the table.

4.14.1 Existing Conditions

Discuss the current noise levels on the project site with examples of sources of noise on the project site or in the project area. Include measurable benchmarks, if possible. Briefly discuss any local noise ordinances that are in place for the project area and project area.

Indicate whether the project would allow for the construction of new housing or other noise-sensitive development, and if so, respond to the questions about the project's location in relation to airports and roads. If the responses to the questions indicate that a noise analysis is required, then prepare and attach the Day/Night Noise Level Calculator following instructions in [HUD's Noise Guidebook](#).

4.14.2 Impacts and Mitigation

Discuss whether noise levels are expected to change at or near the project site as a result of construction or operation of the proposed project. If noise levels are expected to increase, discuss when the impacts will occur and the distance at which the increased noise will be heard. Discuss whether surrounding properties will be affected by noise levels.

For example, construction of a pump station and force main would cause construction noise. Once the project is operational, operational impacts could come from emergency generator testing and usage.

For SCI, characterize past trends related to noise in the existing and expanded service area. This can be a qualitative discussion related to land use changes over time that impact noise and should identify any specific developments that have had a significant impact on noise levels. Then analyze potential future trends.

For the pump station and force main example, noise related to SCI would occur as the pump station and force main facilitated growth in the existing and expanded service area.

Describe any mitigation measures that will be implemented to minimize noise impacts. Be sure to consider mufflers or other sound attenuating devices on construction equipment.

4.15 Energy Consumption

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 15.1 in Appendix D and place in the body of the EID.
- Place any supporting information in an appendix to the EID. List the appendix reference in the table.

4.15.1 *Impacts and Mitigation*

Consider the project's impact on energy consumption. If the project will increase energy use, check the appropriate box on the table and explain how and why energy consumption will increase. If the project will reduce energy consumption, check the appropriate box and explain how energy will be conserved. If possible, quantify the increase or decrease in energy consumption and include the calculations in an appendix to the ER/EID.

Provide any mitigative measures as needed.

4.16 *Site Safety [24 CFR Part 51, Subparts C and D, 24 CFR 58.6(d)]*

Note: This section applies to projects requiring the following: CEST, FONSI.

Requirements

- Complete Table 16.1 in Appendix D and place in the body of the EID.
- Place any supporting information in an appendix of the EID. List the appendix reference in the table.

4.16.1 *Airport Hazards*

Note: This section applies to projects requiring the following: Exempt, CENST, CEST, FONSI.

Respond to the questions in the table and provide documentation of sources consulted to make determinations.

4.16.2 *Explosive and Flammable Hazard Operations*

Note: This section applies to projects requiring the following: CEST, FONSI. (Toxic Substances)

Respond to the questions in the table. If required based on responses to the questions, prepare and attach Acceptable Separation Distance documentation following procedures outlined in [HUD's Acceptable Separation Distance Guidebook](#). Include documentation of sources consulted to make determinations.

4.16.3 *Toxic Chemicals and Radioactive Materials*

Note: This section applies to projects requiring the following: CEST, FONSI (Toxic Substances)

Respond to the questions in the table. If a Phase I ASTM or Phase II ASTM report is required, include a copy in the Appendix and provide the Appendix Reference. Also provide a discussion of the potential for the introduction of toxic substances. Be sure to consider that most construction activities have the potential to introduce toxic substances such as fuels, lubricants, etc. into the environment. Chlorine used in wastewater treatment processes must be included in this discussion. Describe the type and extent of contamination that may be reasonably expected and mitigative measures that will be implemented. Include documentation of sources consulted to make determinations.

4.17 Coastal Resources [24 CFR 58.5(c), 24 CFR 58.6(c)]

Requirements

- Complete Table 17.1 in Appendix D and place in the body of the EID.
- Place any supporting information in an appendix of the EID. List the appendix reference in the table.

This table documents compliance with the Coastal Zone Management Act (CZMA) and Coastal Barrier Resources Act.

4.17.1 Coastal Zone Management Act [24 CFR 58.5(c)]

Note: This section applies to projects requiring the following: CEST, FONSI.

Under CZMA, project that may affect the coastal zone must be consistent with the approved state coastal zone management program. In North Carolina, this program is administered through the Division of Coastal Management (DCM) and the state Coastal Area Management Act (CAMA). First, determine whether the project is located in a CAMA county. If the project is located in a CAMA county and involves new construction, land conversion, major rehabilitation, or substantial improvement activities, then a consistency review is required. Refer to DCM's [Federal Consistency Review webpage](#) for additional information regarding consistency review. Discuss the consistency review in the table and document any correspondence with DCM.

CAMA Counties:

Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, Washington

4.17.2 Coastal Barrier Resources Act [24 CFR 58.6(c)]

Note: This section applies to projects requiring the following: Exempt, CENST, CEST, FONSI.

Under the Coastal Barriers Resources Act/Coastal Barrier Resource Improvement Act of 1990, certain communities are designated as Coastal Barrier Resources Systems (CBRS). The Act is intended to minimize loss of human life, wasteful expenditure of revenues, and damage to natural resources associated with barrier islands by restricting financial assistance for projects that encourage development of coastal barriers. If the project is located within a coastal county, determine if the project is located in a CBRS. The FWS has a [CBRS Mapper](#) available online to determine if a project is located in a CBRS community.

If the project is located in CBRS community, Federal assistance is only allowed for certain exempted activities (e.g., a nature trail) after approval from the FWS (see 16 USC 3505 for exceptions to limitations on expenditures). A record of project approval from the FWS must be provided; otherwise Federal funds cannot be used for the project.

4.18 Environmental Design

Note: This section applies to projects requiring the following: FONSI.

Requirements

- Complete Table 18.1 in the Appendix and place in the body of the EID.
- Include any additional information in an appendix to the EID. List the appendix reference in the table.
- Provide a list of sources consulted for completing the table.

4.18.1 Existing Conditions

Briefly describe the environmental design of the project including visual quality, coherence, diversity, compatible use, and scale.

4.18.2 Impacts and Mitigation

For direct construction impacts, describe how the project will impact environmental design. Consider whether project elements will be out of character with the surrounding area, if views will be blocked or degraded, and if materials to be used are appropriate to blend with surrounding structures.

For SCI, discuss the changes in environmental design in the existing and expanded service area which will be impacted by the project.

If “Requires Mitigation” or “Requires Modification” are checked, clearly describe all mitigation efforts that will be mitigated and explain how the project will be modified, if needed.

4.19 Demographics, Employment & Income, and Environmental Justice [24 CFR 58.5(j)]

Note: This section applies to projects requiring the following: CEST, FONSI.

This table combines information relating the Environmental Justice Analysis, impacts to community demographics and access, and changes to employment and income potential.

[Executive Order 12898](#) states that

Each federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

HUD projects must comply with environmental justice requirements of Executive Order 12898. Environmental justice (EJ) strives to ensure that no racial, ethnic, or socioeconomic group bears a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies. Environmental justice also includes giving all persons equal access to the decision-making process. As a federally funded program, the CDBG-I program is subject to policies established by the Office of Environmental Justice.

In terms of preparing an EID, an EJ analysis must be conducted to verify that EJ is achieved through the project. Consult [HUD's EJ Resources](#) and [EPA's Guidance](#) for additional information.

4.19.1 Existing Environmental Justice Characteristics

Requirements

The first step of the EJ analysis involves determining the presence of a significant minority or low-income population. EPA's [EJ Screen](#) is one tool that can help identify minority and/or low income populations near the project area. The tool will generate maps and reports customized for the project area that can be printed and included with the EID to document this step of the analysis.²⁵

The most current Census data must be used for the Environmental Justice Analysis.

(The EJ Screen Tool replaces the older EJ View Tool.)

If another source of data is used to identify minority or low-income populations in the project area, be sure to document the process used. All maps must clearly show the project site. An alternative process may be used by following the steps below. Note that the most current Census data must be used.

1. **Census Block Groups.** Determine what Census block group(s) encompass the project area.
2. Collect minority and total population data using the US Census data (can be done with GIS).
3. **Minority percentages.** Calculate the total minority percentages in each block group. 50% or greater shows an impact.
4. **Low-Income.** Repeat for low-income populations using US Census data.

4.19.2 Potential Impacts from Project

Respond to the list of questions in the table, and if answering "Yes" to any questions, describe the anticipated impacts as well as measures that will be taken to minimize the potential for harmful impacts. If the analysis of Census block groups discussed above indicates that minority and/or low income populations are greater than 50 percent of the total population at or near the project location, then proceed with determining what impacts the project will have on the identified minority and/or low income population(s). EJ issues may involve impacts to human health or related social or economic impacts. In addition to the environmental justice analysis, also consider whether the project will significantly alter the demographic characteristics, access to resources, and income potential for the community. Be sure to include efforts to ensure

²⁵ The EJSCREEN replaces the older EnviroMapper and EJ View tools.

adequate opportunities for public participation. If significant impacts are anticipated, contact the Division as soon as possible to discuss the impacts and possibly mitigation (prior to submitting the EID, if possible).

4.20 References

Any documents referenced in the EID should be identified in the references section. Consider attaching significant references in an appendix. References will vary for different types of projects, but examples that you might include are as follows:

- Correspondence with agencies such as Corps of Engineers or Cultural Resources
- Wetlands delineations studies
- Soil surveys
- Local ordinances
- Master plan documents

List of Acronyms

C

CAMA – Coastal Area Management Act

CBRS – Coastal Barrier Resources Systems

CDBG – Community Development Block Grant

CDBG-I – Community Development Block Grant Infrastructure

CE – Categorical Exclusion

CENST – Categorical Exclusion Not Subject to §58.5

CEST – Categorical Exclusion Subject to §58.5

CZMA – Coastal Zone Management Act

D

DAQ – Division of Air Quality

DCM – Division of Coastal Management

DOC – North Carolina Department of Commerce

DEQ – North Carolina Department of Environmental Quality

DWR – Division of Water Resources

E

EA – Environmental Assessment

EID – Environmental Information Document

EIS – Environmental Impact Statement

EJ – Environmental Justice

EPA – U.S. Environmental Protection Agency

ERR – Environmental Review Record

F

FONSI – Finding of No Significant Impact

FONSI/EA – Finding of No Significant Impact/Environmental Assessment

FWS – U.S. Fish and Wildlife Service

G

GIS – Geographic information system

H

HUD – U.S. Department of Housing and Urban Development

N

NRCS – Natural Resources Conservation Service

NEPA – National Environmental Policy Act

NWI – National Wetland Inventory

R

RE – Responsible Entity

ROD – Record of Decision

ROD/EIS – Record of Decision/Environmental Impact Statement

RROF – Request for Release of Funds

S

SCI – Secondary and Cumulative Impacts

SEPA – State Environmental Policy Act

SHPO – State Historic Preservation Office

T

T&E – Threatened and endangered

U

UGLG – Unit of General Local Government

USGS – United States Geological Survey

Glossary

A

After-action monitoring – An environmental review process where the Responsible Entity is solely responsible for the preparation of both the engineering report/environmental information document and the final environmental information document. The agency provides oversight only.

Applicant – The unit of general local government or its representative that applies for CDBG-I funding.

C

Certifying Officer – The official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to appear in Federal court as required [see §58.2(a)(2)].

Cumulative Impacts – The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).

D

Division – The Division of Water Infrastructure, which is part of the North Carolina Department of Environmental Quality.

E

Environmental Document – A document that characterizes the environmental and human impacts of constructing a project. These documents include and Exempt Certification, a Categorical Exclusion Not Subject to §58.5 (CENST), an Categorical Exclusion Subject to §58.5 (CEST), a Finding of No Significant Impact/Environmental Assessment (FONSI/EA), and a Record of Decision/Environmental Impact Statement (ROD/EIS).

Environmental Review Record (ERR) – The official file of all environmental information related to the project.

F

Final environmental document – A Categorical Exclusion, Finding of No Significant Impact, or Record of Decision that is prepared based upon information provided in the Engineering Report/Environmental Information Document.

Floodway – The channel of a stream, plus any adjacent floodplain areas, that must be kept free from encroachment so that the 1% annual chance flood can be carried without substantial increase in flood heights.

L

Letter of Intent to Fund – Correspondence sent by the Division to Recipients receiving funding that notifies them of the intent of the Division to award grant funding once the schedule is met.

M

Mitigative Measures – Actions taken to minimize or eliminate impacts to the environment and natural resources.

N

NEPA – National Environmental Policy Act

O

100-year Floodplain – The areas that are expected to be inundated by the 1% annual chance flood (100-year flood).

P

Preparer – An entity such as a Council of Government or a consultant that prepares the ER/EID for the Responsible Entity.

Project – An activity or group of integrally related (e.g., aggregated) activities designed to accomplish, in whole or in part, a specific objective [see §58.2(a)(4)].

R

Real-time monitoring – An environmental review process where the reviewing agency is actively involved in the preparation of the engineering report/environmental information document and prepares the final environmental document.

Recipient – Any entity when they are eligible recipients or grantees such as a unit of local government (UGLG) [see §58.2(a)(5)].

Recommendation – Actions the agency suggests as ways to mitigate environmental impacts.

Request for Release of Funds (RROF) – A document completed and signed by the Certifying Officer to request the release of CDBG funds for a project.

Requirement – Actions an agency states must be incorporated into the project to mitigate environmental impacts. These must be incorporated into the ER/EID as mitigation.

Responsible Entity (RE) – A UGLG, responsible for the preparation of the ER/EID [see §58.2(a)(7)(i-ii)]. Note that sometimes, the RE may differ from the Recipient.

S

Scope of Impacts – The area that should be investigated to identify impacts to various resources that are included in the impact analysis.

Secondary Impacts – Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect impacts may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems (40 CFR 1508.8).

Service area – The area served by the collection system and/or wastewater treatment plant and/or the water distribution system and/or water treatment plant.

Sewershed – The area served by a collection system or portion of collection system.

U

Unit of General Local Government – Any city, county, town, township, parish, village, or other general purpose subdivision of a state [see §570.03].

Index

- 8-step Review Process 31, 36
after-action monitoring 1, 3
air quality 43
archaeological 28, 41, 42
Authority to Use Grant Funds... i, 11, 12, 13,
15, 17, 18
benefits 22, 28, 29, 34, 37, 47
CENST 3, 5, 9, 10, 11, 13, 17, 45, 46, 50, 53
Certifying Officer..... 2, 3, 9, 12, 53, 54
CEST.... 3, 5, 6, 9, 10, 11, 13, 15, 18, 26, 30,
31, 32, 33, 35, 36, 39, 41, 43, 45, 46, 47,
50, 53
Coastal Barrier Resources Act iii, 46
Coastal Zone Management Act..... iii, 46, 50
Comment..... 13
community facilities..... 40, 41
Cumulative impacts 21, 23, 53
demographics 47
Direct impacts 21, 22
EJ..... 48, 50
employment..... 47
energy..... 45
environmental design 47
Environmental Features Figure..... 28, 40, 41
environmental justice 25, 48
ERR.... 2, 4, 5, 11, 12, 13, 14, 15, 17, 18, 21,
25, 50, 53
Executive Order 11988 32
Executive Order 11990 ii, 36, 37
final environmental document 1, 2, 4, 5, 6, 9,
11, 13, 14, 15, 26, 30, 54
floodplain 10, 31, 32, 54
floodway 32
FONSI/EA..... 3, 13, 18, 51, 53
forest resources 40
groundwater 24, 36, 37, 38
historic..... 42, 43
historical..... 28, 33, 41, 42
historical resources..... 42
impacts . 3, 10, 17, 18, 21, 22, 23, 24, 25, 26,
28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,
39, 40, 41, 42, 43, 44, 47, 48, 53, 54, 55
income..... 47, 48
land use 23, 29, 34, 35, 44, 55
Letter of Intent to Fund 4, 54
mitigative measures 6, 13, 25, 29, 36, 41, 43,
45
National Register 42
natural vegetation..... 40
NOI/RROF..... 9
noise levels..... 44
Objection..... i, 4, 11, 12
Preparer 1, 5, 6, 9, 10, 11, 13, 14, 15, 17, 18,
21, 54
prime or unique farmland..... 34
project .. 1, 3, 6, 9, 11, 12, 13, 14, 15, 17, 18,
21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31,
32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42,
43, 44, 45, 46, 47, 48, 53, 54
project area. 9, 23, 27, 28, 33, 34, 36, 38, 43,
44, 48
public notification 2, 6, 9, 12, 13, 18, 27
real-time monitoring 1
Recipient 1, 3, 4, 9, 11, 12, 13, 14, 15, 17,
21, 54, 55
Responsible Entity 1, 2, 3, 4, 5, 9, 12, 13, 14,
15, 17, 51, 53, 54, 55
ROD/EIS 3, 21, 51, 53
RROF .. 3, 4, 9, 10, 11, 12, 13, 14, 18, 51, 54
SCI 22, 24, 29, 30, 32, 33, 34, 35, 37, 38, 39,
40, 41, 42, 43, 44, 47, 51
Scope of Impacts..... i, iv, 21, 24, 28, 29, 55
Secondary impacts 21, 22, 23
service area 24, 25, 30, 32, 33, 34, 35, 37, 38,
39, 40, 42, 44, 47
SHPO 42, 51
Soils..... ii, 24, 26, 33
stormwater..... 38, 39
stream..... 22, 23, 33, 37, 38, 54
surface water 24, 37, 38
T&E..... 24, 28, 39, 51
toxic substances 45
UGLG 3, 35, 38, 51, 54, 55
Wild and Scenic Rivers..... ii, 35
wildlife..... 22, 36, 40
zoning classification..... 34

Appendix A

HUD Regulations Applicable to the CDBG-I Program

PART 51—ENVIRONMENTAL CRITERIA AND STANDARDS

Contents

Subpart A—General Provisions

- § 51.1 Purpose.
- § 51.2 Authority.
- § 51.3 Responsibilities.
- § 51.4 Program coverage.

Subpart B—Noise Abatement and Control

- § 51.100 Purpose and authority.
 - § 51.101 General policy.
 - § 51.102 Responsibilities.
 - § 51.103 Criteria and standards.
 - § 51.104 Special requirements.
 - § 51.105 Exceptions.
 - § 51.106 Implementation.
- Appendix I to Subpart B of Part 51—Definition of Acoustical Quantities

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

- § 51.200 Purpose.
 - § 51.201 Definitions.
 - § 51.202 Approval of HUD-assisted projects.
 - § 51.203 Safety standards.
 - § 51.204 HUD-assisted hazardous facilities.
 - § 51.205 Mitigating measures.
 - § 51.206 Implementation.
 - § 51.207 Special circumstances.
 - § 51.208 Reservation of administrative and legal rights.
- Appendix I to Subpart C of Part 51—Specific Hazardous Substances
- Appendix II to Subpart C of Part 51—Development of Standards; Calculation Methods

Subpart D—Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields

- § 51.300 Purpose.
 - § 51.301 Definitions.
 - § 51.302 Coverage.
 - § 51.303 General policy.
 - § 51.304 Responsibilities.
 - § 51.305 Implementation.
-

AUTHORITY: 42 U.S.C. 3535(d), unless otherwise noted.

SOURCE: 44 FR 40861, July 12, 1979, unless otherwise noted.

[↑ Back to Top](#)

Subpart A—General Provisions

[↑ Back to Top](#)

§ 51.1 Purpose.

The Department of Housing and Urban Development is providing program Assistant Secretaries and administrators and field offices with environmental standards, criteria and guidelines for determining project acceptability and necessary mitigating measures to insure that activities assisted by the Department achieve the goal of a suitable living environment.

[↑ Back to Top](#)

§ 51.2 Authority.

This part implements the Department's responsibilities under: The National Housing Act (12 U.S.C. 1701 *et seq.*); sec. 2 of the Housing Act of 1949 (42 U.S.C. 1441); secs. 2 and 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3531 and 3535(d)); the National Environmental Policy Act of 1969 (42 U.S.C. 4321); and the other statutes that are referred to in this part.

[61 FR 13333, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.3 Responsibilities.

The Assistant Secretary for Community Planning and Development is responsible for administering HUD's environmental criteria and standards as set forth in this part. The Assistant Secretary for Community Planning and Development may be assisted by HUD officials in

implementing the responsibilities established by this part. HUD will identify these HUD officials and their specific responsibilities through FEDERAL REGISTER notice.

[61 FR 13333, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.4 Program coverage.

Environmental standards shall apply to all HUD actions except where special provisions and exemptions are contained in each subpart.

[↑ Back to Top](#)

Subpart B—Noise Abatement and Control

[↑ Back to Top](#)

§ 51.100 Purpose and authority.

(a) It is the purpose of this subpart B to:

(1) Call attention to the threat of noise pollution;

(2) Encourage the control of noise at its source in cooperation with other Federal departments and agencies;

(3) Encourage land use patterns for housing and other noise sensitive urban needs that will provide a suitable separation between them and major noise sources;

(4) Generally prohibit HUD support for new construction of noise sensitive uses on sites having unacceptable noise exposure;

(5) Provide policy on the use of structural and other noise attenuation measures where needed; and

(6) Provide policy to guide implementation of various HUD programs.

(b) *Authority.* Specific authorities for noise abatement and control are contained in the Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*); and the General Services Administration, Federal Management Circular 75-2; *Compatible Land Uses at Federal Airfields.*

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.101 General policy.

(a) It is HUD's general policy to provide minimum national standards applicable to HUD programs to protect citizens against excessive noise in their communities and places of residence.

(1) *Planning assistance.* HUD requires that grantees give adequate consideration to noise exposures and sources of noise as an integral part of the urban environment when HUD assistance is provided for planning purposes, as follows:

(i) Particular emphasis shall be placed on the importance of compatible land use planning in relation to airports, highways and other sources of high noise.

(ii) Applicants shall take into consideration HUD environmental standards impacting the use of land.

(2) *Activities subject to 24 CFR part 58.* (i) Responsible entities under 24 CFR part 58 must take into consideration the noise criteria and standards in the environmental review process and consider ameliorative actions when noise sensitive land development is proposed in noise exposed areas. Responsible entities shall address deviations from the standards in their environmental reviews as required in 24 CFR part 58.

(ii) Where activities are planned in a noisy area, and HUD assistance is contemplated later for housing and/or other noise sensitive activities, the responsible entity risks denial of the HUD assistance unless the HUD standards are met.

(3) *HUD support for new construction.* HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. (Standards of acceptability are contained in § 51.103(c).) This policy applies to all HUD programs providing assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, and all programs providing assistance or insurance for land development, redevelopment or any other provision of facilities and services which are directed to making land available for housing or noise sensitive development. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales registration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.

(4) *HUD support for existing construction.* Noise exposure by itself will not result in the denial of HUD support for the resale and purchase of otherwise acceptable existing buildings.

However, environmental noise is a marketability factor which HUD will consider in determining the amount of insurance or other assistance that may be given.

(5) *HUD support of modernization and rehabilitation.* For modernization projects located in all noise exposed areas, HUD shall encourage noise attenuation features in alterations. For major or substantial rehabilitation projects in the Normally Unacceptable and Unacceptable noise zones, HUD actively shall seek to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level or exterior noise exposure. In Unacceptable noise zones, HUD shall strongly encourage conversion of noise-exposed sites to land uses compatible with the high noise levels.

(6) *Research, guidance and publications.* HUD shall maintain a continuing program designed to provide new knowledge of noise abatement and control to public and private bodies, to develop improved methods for anticipating noise encroachment, to develop noise abatement measures through land use and building construction practices, and to foster better understanding of the consequences of noise. It shall be HUD's policy to issue guidance documents periodically to assist HUD personnel in assigning an acceptability category to projects in accordance with noise exposure standards, in evaluating noise attenuation measures, and in advising local agencies about noise abatement strategies. The guidance documents shall be updated periodically in accordance with advances in the state-of-the-art.

(7) *Construction equipment, building equipment and appliances.* HUD shall encourage the use of quieter construction equipment and methods in population centers, the use of quieter equipment and appliances in buildings, and the use of appropriate noise abatement techniques in the design of residential structures with potential noise problems.

(8) *Exterior noise goals.* It is a HUD goal that exterior noise levels do not exceed a day-night average sound level of 55 decibels. This level is recommended by the Environmental Protection Agency as a goal for outdoors in residential areas. The levels recommended by EPA are not standards and do not take into account cost or feasibility. For the purposes of this regulation and to meet other program objectives, sites with a day-night average sound level of 65 and below are acceptable and are allowable (see Standards in § 51.103(c)).

(9) *Interior noise goals.* It is a HUD goal that the interior auditory environment shall not exceed a day-night average sound level of 45 decibels. Attenuation measures to meet these interior goals shall be employed where feasible. Emphasis shall be given to noise sensitive interior spaces such as bedrooms. Minimum attenuation requirements are prescribed in § 51.104(a).

(10) *Acoustical privacy in multifamily buildings.* HUD shall require the use of building design and acoustical treatment to afford acoustical privacy in multifamily buildings pursuant to requirements of the Minimum Property Standards.

[44 FR 40861, July 12, 1979, as amended at 50 FR 9268, Mar. 7, 1985; 61 FR 13333, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.102 Responsibilities.

(a) *Surveillance of noise problem areas.* Appropriate field staff shall maintain surveillance of potential noise problem areas and advise local officials, developers, and planning groups of the unacceptability of sites because of noise exposure at the earliest possible time in the decision process. Every attempt shall be made to insure that applicants' site choices are consistent with the policy and standards contained herein.

(b) *Notice to applicants.* At the earliest possible stage, HUD program staff shall:

(1) Determine the suitability of the acoustical environment of proposed projects;

(2) Notify applicants of any adverse or questionable situations; and

(3) Assure that prospective applicants are apprised of the standards contained herein so that future site choices will be consistent with these standards.

(c) *Interdepartmental coordination.* HUD shall foster appropriate coordination between field offices and other departments and agencies, particularly the Environmental Protection Agency, the Department of Transportation, Department of Defense representatives, and the Department of Veterans Affairs. HUD staff shall utilize the acceptability standards in commenting on the prospective impacts of transportation facilities and other noise generators in the Environmental Impact Statement review process.

[44 FR 40861, July 12, 1979, as amended at 54 FR 39525, Sept. 27, 1989; 61 FR 13333, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.103 Criteria and standards.

These standards apply to all programs as indicated in § 51.101.

(a) *Measure of external noise environments.* The magnitude of the external noise environment at a site is determined by the value of the day-night average sound level produced as the result of the accumulation of noise from all sources contributing to the external noise environment at the site. Day-night average sound level, abbreviated as DNL and symbolized as L_{dn} , is the 24-hour average sound level, in decibels, obtained after addition of 10 decibels to

sound levels in the night from 10 p.m. to 7 a.m. Mathematical expressions for average sound level and day-night average sound level are stated in the Appendix I to this subpart.

(b) *Loud impulsive sounds.* On an interim basis, when loud impulsive sounds, such as explosions or sonic booms, are experienced at a site, the day-night average sound level produced by the loud impulsive sounds alone shall have 8 decibels added to it in assessing the acceptability of the site (see appendix I to this subpart). Alternatively, the C-weighted day-night average sound level (L_{Cdn}) may be used without the 8 decibel addition, as indicated in § 51.106(a)(3). Methods for assessing the contribution of loud impulsive sounds to day-night average sound level at a site and mathematical expressions for determining whether a sound is classed as “loud impulsive” are provided in the appendix I to this subpart.

(c) *Exterior standards.* (1) The degree of acceptability of the noise environment at a site is determined by the sound levels external to buildings or other facilities containing noise sensitive uses. The standards shall usually apply at a location 2 meters (6.5 feet) from the building housing noise sensitive activities in the direction of the predominant noise source. Where the building location is undetermined, the standards shall apply 2 meters (6.5 feet) from the building setback line nearest to the predominant noise source. The standards shall also apply at other locations where it is determined that quiet outdoor space is required in an area ancillary to the principal use on the site.

(2) The noise environment inside a building is considered acceptable if: (i) The noise environment external to the building complies with these standards, and (ii) the building is constructed in a manner common to the area or, if of uncommon construction, has at least the equivalent noise attenuation characteristics.

SITE ACCEPTABILITY STANDARDS

	Day-night average sound level (in decibels)	Special approvals and requirements
Acceptable	Not exceeding 65 dB(1)	None.
Normally Unacceptable	Above 65 dB but not exceeding 75 dB	Special Approvals (2)
		Environmental Review (3).
		Attenuation (4).
Unacceptable	Above 75 dB	Special Approvals (2).

		Environmental Review (3).
		Attenuation (5).

Notes: (1) Acceptable threshold may be shifted to 70 dB in special circumstances pursuant to § 51.105(a).

(2) See § 51.104(b) for requirements.

(3) See § 51.104(b) for requirements.

(4) 5 dB additional attenuation required for sites above 65 dB but not exceeding 70 dB and 10 dB additional attenuation required for sites above 70 dB but not exceeding 75 dB. (See § 51.104(a).)

(5) Attenuation measures to be submitted to the Assistant Secretary for CPD for approval on a case-by-case basis.

[44 FR 40861, July 12, 1979, as amended at 49 FR 12214, Mar. 29, 1984]

[↑ Back to Top](#)

§ 51.104 Special requirements.

(a)(1) *Noise attenuation.* Noise attenuation measures are those required in addition to attenuation provided by buildings as commonly constructed in the area, and requiring open windows for ventilation. Measures that reduce external noise at a site shall be used wherever practicable in preference to the incorporation of additional noise attenuation in buildings. Building designs and construction techniques that provide more noise attenuation than typical construction may be employed also to meet the noise attenuation requirements.

(2) *Normally unacceptable noise zones and unacceptable noise zones.* Approvals in Normally Unacceptable Noise Zones require a minimum of 5 decibels additional sound attenuation for buildings having noise-sensitive uses if the day-night average sound level is greater than 65 decibels but does not exceed 70 decibels, or a minimum of 10 decibels of additional sound attenuation if the day-night average sound level is greater than 70 decibels but does not exceed 75 decibels. Noise attenuation measures in Unacceptable Noise Zones require the approval of the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58. (See § 51.104(b)(2).)

(b) *Environmental review requirements.* Environmental reviews shall be conducted pursuant to the requirements of 24 CFR parts 50 and 58, as applicable, or other environmental

regulations issued by the Department. These requirements are hereby modified for all projects proposed in the Normally Unacceptable and Unacceptable noise exposure zones as follows:

(1) *Normally unacceptable noise zone.* (i) All projects located in the Normally Unacceptable Noise Zone require a Special Environmental Clearance except an EIS is required for a proposed project located in a largely undeveloped area, or where the HUD action is likely to encourage the establishment of incompatible land use in this noise zone.

(ii) When an EIS is required, the concurrence of the Program Assistant Secretary is also required before a project can be approved. For the purposes of this paragraph, an area will be considered as largely undeveloped unless the area within a 2-mile radius of the project boundary is more than 50 percent developed for urban uses and infrastructure (particularly water and sewers) is available and has capacity to serve the project.

(iii) All other projects in the Normally Unacceptable zone require a Special Environmental Clearance, except where an EIS is required for other reasons pursuant to HUD environmental policies.

(2) *Unacceptable noise zone.* An EIS is required prior to the approval of projects with unacceptable noise exposure. Projects in or partially in an Unacceptable Noise Zone shall be submitted to the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58, for approval. The Assistant Secretary or the Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor noise sensitive activity will take place on the site. In such cases, an environmental review shall be made pursuant to the requirements of 24 CFR parts 50 or 58, as appropriate.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.105 Exceptions.

(a) *Flexibility for non-acoustic benefits.* Where it is determined that program objectives cannot be achieved on sites meeting the acceptability standard of 65 decibels, the Acceptable Zone may be shifted to $L_{dn} 70$ on a case-by-case basis if all the following conditions are satisfied:

(1) The project does not require an Environmental Impact Statement under provisions of § 51.104(b)(1) and noise is the only environmental issue.

(2) The project has received a Special Environmental Clearance and has received the concurrence of the Environmental Clearance Officer.

(3) The project meets other program goals to provide housing in proximity to employment, public facilities and transportation.


(4) The project is in conformance with local goals and maintains the character of the neighborhood.

(5) The project sponsor has set forth reasons, acceptable to HUD, as to why the noise attenuation measures that would normally be required for new construction in the L_{dn} 65 to L_{dn} 70 zone cannot be met.

(6) Other sites which are not exposed to noise above L_{dn} 65 and which meet program objectives are generally not available.

The above factors shall be documented and made part of the project file.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13334, Mar. 26, 1996]

 [Back to Top](#)

§ 51.106 Implementation.

(a) *Use of available data.* HUD field staff shall make maximum use of noise data prepared by others when such data are determined to be current and adequately projected into the future and are in terms of the following:

(1) *Sites in the vicinity of airports.* The noise environment around airports is described sometimes in terms of Noise Exposure Forecasts, abbreviated as NEF or, in the State of California, as Community Noise Equivalent Level, abbreviated as CNEL. The noise environment for sites in the vicinity of airports for which day-night average sound level data are not available may be evaluated from NEF or CNEL analyses using the following conversions to DNL:

$$DNL \approx NEF + 35$$

$$DNL \approx CNEL$$

(2) *Sites in the vicinity of highways.* Highway projects receiving Federal aid are subject to noise analyses under the procedures of the Federal Highway Administration. Where such analyses are available they may be used to assess sites subject to the requirements of this standard. The Federal Highway Administration employs two alternate sound level descriptors: (i) The A-weighted sound level not exceeded more than 10 percent of the time for the highway design hour traffic flow, symbolized as L_{10} ; or (ii) the equivalent sound level for the design hour, symbolized as L_{eq} . The day-night average sound level may be estimated from the design hour L_{10} or L_{eq} values by the following relationships, provided heavy trucks do not exceed 10

percent of the total traffic flow in vehicles per 24 hours and the traffic flow between 10 p.m. and 7 a.m. does not exceed 15 percent of the average daily traffic flow in vehicles per 24 hours:

$DNL \approx L_{10}$ (design hour)—3 decibels

$DNL \approx L_{eq}$ (design hour) decibels

Where the auto/truck mix and time of day relationships as stated in this section do not exist, the HUD Noise Assessment Guidelines or other noise analysis shall be used.

(3) *Sites in the vicinity of installations producing loud impulsive sounds.* Certain Department of Defense installations produce loud impulsive sounds from artillery firing and bombing practice ranges. Noise analyses for these facilities sometimes encompass sites that may be subject to the requirements of this standard. Where such analyses are available they may be used on an interim basis to establish the acceptability of sites under this standard. The Department of Defense uses day-night average sound level based on C-weighted sound level, symbolized L_{Cdn} , for the analysis of loud impulsive sounds. Where such analyses are provided, the 8 decibel addition specified in § 51.103(b), is not required, and the same numerical values of day-night average sound level used on an interim basis to determine site suitability for non-impulsive sounds apply to the L_{Cdn} .

(4) *Use of areawide acoustical data.* HUD encourages the preparation and use of areawide acoustical information, such as noise contours for airports. Where such new or revised contours become available for airports (civil or military) and military installations they shall first be referred to the HUD State Office (Environmental Officer) for review, evaluation and decision on appropriateness for use by HUD. The HUD State Office shall submit revised contours to the Assistant Secretary for Community Planning and Development for review, evaluation and decision whenever the area affected is changed by 20 percent or more, or whenever it is determined that the new contours will have a significant effect on HUD programs, or whenever the contours are not provided in a methodology acceptable under § 51.106(a)(1) or in other cases where the HUD State Office determines that Headquarters review is warranted. For other areawide acoustical data, review is required only where existing areawide data are being utilized and where such data have been changed to reflect changes in the measurement methodology or underlying noise source assumptions. Requests for determination on usage of new or revised areawide data shall include the following:

(i) Maps showing old, if applicable, and new noise contours, along with brief description of data source and methodology.

(ii) Impact on existing and prospective urbanized areas and on development activity.

(iii) Impact on HUD-assisted projects currently in processing.

(iv) Impact on future HUD program activity. Where a field office has determined that immediate approval of new areawide data is necessary and warranted in limited geographic

areas, the request for approval should state the circumstances warranting such approval. Actions on proposed projects shall not be undertaken while new areawide noise data are being considered for HUD use except where the proposed location is affected in the same manner under both the old and new noise data.

(b) *Site assessments.* Compliance with the standards contained in § 51.103(c) shall, where necessary, be determined using noise assessment guidelines, handbooks, technical documents and procedures issued by the Department.

(c) *Variations in site noise levels.* In many instances the noise environment will vary across a site, with portions of the site being in an Acceptable noise environment and other portions in a Normally Unacceptable noise environment. The standards in § 51.103(c) shall apply to the portions of a building or buildings used for residential purposes and for ancillary noise sensitive open spaces.

(d) *Noise measurements.* Where noise assessments result in a finding that the site is borderline or questionable, or is controversial, noise measurements may be performed. Where it is determined that noise measurements are required, such measurements will be conducted in accordance with methods and measurement criteria established by the Department. Locations for noise measurements will depend on the location of noise sensitive uses that are nearest to the predominant noise source (see § 51.103(c)).

(e) *Projections of noise exposure.* In addition to assessing existing exposure, future conditions should be projected. To the extent possible, noise exposure shall be projected to be representative of conditions that are expected to exist at a time at least 10 years beyond the date of the project or action under review.

(f) *Reduction of site noise by use of berms and/or barriers.* If it is determined by adequate analysis that a berm and/or barrier will reduce noise at a housing site, and if the barrier is existing or there are assurances that it will be in place prior to occupancy, the environmental noise analysis for the site may reflect the benefits afforded by the berm and/or barrier. In the environmental review process under § 51.104(b), the location height and design of the berm and/or barrier shall be evaluated to determine its effectiveness, and impact on design and aesthetic quality, circulation and other environmental factors.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13334, Mar. 26, 1996]

[▲ Back to Top](#)

Appendix I to Subpart B of Part 51—Definition of Acoustical Quantities

1. *Sound Level.* The quantity in decibels measured with an instrument satisfying requirements of American National Standard Specification for Type 1 Sound Level Meters S1.4-1971. Fast time-averaging and A-frequency weighting are to be used, unless others are specified. The sound level meter with the A-weighting is progressively less sensitive to sounds

of frequency below 1,000 hertz (cycles per second), somewhat as is the ear. With fast time averaging the sound level meter responds particularly to recent sounds almost as quickly as does the ear in judging the loudness of a sound.

2. *Average Sound Level.* Average sound level, in decibels, is the level of the mean-square A-weighted sound pressure during the stated time period, with reference to the square of the standard reference sound pressure of 20 micropascals.

Day-night average sound level, abbreviated as DNL, and symbolized mathematically as L_{dn} is defined as:

$$L_{dn} = 10 \log_{10} \left[\frac{1}{86400} \left(\int_{0000}^{2359} 10^{[L_A(t)+10]/10} dt + \int_{0000}^{2359} 10^{L_A(t)/10} dt + \int_{2359}^{2400} 10^{[L_A(t)+10]/10} dt \right) \right]$$

[View or download PDF](#)

Time t is in seconds, so the limits shown in hours and minutes are actually interpreted in seconds. $L_A(t)$ is the time varying value of A-weighted sound level, the quantity in decibels measured by an instrument satisfying requirements of American National Standard Specification for Type 1 Sound Level Meters S1.4-1971.

3. *Loud Impulsive Sounds.* When loud impulsive sounds such as sonic booms or explosions are anticipated contributors to the noise environment at a site, the contribution to day-night average sound level produced by the loud impulsive sounds shall have 8 decibels added to it in assessing the acceptability of a site.

A loud impulsive sound is defined for the purpose of this regulation as one for which:

(i) The sound is definable as a discrete event wherein the sound level increases to a maximum and then decreases in a total time interval of approximately one second or less to the ambient background level that exists without the sound; and

(ii) The maximum sound level (obtained with slow averaging time and A-weighting of a Type 1 sound level meter whose characteristics comply with ANSI S1.4-1971) exceeds the sound level prior to the onset of the event by at least 6 decibels; and

(iii) The maximum sound level obtained with fast averaging time of a sound level meter exceeds the maximum value obtained with slow averaging time by at least 4 decibels.

[44 FR 40861, July 12, 1979; 49 FR 10253, Mar. 20, 1984; 49 FR 12214, Mar. 29, 1984]

[↑ Back to Top](#)

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

AUTHORITY: 42 U.S.C. 3535(d).

SOURCE: 49 FR 5103, Feb. 10, 1984, unless otherwise noted.

[↑](#) Back to Top

§ 51.200 Purpose.

The purpose of this subpart C is to:

(a) Establish safety standards which can be used as a basis for calculating acceptable separation distances (ASD) for HUD-assisted projects from specific, stationary, hazardous operations which store, handle, or process hazardous substances;

(b) Alert those responsible for the siting of HUD-assisted projects to the inherent potential dangers when such projects are located in the vicinity of such hazardous operations;

(c) Provide guidance for identifying those hazardous operations which are most prevalent;

(d) Provide the technical guidance required to evaluate the degree of danger anticipated from explosion and thermal radiation (fire); and

(e) Provide technical guidance required to determine acceptable separation distances from such hazards.

[49 FR 5103, Feb. 10, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

[↑](#) Back to Top

§ 51.201 Definitions.

The terms *Department* and *Secretary* are defined in 24 CFR part 5.

Acceptable separation distance (ASD)—means the distance beyond which the explosion or combustion of a hazard is not likely to cause structures or individuals to be subjected to blast overpressure or thermal radiation flux levels in excess of the safety standards in § 51.203. The ASD is determined by applying the safety standards established by this subpart C to the guidance set forth in HUD Guidebook, “Siting of HUD-Assisted Projects Near Hazardous Facilities.”

Blast overpressure— means the pressure, in pounds per square inch, in excess of normal atmospheric pressure on the surrounding medium caused by an explosion.

Danger zone— means the land area circumscribed by the radius which delineates the ASD of a given hazard.


Hazard—means any stationary container which stores, handles or processes hazardous substances of an explosive or fire prone nature. The term “hazard” does not include pipelines for the transmission of hazardous substances, if such pipelines are located underground or comply with applicable Federal, State and local safety standards. Also excepted are: (1) Containers with a capacity of 100 gallons or less when they contain common liquid industrial fuels, such as gasoline, fuel oil, kerosene and crude oil since they generally would pose no danger in terms of thermal radiation of blast overpressure to a project; and (2) facilities which are shielded from a proposed HUD-assisted project by the topography, because these topographic features effectively provide a mitigating measure already in place.

Hazardous substances— means petroleum products (petrochemicals) and chemicals that can produce blast overpressure or thermal radiation levels in excess of the standards set forth in § 51.203. A specific list of hazardous substance is found in appendix I to this subpart.

HUD-assisted project— the development, construction, rehabilitation, modernization or conversion with HUD subsidy, grant assistance, loan, loan guarantee, or mortgage insurance, of any project which is intended for residential, institutional, recreational, commercial or industrial use. For purposes of this subpart the terms “rehabilitation” and “modernization” refer only to such repairs and renovation of a building or buildings as will result in an increased number of people being exposed to hazardous operations by increasing residential densities, converting the type of use of a building to habitation, or making a vacant building habitable.

Thermal radiation level— means the emission and propagation of heat energy through space or a material medium, expressed in BTU per square foot per hour (BTU/ft.² hr.).

[49 FR 5103, Feb. 10, 1984, as amended at 61 FR 5204, Feb. 9, 1996; 61 FR 13334, Mar. 26, 1996]

 [Back to Top](#)

§ 51.202 Approval of HUD-assisted projects.

(a) The Department will not approve an application for assistance for a proposed project located at less than the acceptable separation distance from a hazard, as defined in § 51.201, unless appropriate mitigating measures, as defined in § 51.205, are implemented, or unless mitigating measures are already in place.

(b) In the case of all applications for proposed HUD-assisted projects, the Department shall evaluate projected development plans in the vicinity of these projects to determine whether

there are plans to install a hazardous operation in close proximity to the proposed project. If the evaluation shows that such a plan exists, the Department shall not approve assistance for the project unless the Department obtains satisfactory assurances that adequate mitigating measures will be taken when the hazardous operation is installed.

[49 FR 5103, Feb. 10, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

[▲ Back to Top](#)

§ 51.203 Safety standards.

The following standards shall be used in determining the acceptable separation distance of a proposed HUD-assisted project from a hazard:

(a) *Thermal Radiation Safety Standard.* Projects shall be located so that:

(1) The allowable thermal radiation flux level at the building shall not exceed 10,000 BTU/sq. ft. per hr.;

(2) The allowable thermal radiation flux level for outdoor, unprotected facilities or areas of congregation shall not exceed 450 BTU/sq. ft. per hour.

(b) *Blast Overpressure Safety Standard.* Projects shall be located so that the maximum allowable blast overpressure at both buildings and outdoor, unprotected facilities or areas shall not exceed 0.5 psi.

(c) If a hazardous substance constitutes both a thermal radiation and blast overpressure hazard, the ASD for each hazard shall be calculated, and the larger of the two ASDs shall be used to determine compliance with this subpart.

(d) Background information on the standards and the logarithmic thermal radiation and blast overpressure charts that provide assistance in determining acceptable separation distances are contained in appendix II to this subpart C.

[49 FR 5103, Feb. 10, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

[▲ Back to Top](#)

§ 51.204 HUD-assisted hazardous facilities.

In reviewing applications for proposed HUD-assisted projects involving the installation of hazardous facilities, the Department shall ensure that such hazardous facilities are located at an acceptable separation distance from residences and from any other facility or area where people

may congregate or be present. The mitigating measures listed in § 51.205 may be taken into account in determining compliance with this section.

[↑ Back to Top](#)

§ 51.205 Mitigating measures.

Application of the standards for determining an Acceptable Separation Distance (ASD) for a HUD-assisted project from a potential hazard of an explosion or fire prone nature is predicated on level topography with no intervening object(s) between the hazard and the project.

Application of the standards can be eliminated or modified if:

(a) The nature of the topography shields the proposed project from the hazard.

(b) An existing permanent fire resistant structure of adequate size and strength will shield the proposed project from the hazard.

(c) A barrier is constructed surrounding the hazard, at the site of the project, or in between the potential hazard and the proposed project.

(d) The structure and outdoor areas used by people are designed to withstand blast overpressure and thermal radiation anticipated from the potential hazard (e.g., the project is of masonry and steel or reinforced concrete and steel construction).

[↑ Back to Top](#)

§ 51.206 Implementation.

This subpart C shall be implemented for each proposed HUD-assisted project by the HUD approving official or responsible entity responsible for review of the project. The implementation procedure will be part of the environmental review process in accordance with the procedures set forth in 24 CFR parts 50 and 58.

[61 FR 13334, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.207 Special circumstances.

The Secretary or the Secretary's designee may, on a case-by-case basis, when circumstances warrant, require the application of this subpart C with respect to a substance not listed in appendix I to this subpart C that would create thermal or overpressure effect in excess of that listed in § 51.203.

[61 FR 13334, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.208 Reservation of administrative and legal rights.

Publication of these standards does not constitute a waiver of any right: (a) Of HUD to disapprove a project proposal if the siting is too close to a potential hazard not covered by this subpart, and (b) of HUD or any person or other entity to seek to abate or to collect damages occasioned by a nuisance, whether or not covered by the subpart.

[↑ Back to Top](#)

Appendix I to Subpart C of Part 51—Specific Hazardous Substances

The following is a list of specific petroleum products and chemicals defined to be hazardous substances under § 51.201.

HAZARDOUS LIQUIDS

Acetic Acid	Ethyl Benzene
Acetic Anhydride	Ethyl Dichloride
Acetone	Ethyl Ether
Acrylonitrile	Gasoline
Amyl Acetate	Heptane
Amyl Alcohol	Hexane
Benzene	Isobutyl Acetate
Butyl Acetate	Isobutyl Alcohol
Butyl Acrylate	Isopropyl Acetate
Butyl Alcohol	Isopropyl Alcohol
Carbon Bisulfide	Jet Fuel and Kerosene
Carbon Disulfide	Methyl Alcohol
Cellosolve	Methyl Amyl Alcohol
Cresols	Methyl Cellosolve
Crude Oil (Petroleum)	Methyl Ethyl Ketone
Cumene	Naptha
Cyclohexane	Pentane
No. 2 Diesel Fuel	Propylene Oxide
Ethyl Acetate	Toluene
Ethyl Acrylate	Vinyl Acetate
Ethyl Alcohol	Xylene

HAZARDOUS GASES

Acetaldehyde	Hydrogen
Butadiene	Liquefied Natural Gas (LNG)
Butane	Liquefied Petroleum Gas (LPG)
Ethene	Propane
Ethylene	Propylene
Ethylene Oxide	Vinyl Chloride

(Primary Source: “Urban Development Siting with respect to Hazardous Commercial/Industrial Facilities,” by Rolf Jensen and Associates, Inc., April 1982)

[49 FR 5105, Feb. 10, 1984; 49 FR 12214, Mar. 29, 1984]

[↑ Back to Top](#)

Appendix II to Subpart C of Part 51—Development of Standards; Calculation Methods

I. Background Information Concerning the Standards

(a) Thermal Radiation:

(1) *Introduction.* Flammable products stored in above ground containers represent a definite, potential threat to human life and structures in the event of fire. The resulting fireball emits thermal radiation which is absorbed by the surroundings. Combustible structures, such as wooden houses, may be ignited by the thermal radiation being emitted. The radiation can cause severe burn, injuries and even death to exposed persons some distance away from the site of the fire.

(2) *Criteria for Acceptable Separation Distance (ASD).* Wooden buildings, window drapes and trees generally ignite spontaneously when exposed for a relatively long period of time to thermal radiation levels of approximately 10,000 Btu/hr. sq. ft. It will take 15 to 20 minutes for a building to ignite at that degree of thermal intensity. Since the reasonable response time for fire fighting units in urbanized areas is approximately five to ten minutes, a standard of 10,000 BTU/hr. sq. ft. is considered an acceptable level of thermal radiation for buildings.

People in outdoor areas exposed to a thermal radiation flux level of approximately 1,500 Btu/ft² hr will suffer intolerable pain after 15 seconds. Longer exposure causes blistering, permanent skin damage, and even death. Since it is assumed that children and the elderly could not take refuge behind walls or run away from the thermal effect of the fire within the 15 seconds before skin blistering occurs, unprotected (outdoor) areas, such as playgrounds, parks, yards, school grounds, etc., must be placed at such a distance from potential fire locations so that the radiation flux level is well below 1500 Btu/ft² hr. An acceptable flux level, particularly for elderly people and children, is 450 Btu/ft² hr. The skin can be exposed to this degree of

thermal radiation for 3 minutes or longer with no serious detrimental effect. The result would be the same as a bad sunburn. Therefore, the standard for areas in which there will be exposed people, e.g. outdoor recreation areas such as playgrounds and parks, is set at 450 Btu/hr. sq. ft. Areas covered also include open space ancillary to residential structures, such as yard areas and vehicle parking areas.

(3) *Acceptable Separation Distance From a Potential Fire Hazard.* This is the actual setback required for the safety of occupied buildings and their inhabitants, and people in open spaces (exposed areas) from a potential fire hazard. The specific distance required for safety from such a hazard depends upon the nature and the volume of the substance. The Technical Guidebook entitled “Urban Development Siting With Respect to Hazardous/Commercial Industrial Facilities,” which supplements this regulation, contains the technical guidance required to compute Acceptable Separation Distances (ASD) for those flammable substances most often encountered.

(b) *Blast Overpressure:* The Acceptable Separation Distance (ASD) for people and structures from materials prone to explosion is dependent upon the resultant blast measured in pounds per square inch (psi) overpressure. It has been determined by the military and corroborated by two independent studies conducted for the Department of Housing and Urban Development that 0.5 psi is the acceptable level of blast overpressure for both buildings and occupants, because a frame structure can normally withstand that level of external exertion with no serious structural damage, and it is unlikely that human beings inside the building would normally suffer any serious injury. Using this as the safety standard for blast overpressure, nomographs have been developed from which an ASD can be determined for a given quantify of hazardous substance. These nomographs are contained in the handbook with detailed instructions on their use.

(c) *Hazard evaluation:* The Acceptable Separation Distances for buildings, which are determined for thermal radiation and blast overpressure, delineate separate identifiable danger zones for each potential accident source. For some materials the fire danger zone will have the greatest radius and cover the largest area, while for others the explosion danger zone will be the greatest. For example, conventional petroleum fuel products stored in unpressurized tanks do not emit blast overpressure of dangerous levels when ignited. In most cases, hazardous substances will be stored in pressurized containers. The resulting blast overpressure will be experienced at a greater distance than the resulting thermal radiation for the standards set in Section 51.203. In any event the hazard requiring the greatest separation distance will prevail in determining the location of HUD-assisted projects.

The standards developed for the protection of people and property are given in the following table.

	Thermal radiation	Blast overpressure
--	--------------------------	---------------------------

Amount of acceptable exposure allowed for building structures	10,000 BTU/ft ² hr	0.5 psi.
Amount of acceptable exposure allowed for people in open areas	450 BTU/ft ² hr	0.5 psi.

Problem Example

The following example is given as a guide to assist in understanding how the procedures are used to determine an acceptable separation distance. The technical data are found in the HUD Guidebook. Liquid propane is used in the example since it is both an explosion and a fire hazard.

In this hypothetical case a proposed housing project is to be located 850 feet from a 30,000 gallon liquid propane (LPG) tank. The objective is to determine the acceptable separation distance from the LPG tank. Since propane is both explosive and fire prone it will be necessary to determine the ASD for both explosion and for fire. The greatest of the two will govern. There is no dike around the tank in this example.

Nomographs from the technical Guidebook have been reproduced to facilitate the solving of the problem.

ASD For Explosion

Use Figure 1 to determine the acceptable separation distance for explosion.

The graph depicted on Figure 1 is predicated on a blast overpressure of 0.5 psi.

The ASD in feet can be determined by applying the quantity of the hazard (in gallons) to the graph.

In this case locate the 30,000 gallon point on the horizontal axis and draw a vertical line from that point to the intersection with the straight line curve. Then draw a horizontal line from the point where the lines cross to the left vertical axis where the ACCEPTABLE SEPARATION DISTANCE of 660 feet is found.

Therefore the ASD for explosion is 660 feet

Since the proposed project site is located 850 feet from the tank it is located at a safe distance with regards to blast overpressure.

ACCEPTABLE SEPARATION DISTANCE
BLAST OVERPRESSURE
(NO BLAST WAVELETS)
HAZARIOUS GAS CONTAINERS

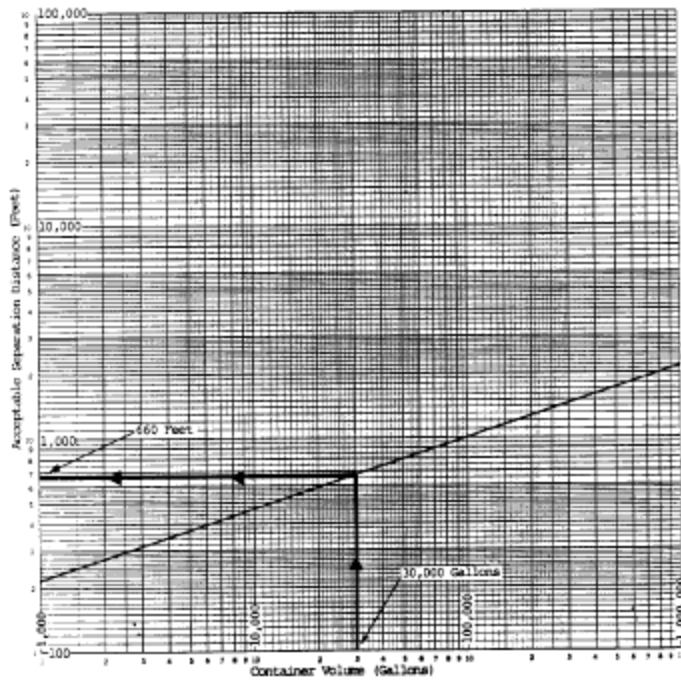


Figure 1

[View or download PDF](#)

ASD For Fire

To determine the ASD for fire it will be necessary to first find the fire width (diameter of the fireball) on Figure 2. Then apply this to Figure 3 to determine the ASD.

Since there are two safety standards for fire: (a) 10,000 BTU/ft² hr. for buildings; and (b) 450 BTU/ft² hr. for people in exposed areas, it will be necessary to determine an ASD for each.

To determine the fire width locate the 30,000 gallon point on the horizontal axis on *Figure 2* and draw a vertical line to the straight line curve. Then draw a horizontal line from the point where the lines cross to the left vertical axis where the FIRE WIDTH is found to be *350 feet*.

Now locate the 350 ft. point on the horizontal axis of *Figure 3* and draw a vertical line from that point to curves 1 and 2. Then draw horizontal lines from the points where the lines cross to the left vertical axis where the ACCEPTABLE SEPARATION DISTANCES of *240 feet* for buildings and *1,150 feet* for exposure to people is found.

Based on this the proposed project site is located at a safe distance from a potential fireball. However, exposed playgrounds or other exposed areas of congregation must be at least 1,150 feet from the tank, or be appropriately shielded from a potential fireball.

(Source: HUD Handbook, "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities.")

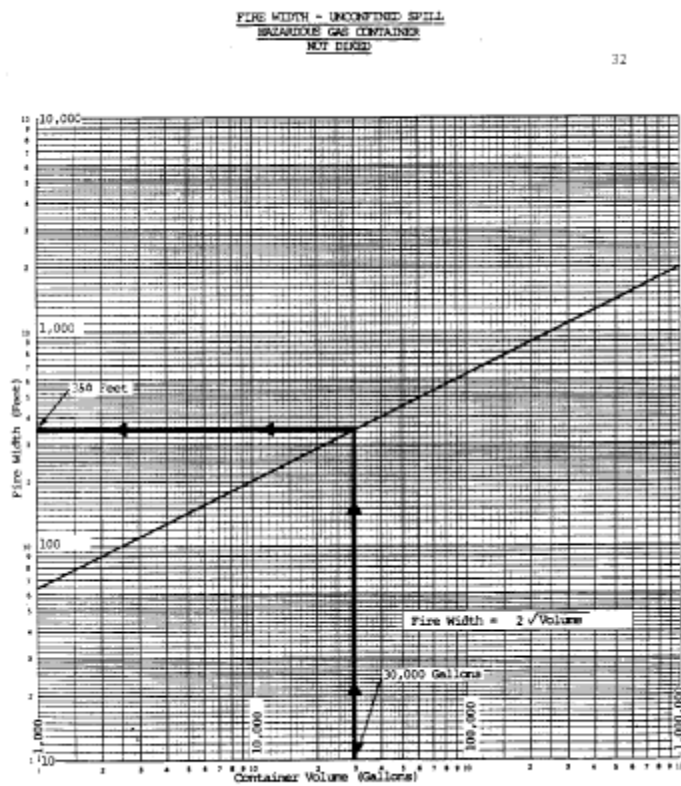


Figure 2

[View or download PDF](#)

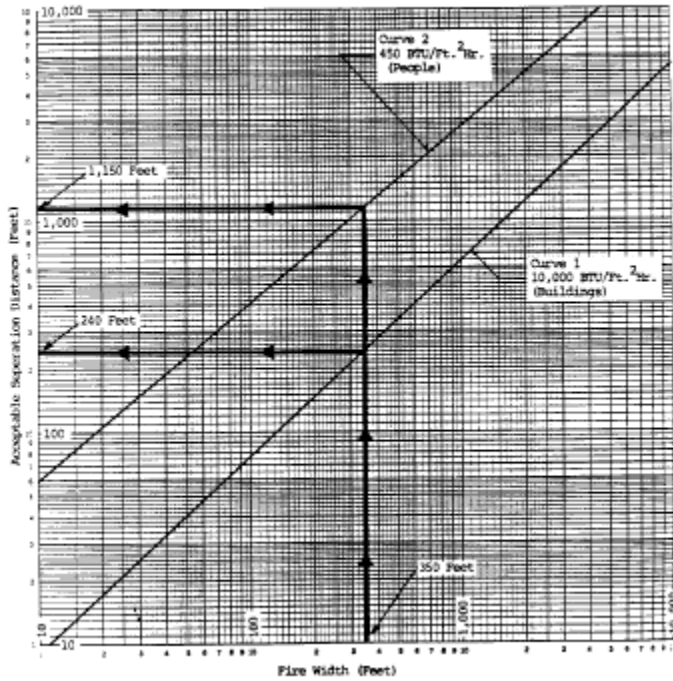


Figure 3

[View or download PDF](#)

[49 FR 5105, Feb. 10, 1984; 49 FR 12214, Mar. 29, 1984]

[Back to Top](#)

Subpart D—Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields

AUTHORITY: Sec. 2, Housing Act of 1949, as amended, 42 U.S.C. 1441, affirmed by sec. 2, HUD Act of 1969, Pub. L. 90-448; sec. 7(d), HUD Act of 1965, 42 U.S.C. 3535(d); OMB, Fed'l Mgmt. Cir. 75-2: Compatible Land Uses At Federal Airfields.

SOURCE: 49 FR 880, Jan. 6, 1984, unless otherwise noted.

[Back to Top](#)

§ 51.300 Purpose.

It is the purpose of this subpart to promote compatible land uses around civil airports and military airfields by identifying suitable land uses for Runway Clear Zones at civil airports and

Clear Zones and Accident Potential Zones at military airfields and by establishing them as standards for providing HUD assistance, subsidy or insurance.

[49 FR 880, Jan. 6, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.301 Definitions.

For the purposes of this regulation, the following definitions apply:

(a) *Accident Potential Zone.* An area at military airfields which is beyond the Clear Zone. The standards for the Accident Potential Zones are set out in Department of Defense Instruction 4165.57, "Air Installations Compatible Use Zones," November 8, 1977, 32 CFR part 256. There are no Accident Potential Zones at civil airports.

(b) *Airport Operator.* The civilian or military agency, group or individual which exercises control over the operations of the civil airport or military airfield.

(c) *Civil Airport.* An existing commercial service airport as designated in the National Plan of Integrated Airport Systems prepared by the Federal Aviation Administration in accordance with section 504 of the Airport and Airway Improvement Act of 1982.

(d) *Runway Clear Zones and Clear Zones.* Areas immediately beyond the ends of a runway. The standards for Runway Clear Zones for civil airports are established by FAA regulation 14 CFR part 152. The standards for Clear Zones for military airfields are established by DOD Instruction 4165.57, 32 CFR part 256.

[↑ Back to Top](#)

§ 51.302 Coverage.

(a) These policies apply to HUD programs which provide assistance, subsidy or insurance for construction, land development, community development or redevelopment or any other provision of facilities and services which are designed to make land available for construction. When the HUD assistance, subsidy or insurance is used to make land available for construction rather than for the actual construction, the provision of the HUD assistance, subsidy or insurance shall be dependent upon whether the facility to be built is itself acceptable in accordance with the standards in § 51.303.

(b) These policies apply not only to new construction but also to substantial or major modernization and rehabilitation and to any other program which significantly prolongs the physical or economic life of existing facilities or which, in the case of Accident Potential Zones:

(1) Changes the use of the facility so that it becomes one which is no longer acceptable in accordance with the standards contained in § 51.303(b);

(2) Significantly increases the density or number of people at the site; or

(3) Introduces explosive, flammable or toxic materials to the area.

(c) Except as noted in § 51.303(a)(3), these policies do not apply to HUD programs where the action only involves the purchase, sale or rental of an existing property without significantly prolonging the physical or economic life of the property.

(d) The policies do not apply to research or demonstration projects which do not result in new construction or reconstruction, to interstate land sales registration, or to any action or emergency assistance which is provided to save lives, protect property, protect public health and safety, or remove debris and wreckage.

[49 FR 880, Jan. 6, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

[↑](#) Back to Top

§ 51.303 General policy.

It is HUD's general policy to apply standards to prevent incompatible development around civil airports and military airfields.

(a) HUD policy for actions in Runway Clear Zones and Clear Zones.

(1) HUD policy is not to provide any assistance, subsidy or insurance for projects and actions covered by this part except as stated in § 51.303(a)(2) below.

(2) If a project proposed for HUD assistance, subsidy or insurance is one which will not be frequently used or occupied by people, HUD policy is to provide assistance, subsidy or insurance only when written assurances are provided to HUD by the airport operator to the effect that there are no plans to purchase the land involved with such facilities as part of a Runway Clear Zone or Clear Zone acquisition program.

(3) Special notification requirements for Runway Clear Zones and Clear Zones. In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, HUD (or the responsible entity or recipient under 24 CFR part 58) shall advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

(b) HUD policy for actions in Accident Potential Zones at Military Airfields. HUD policy is to discourage the provision of any assistance, subsidy or insurance for projects and actions in the Accident Potential Zones. To be approved, projects must be generally consistent with the recommendations in the *Land Use Compatibility Guidelines For Accident Potential Zones* chart contained in DOD Instruction 4165.57, 32 CFR part 256.

[49 FR 880, Jan. 6, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.304 Responsibilities.

(a) The following persons have the authority to approve actions in Accident Potential Zones:

(1) For programs subject to environmental review under 24 CFR part 58: the Certifying Officer of the responsible entity as defined in 24 CFR part 58.

(2) For all other HUD programs: the HUD approving official having approval authority for the project.

(b) The following persons have the authority to approve actions in Runway Clear Zones and Clear Zones:

(1) For programs subject to environmental review under 24 CFR part 58: The Certifying Officer of the responsible entity as defined in 24 CFR part 58.

(2) For all other HUD programs: the Program Assistant Secretary.

[61 FR 13335, Mar. 26, 1996]

[↑ Back to Top](#)

§ 51.305 Implementation.

(a) Projects already approved for assistance. This regulation does not apply to any project approved for assistance prior to the effective date of the regulation whether the project was actually under construction at that date or not.

(b) Acceptable data on Runway Clear Zones, Clear Zones and Accident Potential Zones. The only Runway Clear Zones, Clear Zones and Accident Potential Zones which will be recognized in applying this part are those provided by the airport operators and which for civil airports are defined in accordance with FAA regulations 14 CFR part 152 or for military airfields, DOD Instruction 4165.57, 32 CFR part 256. All data, including changes, related to the

dimensions of Runway Clear Zones for civil airports shall be verified with the nearest FAA Airports District Office before use by HUD.

(c) Changes in Runway Clear Zones, Clear Zones, and Accident Potential Zones. If changes in the Runway Clear Zones, Clear Zones or Accident Potential Zones are made, the field offices shall immediately adopt these revised zones for use in reviewing proposed projects.

(d) The decision to approve projects in the Runway Clear Zones, Clear Zones and Accident Potential Zones must be documented as part of the environmental assessment or, when no assessment is required, as part of the project file.

[↑ Back to Top](#)

For questions or comments regarding e-CFR editorial content, features, or design, email ecfr@nara.gov.

For questions concerning e-CFR programming and delivery issues, email webteam@gpo.gov.

Subpart A—General

§55.1 Purpose and basic responsibility.

§55.2 Terminology.

§55.3 Assignment of responsibilities.

Subpart B—Application of Executive Orders on Floodplain Management and Protection of Wetlands

§55.10 Environmental review procedures under 24 CFR parts 50 and 58.

§55.11 Applicability of Subpart C decisionmaking process.

§55.12 Inapplicability of 24 CFR part 55 to certain categories of proposed actions.

Subpart C—Procedures for Making Determinations on Floodplain Management and Protection of Wetlands

§55.20 Decision making process.

§55.21 Notification of floodplain hazard.

§55.22 Conveyance restrictions for the disposition of multifamily real property.

§55.23 [Reserved]

§55.24 Aggregation.

§55.25 Areawide compliance.

§55.26 Adoption of another agency's review under the executive orders.

§55.27 Documentation.

§55.28 Use of individual permits under section 404 of the Clean Water Act for HUD Executive Order 11990 processing where all wetlands are covered by the permit.

AUTHORITY: 42 U.S.C. 3535(d), 4001-4128 and 5154a; E.O. 11988, 42 FR 26951, 3 CFR, 1977 Comp., p. 117; E.O. 11990, 42 FR 26961, 3 CFR, 1977 Comp., p 121.

SOURCE: 59 FR 19107, Apr. 21, 1994, unless otherwise noted.

[↑ Back to Top](#)

Subpart A—General

[↑ Back to Top](#)

§55.1 Purpose and basic responsibility.

(a)(1) The purpose of Executive Order 11988, Floodplain Management, is “to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.”

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

(3) This part implements the requirements of Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, and employs the principles of the Unified National Program for Floodplain Management. These regulations apply to all HUD (or responsible entity) actions that are subject to potential harm by location in floodplains or wetlands. Covered actions include the proposed acquisition, construction, demolition, improvement, disposition, financing, and use of properties located in floodplains or wetlands for which approval is required either from HUD, under any applicable HUD program, or from a responsible entity authorized by 24 CFR part 58.

(4) This part does not prohibit approval of such actions (except for certain actions in Coastal High Hazard Areas), but provides a consistent means for implementing the Department's interpretation of the Executive Orders in the project approval decisionmaking processes of HUD and of responsible entities subject to 24 CFR part 58. The implementation of Executive Orders 11988 and 11990 under this part shall be conducted by HUD for Department-administered programs subject to environmental review under 24 CFR part 50 and by authorized responsible entities that are responsible for environmental review under 24 CFR part 58.

(5) Nonstructural alternatives to floodplain development and the destruction of wetlands are both favored and encouraged to reduce the loss of life and property caused by floods, and to restore the natural resources and functions of floodplains and wetlands. Nonstructural alternatives should be discussed in the decisionmaking process where practicable.

(b)(1) Under section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), proposed HUD financial assistance (including mortgage insurance) for acquisition or construction purposes in any “area having special flood hazards” (a flood zone designated by the Federal Emergency Management Agency (FEMA)) shall not be approved in communities identified by FEMA as eligible for flood insurance but which are not participating in the National Flood Insurance Program. This prohibition only applies to proposed HUD financial assistance in a FEMA-designated area of special flood hazard one year after the community has been formally notified by FEMA of the designation of the affected area. This prohibition is not applicable to HUD financial assistance in the form of formula grants to states, including financial assistance under the State-administered CDBG Program (24 CFR part 570, subpart I) and the State-administered Rental Rehabilitation Program (24 CFR 511.51), Emergency Shelter Grant amounts allocated to States (24 CFR parts 575 and 576), and HOME funds provided to a state under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701-12839).

(2) Under section 582 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 5154a), HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration of damage to any personal, residential, or commercial property if:

(i) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

(ii) The person failed to obtain and maintain the flood insurance.

(c) Except with respect to actions listed in §55.12(c), no HUD financial assistance (including mortgage insurance) may be approved after May 23, 1994 with respect to:

(1) Any action other than a functionally dependent use or floodplain function restoration activity, located in a floodway;

(2) Any critical action located in a coastal high hazard area; or

(3) Any noncritical action located in a Coastal High Hazard Area, unless the action is a functionally dependent use, existing construction (including improvements), or reconstruction following destruction caused by a disaster. If the action is not a functionally dependent use, the action must be designed for location in a Coastal High Hazard Area. An action will be considered designed for a Coastal High Hazard Area if:

(i) In the case of reconstruction following destruction caused by a disaster or substantial improvement, the work meets the current standards for V zones in FEMA regulations (44 CFR 60.3(e)) and, if applicable, the Minimum Property Standards for such construction in 24 CFR 200.926d(c)(4)(iii); or

(ii) In the case of existing construction (including any minor improvements):

(A) The work met FEMA elevation and construction standards for a coastal high hazard area (or if such a zone or such standards were not designated, the 100-year floodplain) applicable at the time the original improvements were constructed; or

(B) If the original improvements were constructed before FEMA standards for the 100-year floodplain became effective or before FEMA designated the location of the action as within the 100-year floodplain, the work would meet at least the earliest FEMA standards for construction in the 100-year floodplain.

[61 FR 50916, Sept. 27, 1996, as amended at 78 FR 68728, Nov. 15, 2013]

[↑ Back to Top](#)

§55.2 Terminology.

(a) With the exception of those terms defined in paragraph (b) of this section, the terms used in this part shall follow the definitions contained in section 6 of Executive Order 11988, section 7 of Executive Order 11990, and the Floodplain Management Guidelines for Implementing Executive Order 11988 (43 FR 6030, February 10, 1978), issued by the Water Resources Council; the terms “special flood hazard area,” “criteria,” and “Regular Program” shall follow

the definitions contained in FEMA regulations at 44 CFR 59.1; and the terms “Letter of Map Revision” and “Letter of Map Amendment” shall refer to letters issued by FEMA, as provided in 44 CFR part 65 and 44 CFR part 70, respectively.

(b) For purposes of this part, the following definitions apply:

(1) *Coastal high hazard area* means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) under FEMA regulations. FIRMs and FISs are also relied upon for the designation of “100-year floodplains” (§55.2(b)(9)), “500-year floodplains” (§55.2(b)(4)), and “floodways” (§55.2(b)(5)). When FEMA provides interim flood hazard data, such as Advisory Base Flood Elevations (ABFE) or preliminary maps and studies, HUD or the responsible entity shall use the latest of these sources. If FEMA information is unavailable or insufficiently detailed, other Federal, state, or local data may be used as “best available information” in accordance with Executive Order 11988. However, a base flood elevation from an interim or preliminary or non-FEMA source cannot be used if it is lower than the current FIRM and FIS.

(2) *Compensatory mitigation* means the restoration (reestablishment or rehabilitation), establishment (creation), enhancement, and/or, in certain circumstances, preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

Examples include, but are not limited to:

(i) *Permittee-responsible mitigation*: On-site or off-site mitigation undertaken by the holder of a wetlands permit under section 404 of the Clean Water Act (or an authorized agent or contractor), for which the permittee retains full responsibility;

(ii) *Mitigation banking*: A permittee's purchase of credits from a wetlands mitigation bank, comprising wetlands that have been set aside to compensate for conversions of other wetlands; the mitigation obligation is transferred to the sponsor of the mitigation bank; and

(iii) *In-lieu fee mitigation*: A permittee's provision of funds to an in-lieu fee sponsor (public agency or nonprofit organization) that builds and maintains a mitigation site, often after the permitted adverse wetland impacts have occurred; the mitigation obligation is transferred to the in-lieu fee sponsor.

(3)(i) *Critical action* means any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that:

(A) Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;

(B) Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas); or

(C) Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action.

(ii) Critical actions shall not be approved in floodways or coastal high hazard areas.

(4) *500-year floodplain* means the minimum floodplain of concern for Critical Actions and is the area subject to inundation from a flood having a 0.2 percent chance of occurring in any given year. (See §55.2(b)(1) for appropriate data sources.)

(5) *Floodway* means that portion of the floodplain which is effective in carrying flow, where the flood hazard is generally the greatest, and where water depths and velocities are the highest. The term “floodway” as used here is consistent with “regulatory floodways” as identified by FEMA. (See §55.2(b)(1) for appropriate data sources.)

(6) *Functionally dependent use* means a land use that must necessarily be conducted in close proximity to water (e.g., a dam, marina, port facility, water-front park, and many types of bridges).

(7) *High hazard area* means a floodway or a coastal high hazard area.

(8) *New construction* includes draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun after the effective date of Executive Order 11990. (See section 7(b) of Executive Order 11990.)

(9) *100-year floodplain* means the floodplain of concern for this part and is the area subject to inundation from a flood having a one percent or greater chance of being equaled or exceeded in any given year. (See §55.2(b)(1) for appropriate data sources.)

(10)(i) *Substantial improvement* means either:

(A) Any repair, reconstruction, modernization or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged, and is being restored, before the damage occurred; or

(B) Any repair, reconstruction, modernization or improvement of a structure that results in an increase of more than twenty percent in the number of dwelling units in a residential project

or in the average peak number of customers and employees likely to be on-site at any one time for a commercial or industrial project.

(ii) *Substantial improvement* may not be defined to include either:

(A) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that is solely necessary to assure safe living conditions, or

(B) Any alteration of a structure listed on the National Register of Historical Places or on a State Inventory of Historic Places.

(iii) Structural repairs, reconstruction, or improvements not meeting this definition are considered “minor improvements”.

(11) *Wetlands* means those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds. This definition includes those wetland areas separated from their natural supply of water as a result of activities such as the construction of structural flood protection methods or solid-fill road beds and activities such as mineral extraction and navigation improvements. This definition includes both wetlands subject to and those not subject to section 404 of the Clean Water Act as well as constructed wetlands. The following process shall be followed in making the wetlands determination:

(i) HUD or, for programs subject to 24 CFR part 58, the responsible entity, shall make a determination whether the action is new construction that is located in a wetland. These actions are subject to processing under the §55.20 decisionmaking process for the protection of wetlands.

(ii) As primary screening, HUD or the responsible entity shall verify whether the project area is located in proximity to wetlands identified on the National Wetlands Inventory (NWI). If so, HUD or the responsible entity should make a reasonable attempt to consult with the Department of the Interior, Fish and Wildlife Service (FWS), for information concerning the location, boundaries, scale, and classification of wetlands within the area. If an NWI map indicates the presence of wetlands, FWS staff, if available, must find that no wetland is present in order for the action to proceed without further processing. Where FWS staff is unavailable to resolve any NWI map ambiguity or controversy, an appropriate wetlands professional must find that no wetland is present in order for the action to proceed without §55.20 processing.

(iii) As secondary screening used in conjunction with NWI maps, HUD or the responsible entity is encouraged to use the Department of Agriculture, Natural Resources Conservation Service (NRCS) National Soil Survey (NSS) and any state and local information concerning the location, boundaries, scale, and classification of wetlands within the action area.

(iv) Any challenges from the public or other interested parties to the wetlands determinations made under this part must be made in writing to HUD (or the responsible entity authorized under 24 CFR part 58) during the commenting period and must be substantiated with verifiable scientific information. Commenters may request a reasonable extension of the time for the commenting period for the purpose of substantiating any objections with verifiable scientific information. HUD or the responsible entity shall consult FWS staff, if available, on the validity of the challenger's scientific information prior to making a final wetlands determination.

[61 FR 50916, Sept. 27, 1996, as amended at 78 FR 68729, Nov. 15, 2013]

[↑ Back to Top](#)

§55.3 Assignment of responsibilities.

(a)(1) *The Assistant Secretary for Community Planning and Development (CPD)* shall oversee:

(i) The Department's implementation of Executive Orders 11988 and 11990 and this part in all HUD programs; and

(ii) The implementation activities of HUD program managers and, for HUD financial assistance subject to 24 CFR part 58, of grant recipients and responsible entities.

(2) In performing these responsibilities, the Assistant Secretary for CPD shall make pertinent policy determinations in cooperation with appropriate program offices and provide necessary assistance, training, publications, and procedural guidance.

(b) *Other HUD Assistant Secretaries, the General Counsel, and the President of the Government National Mortgage Association (GNMA)* shall:

(1) Ensure compliance with this part for all actions under their jurisdiction that are proposed to be conducted, supported, or permitted in a floodplain or wetland;

(2) Ensure that actions approved by HUD or responsible entities are monitored and that any prescribed mitigation is implemented;

(3) Ensure that the offices under their jurisdiction have the technical resources to implement the requirements of this part; and

(4) Incorporate in departmental regulations, handbooks, and project and site standards those criteria, standards, and procedures necessary to comply with the requirements of this part.

(c) *Responsible Entity Certifying Officer.* Certifying Officers of responsible entities administering or reviewing activities subject to 24 CFR part 58 shall comply with this part in carrying out HUD-assisted programs. Certifying Officers of responsible entities subject to 24

CFR part 58 shall monitor approved actions and ensure that any prescribed mitigation is implemented.

(d) *Recipient*. Recipients subject to 24 CFR part 58 shall monitor approved actions and ensure that any prescribed mitigation is implemented. Recipients shall:

(1) Supply HUD (or the responsible entity authorized by 24 CFR part 58) with all available, relevant information necessary for HUD (or the responsible entity) to perform the compliance required by this part; and

(2) Implement mitigating measures required by HUD (or the responsible entity authorized by 24 CFR part 58) under this part or select alternate eligible property.

[61 FR 50916, Sept. 27, 1996, as amended at 78 FR 68730, Nov. 15, 2013]

[↑ Back to Top](#)

Subpart B—Application of Executive Orders on Floodplain Management and Protection of Wetlands

[↑ Back to Top](#)

§55.10 Environmental review procedures under 24 CFR parts 50 and 58.

(a) Where an environmental review is required under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), and 24 CFR part 50 or part 58, compliance with this part shall be completed before the completion of an environmental assessment (EA), including a finding of no significant impact (FONSI), or an environmental impact statement (EIS), in accordance with the decision points listed in 24 CFR 50.17(a) through (h), or before the preparation of an EA under 24 CFR 58.40 or an EIS under 24 CFR 58.37. For types of proposed actions that are categorically excluded from NEPA requirements under 24 CFR part 50 (or part 58), compliance with this part shall be completed before the Department's initial approval (or approval by a responsible entity authorized by 24 CFR part 58) of proposed actions in a floodplain or wetland.

(b) The categorical exclusion of certain proposed actions from environmental review requirements under NEPA and 24 CFR parts 50 and 58 (see 24 CFR 50.20 and 58.35(a)) does not exclude those actions from compliance with this part.

[78 FR 68730, Nov. 15, 2013]

[↑ Back to Top](#)

§55.11 Applicability of Subpart C decisionmaking process.

(a) Before reaching the decision points described in §55.10(a), HUD (for Department-administered programs) or the responsible entity (for HUD financial assistance subject to 24 CFR part 58) shall determine whether Executive Order 11988, Executive Order 11990, and this part apply to the proposed action.

(b) If Executive Order 11988 or Executive Order 11990 and this part apply, the approval of a proposed action or initial commitment shall be made in accordance with this part. The primary purpose of Executive Order 11988 is “to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” The primary purpose of Executive Order 11990 is “to avoid to the extent possible the long and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.”

(c) The following table indicates the applicability, by location and type of action, of the decisionmaking process for implementing Executive Order 11988 and Executive Order 11990 under subpart C of this part.

TABLE 1

Type of proposed action (new reviewable action or an amendment) ¹	Type of proposed action			
	Floodways	Coastal high hazard areas	Wetlands or 100-year floodplain outside coastal high hazard area and floodways	Nonwetlands area outside of the 100-year and within the 500-year floodplain
Critical Actions as defined in §55.12(b)(2)	Critical actions not allowed.	Critical actions not allowed.	Allowed if the proposed critical action is processed under §55.20. ²	Allowed if the proposed critical action is processed under §55.20. ²
Noncritical actions not excluded under §55.12(b) or (c)	Allowed only if the proposed non-critical action is a functionally dependent use	Allowed only if the proposed noncritical action is processed under §55.20 ² and is (1) a functionally dependent use, (2) existing construction (including improvements), or	Allowed if proposed noncritical action is processed	Any noncritical action is allowed without processing under this part.

	and processed under §55.20. ²	(3) reconstruction following destruction caused by a disaster. If the action is not a functionally dependent use, the action must be designed for location in a Coastal High Hazard Area under §55.1(c)(3)	under §55.20. ²	
--	--	--	----------------------------	--

¹Under Executive Order 11990, the decisionmaking process in §55.20 only applies to Federal assistance for new construction in wetlands locations.

²Or those paragraphs of §55.20 that are applicable to an action listed in §55.12(a).

[78 FR 68730, Nov. 15, 2013]

[↑ Back to Top](#)

§55.12 Inapplicability of 24 CFR part 55 to certain categories of proposed actions.

(a) The decisionmaking steps in §55.20(b), (c), and (g) (steps 2, 3, and 7) do not apply to the following categories of proposed actions:

(1) HUD's or the recipient's actions involving the disposition of acquired multifamily housing projects or “bulk sales” of HUD-acquired (or under part 58 of recipients') one- to four-family properties in communities that are in the Regular Program of National Flood Insurance Program and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24). For programs subject to part 58, this paragraph applies only to recipients' disposition activities that are subject to review under part 58.

(2) HUD's actions under the National Housing Act (12 U.S.C. 1701) for the purchase or refinancing of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, and intermediate care facilities, in communities that are in good standing under the NFIP.

(3) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, intermediate care facilities, and one- to four-family properties, in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, the action does not meet the thresholds for “substantial improvement” under §55.2(b)(10), and the footprint of the structure and paved areas is not significantly increased.

(4) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing nonresidential buildings and structures, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the action does not meet the thresholds for “substantial improvement” under §55.2(b)(10) and that the footprint of the structure and paved areas is not significantly increased.

(b) The decisionmaking process in §55.20 shall not apply to the following categories of proposed actions:

(1) HUD's mortgage insurance actions and other financial assistance for the purchasing, mortgaging or refinancing of existing one- to four-family properties in communities that are in the Regular Program of the NFIP and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24), where the action is not a critical action and the property is not located in a floodway or Coastal High Hazard Area;

(2) Financial assistance for minor repairs or improvements on one- to four-family properties that do not meet the thresholds for “substantial improvement” under §55.2(b)(10);

(3) HUD or a recipient's actions involving the disposition of individual HUD-acquired, one- to four-family properties;

(4) HUD guarantees under the Loan Guarantee Recovery Fund Program (24 CFR part 573) of loans that refinance existing loans and mortgages, where any new construction or rehabilitation financed by the existing loan or mortgage has been completed prior to the filing of an application under the program, and the refinancing will not allow further construction or rehabilitation, nor result in any physical impacts or changes except for routine maintenance; and

(5) The approval of financial assistance to lease an existing structure located within the floodplain, but only if;

(i) The structure is located outside the floodway or Coastal High Hazard Area, and is in a community that is in the Regular Program of the NFIP and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24);

(ii) The project is not a critical action; and

(iii) The entire structure is or will be fully insured or insured to the maximum under the NFIP for at least the term of the lease.

(c) This part shall not apply to the following categories of proposed HUD actions:

(1) HUD-assisted activities described in 24 CFR 58.34 and 58.35(b);

(2) HUD-assisted activities described in 24 CFR 50.19, except as otherwise indicated in §50.19;

(3) The approval of financial assistance for restoring and preserving the natural and beneficial functions and values of floodplains and wetlands, including through acquisition of such floodplain and wetland property, but only if:

(i) The property is cleared of all existing structures and related improvements;

(ii) The property is dedicated for permanent use for flood control, wetland protection, park land, or open space; and

(iii) A permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland from future development.

(4) An action involving a repossession, receivership, foreclosure, or similar acquisition of property to protect or enforce HUD's financial interests under previously approved loans, grants, mortgage insurance, or other HUD assistance;

(5) Policy-level actions described at 24 CFR 50.16 that do not involve site-based decisions;

(6) A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain or wetland;

(7) HUD's or the responsible entity's approval of a project site, an incidental portion of which is situated in an adjacent floodplain, including the floodway or Coastal High Hazard Area, or wetland, but only if:

(i) The proposed construction and landscaping activities (except for minor grubbing, clearing of debris, pruning, sodding, seeding, or other similar activities) do not occupy or modify the 100-year floodplain (or the 500-year floodplain for critical actions) or the wetland;

(ii) Appropriate provision is made for site drainage that would not have an adverse effect on the wetland; and

(iii) A permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland;

(8) HUD's or the responsible entity's approval of financial assistance for a project on any nonwetland site in a floodplain for which FEMA has issued:

(i) A final Letter of Map Amendment (LOMA), final Letter of Map Revision (LOMR), or final Letter of Map Revision Based on Fill (LOMR-F) that removed the property from a FEMA-designated floodplain location; or

(ii) A conditional LOMA, conditional LOMR, or conditional LOMR-F if HUD or the responsible entity's approval is subject to the requirements and conditions of the conditional LOMA or conditional LOMR;

(9) Issuance or use of Housing Vouchers, Certificates under the Section 8 Existing Housing Program, or other forms of rental subsidy where HUD, the awarding community, or the public housing agency that administers the contract awards rental subsidies that are not project-based (i.e., do not involve site-specific subsidies);

(10) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities;

(11) The approval of financial assistance for acquisition, leasing, construction, rehabilitation, repair, maintenance, or operation of ships and other waterborne vessels that will be used for transportation or cruises and will not be permanently moored.

[78 FR 68731, Nov. 15, 2013; 78 FR 74009, Dec. 10, 2013]

[↑ Back to Top](#)

Subpart C—Procedures for Making Determinations on Floodplain Management and Protection of Wetlands

[↑ Back to Top](#)

§55.20 Decision making process.

Except for actions covered by §55.12(a), the decisionmaking process for compliance with this part contains eight steps, including public notices and an examination of practicable alternatives when addressing floodplains and wetlands. The steps to be followed in the decisionmaking process are as follows:

(a) *Step 1.* Determine whether the proposed action is located in the 100-year floodplain (500-year floodplain for critical actions) or results in new construction in a wetland. If the action does not occur in a floodplain or result in new construction in a wetland, then no further compliance with this part is required. The following process shall be followed by HUD (or the responsible entity) in making wetland determinations.

(1) Refer to §55.28(a) where an applicant has submitted with its application to HUD (or to the recipient under programs subject to 24 CFR part 58) an individual Section 404 permit (including approval conditions and related environmental review).

(2) Refer to §55.2(b)(11) for making wetland determinations under this part.

(3) For proposed actions occurring in both a wetland and a floodplain, completion of the decisionmaking process under §55.20 is required regardless of the issuance of a Section 404 permit. In such a case, the wetland will be considered among the primary natural and beneficial functions and values of the floodplain.

(b) *Step 2.* Notify the public and agencies responsible for floodplain management or wetlands protection at the earliest possible time of a proposal to consider an action in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or wetland and involve the affected and interested public and agencies in the decisionmaking process.

(1) The public notices required by paragraphs (b) and (g) of this section may be combined with other project notices wherever appropriate. Notices required under this part must be bilingual if the affected public is largely non-English speaking. In addition, all notices must be published in an appropriate local printed news medium, and must be sent to federal, state, and local public agencies, organizations, and, where not otherwise covered, individuals known to be interested in the proposed action.

(2) A minimum of 15 calendar days shall be allowed for comment on the public notice.

(3) A notice under this paragraph shall state: The name, proposed location, and description of the activity; the total number of acres of floodplain or wetland involved; the related natural and beneficial functions and values of the floodplain or wetland that may be adversely affected by the proposed activity; the HUD approving official (or the Certifying Officer of the responsible entity authorized by 24 CFR part 58); and the phone number to call for information. The notice shall indicate the hours of HUD or the responsible entity's office, and any Web site at which a full description of the proposed action may be reviewed.

(c) *Step 3.* Identify and evaluate practicable alternatives to locating the proposed action in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or wetland.

(1) Except as provided in paragraph (c)(3) of this section, HUD's or the responsible entity's consideration of practicable alternatives to the proposed site selected for a project should include:

(i) Locations outside and not affecting the 100-year floodplain (or the 500-year floodplain for a Critical Action) or wetland;

(ii) Alternative methods to serve the identical project objective, including feasible technological alternatives; and

(iii) A determination not to approve any action proposing the occupancy or modification of a floodplain or wetland.

(2) Practicability of alternative sites should be addressed in light of the following:

(i) Natural values such as topography, habitat, and hazards;

(ii) Social values such as aesthetics, historic and cultural values, land use patterns, and environmental justice; and

(iii) Economic values such as the cost of space, construction, services, and relocation.

(3) For multifamily projects involving HUD mortgage insurance that are initiated by third parties, HUD's consideration of practicable alternatives should include a determination not to approve the request.

(d) *Step 4.* Identify and evaluate the potential direct and indirect impacts associated with the occupancy or modification of the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action.

(1) *Floodplain evaluation:* The focus of the floodplain evaluation should be on adverse impacts to lives and property, and on natural and beneficial floodplain values. Natural and beneficial values include:

(i) Water resources such as natural moderation of floods, water quality maintenance, and groundwater recharge;

(ii) Living resources such as flora and fauna;

(iii) Cultural resources such as archaeological, historic, and recreational aspects; and

(iv) Agricultural, aquacultural, and forestry resources.

(2) *Wetland evaluation:* In accordance with Section 5 of Executive Order 11990, the decisionmaker shall consider factors relevant to a proposal's effect on the survival and quality of the wetland. Among these factors that should be evaluated are:

(i) Public health, safety, and welfare, including water supply, quality, recharge, and discharge; pollution; flood and storm hazards and hazard protection; and sediment and erosion;

(ii) Maintenance of natural systems, including conservation and long-term productivity of existing flora and fauna; species and habitat diversity and stability; natural hydrologic function; wetland type; fish; wildlife; timber; and food and fiber resources;

(iii) Cost increases attributed to wetland-required new construction and mitigation measures to minimize harm to wetlands that may result from such use; and

(iv) Other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

(e) *Step 5.* Where practicable, design or modify the proposed action to minimize the potential adverse impacts to and from the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland and to restore and preserve its natural and beneficial functions and values.

(1) Minimization techniques for floodplain and wetland purposes include, but are not limited to: the use of permeable surfaces, natural landscape enhancements that maintain or restore natural hydrology through infiltration, native plant species, bioswales, evapotranspiration, stormwater capture and reuse, green or vegetative roofs with drainage provisions, and Natural Resource Conservation Service conservation easements. Floodproofing and elevating structures, including freeboard above the required base flood elevations, are also minimization techniques for floodplain purposes.

(2) Appropriate and practicable compensatory mitigation is recommended for unavoidable adverse impacts to more than one acre of wetland. Compensatory mitigation includes, but is not limited to: permittee-responsible mitigation, mitigation banking, in-lieu fee mitigation, the use of preservation easements or protective covenants, and any form of mitigation promoted by state or Federal agencies. The use of compensatory mitigation may not substitute for the requirement to avoid and minimize impacts to the maximum extent practicable.

(3) Actions covered by §55.12(a) must be rejected if the proposed minimization is financially or physically unworkable. All critical actions in the 500-year floodplain shall be designed and built at or above the 100-year floodplain (in the case of new construction) and modified to include:

- (i) Preparation of and participation in an early warning system;
 - (ii) An emergency evacuation and relocation plan;
 - (iii) Identification of evacuation route(s) out of the 500-year floodplain; and
 - (iv) Identification marks of past or estimated flood levels on all structures.
- (f) *Step 6.* Reevaluate the proposed action to determine:

(1) Whether the action is still practicable in light of exposure to flood hazards in the floodplain or wetland, possible adverse impacts on the floodplain or wetland, the extent to which it will aggravate the current hazards to other floodplains or wetlands, and the potential to disrupt the natural and beneficial functions and values of floodplains or wetlands; and

(2) Whether alternatives preliminarily rejected at Step 3 (paragraph (c)) of this section are practicable in light of information gained in Steps 4 and 5 (paragraphs (d) and (e)) of this section.

(i) The reevaluation of alternatives shall include the potential impacts avoided or caused inside and outside the floodplain or wetland area. The impacts should include the protection of human life, real property, and the natural and beneficial functions and values served by the floodplain or wetland.

(ii) A reevaluation of alternatives under this step should include a discussion of economic costs. For floodplains, the cost estimates should include savings or the costs of flood insurance, where applicable; flood proofing; replacement of services or functions of critical actions that

might be lost; and elevation to at least the base flood elevation for sites located in floodplains, as appropriate on the applicable source under §55.2(b)(1). For wetlands, the cost estimates should include the cost of filling the wetlands and mitigation.

(g) *Step 7.* (1) If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the 100-year floodplain (or the 500-year floodplain for a Critical Action) or the wetland, publish a final notice that includes:

(i) The reasons why the proposal must be located in the floodplain or wetland;

(ii) A list of the alternatives considered in accordance with paragraphs(c)(1) and (c)(2) of this section; and

(iii) All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial functions and values.

(2) In addition, the public notice procedures of §55.20(b)(1) shall be followed, and a minimum of 7 calendar days for public comment before approval of the proposed action shall be provided.

(h) *Step 8.* Upon completion of the decisionmaking process in Steps 1 through 7, implement the proposed action. There is a continuing responsibility on HUD (or on the responsible entity authorized by 24 CFR part 58) and the recipient (if other than the responsible entity) to ensure that the mitigating measures identified in Step 7 are implemented.

[61 FR 50916, Sept. 27, 1996, as amended at 78 FR 68732, Nov. 15, 2013]

[↑ Back to Top](#)

§55.21 Notification of floodplain hazard.

For HUD programs under which a financial transaction for a property located in a floodplain (a 500-year floodplain for a Critical Action) is guaranteed, approved, regulated or insured, any private party participating in the transaction and any current or prospective tenant shall be informed by HUD (or by HUD's designee, e.g., a mortgagor) or a responsible entity subject to 24 CFR part 58 of the hazards of the floodplain location before the execution of documents completing the transaction.

[61 FR 50916, Sept. 27, 1996, as amended at 78 FR 68734, Nov. 15, 2013]

[↑ Back to Top](#)

§55.22 Conveyance restrictions for the disposition of multifamily real property.

(a) In the disposition (including leasing) of multifamily properties acquired by HUD that are located in a floodplain (a 500-year floodplain for a Critical Action), the documents used for the

conveyance must: (1) Refer to those uses that are restricted under identified federal, state, or local floodplain regulations; and

(2) Include any land use restrictions limiting the use of the property by a grantee or purchaser and any successors under state or local laws.

(b)(1) For disposition of multifamily properties acquired by HUD that are located in a 500-year floodplain and contain Critical Actions, HUD shall, as a condition of approval of the disposition, require by covenant or comparable restriction on the property's use that the property owner and successive owners provide written notification to each current and prospective tenant concerning: (i) The hazards to life and to property for those persons who reside or work in a structure located within the 500-year floodplain, and

(ii) The availability of flood insurance on the contents of their dwelling unit or business.

(2) The notice shall also be posted in the building so that it will be legible at all times and easily visible to all persons entering or using the building.

[59 FR 19107, Apr. 21, 1994, as amended at 59 FR 33199, June 28, 1994]

[↑ Back to Top](#)

§55.23 [Reserved]

[↑ Back to Top](#)

§55.24 Aggregation.

Where two or more actions have been proposed, require compliance with subpart C of this part, affect the same floodplain or wetland, and are currently under review by HUD (or by a responsible entity authorized by 24 CFR part 58), individual or aggregated approvals may be issued. A single compliance review and approval under this section is subject to compliance with the decisionmaking process in §55.20.

[78 FR 68734, Nov. 15, 2013]

[↑ Back to Top](#)

§55.25 Areawide compliance.

(a) A HUD-approved areawide compliance process may be substituted for individual compliance or aggregated compliance under §55.24 where a series of individual actions is proposed or contemplated in a pertinent area for HUD's examination of floodplain hazards. In areawide compliances, the area for examination may include a sector of, or the entire, floodplain—as relevant to the proposed or anticipated actions. The areawide compliance process shall be in accord with the decision making process under §55.20.

(b) The areawide compliance process shall address the relevant executive orders and shall consider local land use planning and development controls (e.g., those enforced by the community for purposes of floodplain management under the National Flood Insurance Program (NFIP)) and applicable state programs for floodplain management. The process shall include the development and publication of a strategy that identifies the range of development and mitigation measures under which the proposed HUD assistance may be approved and that indicates the types of actions that will not be approved in the floodplain.

(c) Individual actions that fit within the types of proposed HUD actions specifically addressed under the areawide compliance do not require further compliance with §55.20 except that a determination by the Department or a responsible entity subject to 24 CFR part 58 shall be made concerning whether the individual action accords with the areawide strategy. Where the individual action does not accord with the areawide strategy, specific development and mitigation measures shall be prescribed as a condition of HUD's approval of the individual action.

(d) Areawide compliance under the procedures of this section is subject to the following provisions: (1) It shall be initiated by HUD through a formal agreement of understanding with affected local governments concerning mutual responsibilities governing the preparation, issuance, implementation, and enforcement of the areawide strategy;

(2) It may be performed jointly with one or more Federal departments or agencies, or responsible entities subject to 24 CFR part 58 that serve as the responsible Federal official;

(3) It shall establish mechanisms to ensure that: (i) The terms of approval of individual actions (e.g., concerning structures and facilities) will be consistent with the areawide strategy;

(ii) The controls set forth in the areawide strategy are implemented and enforced in a timely manner; and

(iii) Where necessary, mitigation for individual actions will be established as a condition of approval.

(4) An open scoping process (in accordance with 40 CFR 1501.7) shall be used for determining the scope of issues to be addressed and for identifying significant issues related to housing and community development for the floodplain;

(5) Federal, state and local agencies with expertise in floodplain management, flood evacuation preparedness, land use planning and building regulation, or soil and natural resource conservation shall be invited to participate in the scoping process and to provide advice and comments; and

(6) Eligibility for participation in and the use of the areawide compliance must be limited to communities that are in the Regular Program of the National Flood Insurance Program and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR

59.24), thereby demonstrating a capacity for and commitment to floodplain management standards sufficient to perform responsibilities under this part.

(7) An expiration date (not to exceed ten years from the date of the formal adoption by the local governments) for HUD approval of areawide compliance under this part must be stated in the agreement between the local governments and HUD. In conjunction with the setting of an expiration date, a mechanism for HUD's reevaluation of the appropriateness of areawide compliance must be provided in the agreement.

[61 FR 50916, Sept. 27, 1996, as amended at 78 FR 68734, Nov. 15, 2013]

[↑ Back to Top](#)

§55.26 Adoption of another agency's review under the executive orders.

If a proposed action covered under this part is already covered in a prior review performed under either or both of the Executive Orders by another agency, including HUD or a different responsible entity, that review may be adopted by HUD or by a responsible entity authorized under 24 CFR part 58, provided that:

(a) There is no pending litigation relating to the other agency's review for floodplain management or wetland protection;

(b) The adopting agency makes a finding that:

(1) The type of action currently proposed is comparable to the type of action previously reviewed by the other agency; and

(2) There has been no material change in circumstances since the previous review was conducted; and

(c) As a condition of approval, mitigation measures similar to those prescribed in the previous review shall be required of the current proposed action.

[61 FR 50916, Sept. 27, 1996, as amended at 78 FR 68734, Nov. 15, 2013]

[↑ Back to Top](#)

§55.27 Documentation.

(a) For purposes of compliance with §55.20, the responsible HUD official who would approve the proposed action (or Certifying Officer for a responsible entity authorized by 24 CFR part 58) shall require that the following actions be documented:

(1) When required by §55.20(c), practicable alternative sites have been considered outside the floodplain or wetland, but within the local housing market area, the local public utility

service area, or the jurisdictional boundaries of a recipient unit of general local government, whichever geographic area is most appropriate to the proposed action. Actual sites under review must be identified and the reasons for the nonselection of those sites as practicable alternatives must be described; and

(2) Under §55.20(e)(2), measures to minimize the potential adverse impacts of the proposed action on the affected floodplain or wetland as identified in §55.20(d) have been applied to the design for the proposed action.

(b) For purposes of compliance with §55.24, §55.25, or §55.26 (as appropriate), the responsible HUD official (or the Certifying Officer for a responsible entity subject to 24 CFR part 58) who would approve the proposed action shall require documentation of compliance with the required conditions.

(c) Documentation of compliance with this part (including copies of public notices) must be attached to the environmental assessment, the environmental impact statement or the compliance record and be maintained as a part of the project file. In addition, for environmental impact statements, documentation of compliance with this part must be included as a part of the record of decision (or environmental review record for responsible entity subject to 24 CFR part 58).

[61 FR 50916, Sept. 27, 1996, as amended at 78 FR 68734, Nov. 15, 2013]

[↑ Back to Top](#)

§55.28 Use of individual permits under section 404 of the Clean Water Act for HUD Executive Order 11990 processing where all wetlands are covered by the permit.

(a) *Processing requirements.* HUD (or the responsible entity subject to 24 CFR part 58) shall not be required to perform the steps at §55.20(a) through (e) upon adoption by HUD (or the responsible entity) of the terms and conditions of a Section 404 permit so long as:

(1) The project involves new construction on a property located outside of the 100-year floodplain (or the 500-year floodplain for critical actions);

(2) The applicant has submitted, with its application to HUD (or to the recipient under programs subject to 24 CFR part 58), an individual Section 404 permit (including approval conditions) issued by the U.S. Army Corps of Engineers (USACE) (or by a State or Tribal government under Section 404(h) of the Clean Water Act) for the proposed project; and

(3) All wetlands adversely affected by the action are covered by the permit.

(b) Unless a project is excluded under §55.12, processing under all of §55.20 is required for new construction in wetlands that are not subject to section 404 of the Clean Water Act and for new construction for which the USACE (or a State or Tribal government under section 404(h) of the Clean Water Act) issues a general permit under Section 404.

[78 FR 68734, Nov. 15, 2013]

Federal Regulations related to the Housing and Urban Development Community Block Development Grant Regulations

(Updated as of August 14, 2013)

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

Contents

Subpart A—Purpose, Legal Authority, Federal Laws and Authorities

- § 58.1 Purpose and applicability.
- § 58.2 Terms, abbreviations and definitions.
- § 58.4 Assumption authority.
- § 58.5 Related Federal laws and authorities.
- § 58.6 Other requirements.

Subpart B—General Policy: Responsibilities of Responsible Entities

- § 58.10 Basic environmental responsibility.
- § 58.11 Legal capacity and performance.
- § 58.12 Technical and administrative capacity.
- § 58.13 Responsibilities of the certifying officer.
- § 58.14 Interaction with State, Federal and non-Federal entities.
- § 58.15 Tiering.
- § 58.17 [Reserved]
- § 58.18 Responsibilities of States assuming HUD environmental responsibilities.

Subpart C—General Policy: Environmental Review Procedures

- § 58.21 Time periods.
- § 58.22 Limitations on activities pending clearance.
- § 58.23 Financial assistance for environmental review.

Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

- § 58.30 Environmental review process.
- § 58.32 Project aggregation.
- § 58.33 Emergencies.
- § 58.34 Exempt activities.
- § 58.35 Categorical exclusions.
- § 58.36 Environmental assessments.
- § 58.37 Environmental impact statement determinations.
- § 58.38 Environmental review record.

Subpart E—Environmental Review Process: Environmental Assessments (EA's)

- § 58.40 Preparing the environmental assessment.
- § 58.43 Dissemination and/or publication of the findings of no significant impact.
- § 58.45 Public comment periods.
- § 58.46 Time delays for exceptional circumstances.
- § 58.47 Re-evaluation of environmental assessments and other environmental findings.

Subpart F—Environmental Review Process: Environmental Impact Statement Determinations

- § 58.52 Adoption of other agencies' EISs.
- § 58.53 Use of prior environmental impact statements.

Subpart G—Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements

- § 58.55 Notice of intent to prepare an EIS.
- § 58.56 Scoping process.
- § 58.57 Lead agency designation.
- § 58.59 Public hearings and meetings.
- § 58.60 Preparation and filing of environmental impact statements.

Subpart H—Release of Funds for Particular Projects

- § 58.70 Notice of intent to request release of funds.
- § 58.71 Request for release of funds and certification.
- § 58.72 HUD or State actions on RROFs and certifications.
- § 58.73 Objections to release of funds.
- § 58.74 Time for objecting.
- § 58.75 Permissible bases for objections.
- § 58.76 Procedure for objections.
- § 58.77 Effect of approval of certification.

AUTHORITY: 12 U.S.C. 1707 note, 1715z-13a(k); 25 U.S.C. 4115 and 4226; 42 U.S.C. 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, 12838, and 12905(h); title II of Pub. L. 105-276; E.O. 11514 as amended by E.O. 11991, 3 CFR 1977 Comp., p. 123.

SOURCE: 61 FR 19122, Apr. 30, 1996, unless otherwise noted.

§ 58.1 Purpose and applicability.

(a) *Purpose.* This part provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.

(b) *Applicability.* This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:

(1) Community Development Block Grant programs authorized by Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));

(2) [Reserved]

(3)(i) Grants to states and units of general local government under the Emergency Shelter Grant Program, Supportive Housing Program (and its predecessors, the Supportive Housing Demonstration Program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care Program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(ii) Grants beginning with Fiscal Year 2001 to private non-profit organizations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(4) The HOME Investment Partnerships Program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);

(5) Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));

(6)(i) Public Housing Programs under Title I of the United States Housing Act of 1937, including HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 26 (42 U.S.C. 1437x);

(ii) Grants for the revitalization of severely distressed public housing (HOPE VI) for Fiscal Year 1999 and prior years, in accordance with Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998); and

(iii) Assistance administered by a public housing agency under section 8 of the United States Housing Act of 1937, except for assistance provided under part 886 of this title, in accordance with section 26 (42 U.S.C. 1437x);

(7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the heading “Annual Contributions for Assisted Housing” in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547);

(8) The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note);

(9) The Self-Help Homeownership Opportunity Program under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 110 Stat. 834), in accordance with section 11(m));

(10) Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:

(i) Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities (25 U.S.C. 4115 and 4226); and

(ii) Section 806 for Native Hawaiian Housing Block Grants (25 U.S.C. 4226);

(11) Indian Housing Loan Guarantees authorized by section 184 of the Housing and Community Development Act of 1992, in accordance with section 184(k) (12 U.S.C. 1715z-13a(k)); and

(12) Grants for Housing Opportunities for Persons with AIDS (HOPWA) under the AIDS Housing Opportunity Act, as follows: competitive grants beginning with Fiscal Year 2001 and all formula grants, in accordance with section 856(h) (42 U.S.C. 12905(h)); all grants for Fiscal Year 1999 and prior years, in accordance with section 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998).

(c) When HUD assistance is used to help fund a revolving loan fund that is administered by a recipient or another party, the activities initially receiving assistance from the fund are subject to the requirements in this part. Future activities receiving assistance from the revolving loan fund, after the fund has received loan repayments, are subject to the environmental review requirements if the rules of the HUD program that initially provided assistance to the fund continue to treat the activities as subject to the Federal requirements. If the HUD program treats the activities as not being subject to any Federal requirements, then the activities cease to become Federally-funded activities and the provisions of this part do not apply.

(d) To the extent permitted by applicable laws and the applicable regulations of the Council on Environmental Quality, the Assistant Secretary for Community Planning and Development may, for good cause and with appropriate conditions, approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56127, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.2 Terms, abbreviations and definitions.

(a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:

(1) *Activity* means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.

(2) *Certifying Officer* means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of § 58.13.

(3) *Extraordinary Circumstances* means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:

(i) Actions that are unique or without precedent;

(ii) Actions that are substantially similar to those that normally require an EIS;

(iii) Actions that are likely to alter existing HUD policy or HUD mandates; or

(iv) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

(4) *Project* means an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.

(5) *Recipient* means any of the following entities, when they are eligible recipients or grantees under a program listed in § 58.1(b):

(i) A State that does not distribute HUD assistance under the program to a unit of general local government;

(ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;

(iii) A unit of general local government;

(iv) An Indian tribe;

(v) With respect to Public Housing Programs under § 58.1(b)(6)(i), fiscal year 1999 and prior HOPE VI grants under § 58.1(b)(6)(ii) or Section 8 assistance under § 58.1(b)(6)(iii), a public housing agency;

(vi) Any direct grantee of HUD for a special project under § 58.1(b)(7);

(vii) With respect to the FHA Multifamily Housing Finance Agency Program under 58.1(b)(8), a qualified housing finance agency;

(viii) With respect to the Self-Help Homeownership Opportunity Program under § 58.1(b)(9), any direct grantee of HUD.

(ix)(A) With respect to NAHASDA assistance under § 58.1(b)(10), the Indian tribe or the Department of Hawaiian Home Lands; and

(B) With respect to the Section 184 Indian Housing Loan Guarantee program under § 58.1(b)(11), the Indian tribe.

(x) With respect to the Shelter Plus Care and Supportive Housing Programs under § 58.1(b)(3)(ii), nonprofit organizations and other entities.

(6) *Release of funds.* In the case of the FHA Multifamily Housing Finance Agency Program under § 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter. In the case of the Section 184 Indian Housing Loan Guarantee program under § 58.1(b)(11), Release of Funds refers to HUD's issuance of a commitment to guarantee a loan, or if there is no commitment, HUD's issuance of a certificate of guarantee.

(7) *Responsible Entity.* Responsible Entity means:

(i) With respect to environmental responsibilities under programs listed in § 58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in § 58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) listed in § 58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in § 58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(8) *Unit Density* refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.

(9) *Tiering* means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.

(10) *Vacant Building* means a habitable structure that has been vacant for more than one year.

(b) The following abbreviations are used throughout this part:

- (1) CDBG—Community Development Block Grant;
- (2) CEQ—Council on Environmental Quality;
- (3) EA—Environmental Assessment;
- (4) EIS—Environmental Impact Statement;
- (5) EPA—Environmental Protection Agency;
- (6) ERR—Environmental Review Record;
- (7) FONSI—Finding of No Significant Impact;
- (8) HUD—Department of Housing and Urban Development;
- (9) NAHA—Cranston-Gonzalez National Affordable Housing Act of 1990;
- (10) NEPA—National Environmental Policy Act of 1969, as amended;
- (11) NOI/EIS—Notice of Intent to Prepare an EIS;
- (12) NOI/RROF—Notice of Intent to Request Release of Funds;
- (13) ROD—Record of Decision;
- (14) ROF—Release of Funds; and
- (15) RROF—Request for Release of Funds.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.4 Assumption authority.

(a) *Assumption authority for responsible entities: General.* Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in § 58.5. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.

(b) *Particular responsibilities of the States.* (1) States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.

(2) States must exercise HUD's responsibilities in accordance with § 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the state. Approval by the state of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in § 58.5.

(c) *Particular responsibilities of Indian tribes.* An Indian tribe may, but is not required to, assume responsibilities for environmental review, decision-making and action for programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a). The tribe must make a separate decision regarding assumption of responsibilities for each of these Acts and communicate that decision in writing to HUD. If the tribe assumes these responsibilities, the requirements of this part shall apply. If a tribe formally declines assumption of these responsibilities, they are retained by HUD and the provisions of part 50 of this title apply.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.5 Related Federal laws and authorities.

In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities.

(a) *Historic properties.* (1) The National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2).

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971-1975 Comp., p. 559, particularly section 2(c).

(3) Federal historic preservation regulations as follows:

(i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and

(ii) 36 CFR part 801 with respect to UDAG.

(4) The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 *et seq.*), particularly section 3 (16 U.S.C. 469a-1).

(b) *Floodplain management and wetland protection.* (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see § 55.10 of this subtitle A.)

(2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p. 121, particularly sections 2 and 5.

(c) *Coastal Zone Management.* The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended, particularly section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).

(d) *Sole source aquifers.* (1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e)).

(2) Sole Source Aquifers (Environmental Protection Agency—40 CFR part 149).

(e) *Endangered species.* The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) as amended, particularly section 7 (16 U.S.C. 1536).

(f) *Wild and scenic rivers.* The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 *et seq.*) as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

(g) *Air quality.* (1) The Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).

(2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93).

(h) *Farmlands protection.* (1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).

(2) Farmland Protection Policy (Department of Agriculture—7 CFR part 658).

(i) *HUD environmental standards.* (1) Applicable criteria and standards specified in part 51 of this title, other than the runway clear zone notification requirement in § 51.303(a)(3).

(2)(i) Also, it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

(ii) The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.

(iii) Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.

(iv) The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.

(j) *Environmental justice.* Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.6 Other requirements.

In addition to the duties under the laws and authorities specified in § 58.5 for assumption by the responsible entity under the laws cited in § 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under § 58.34(a)(12) and/or the applicability of § 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under § 58.34 or categorically excluded under § 58.35(a) or (b).

(a)(1) Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and

(ii) Where the community is participating in the National Flood Insurance Program, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.

(2) Where the community is participating in the National Flood Insurance Program and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.

(b) Under section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if:

(1) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

(2) The person failed to obtain and maintain flood insurance.

(c) Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.

(d) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

[↑ Back to Top](#)

Subpart B—General Policy: Responsibilities of Responsible Entities

[↑ Back to Top](#)

§ 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in § 58.1(b), except as otherwise provided in § 58.4(c), the responsible entity must assume the environmental responsibilities for projects under programs cited in § 58.1(b). In doing so, the responsible entity must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part.

[68 FR 56128, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.11 Legal capacity and performance.

(a) A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part must contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(b) If a public housing, special project, HOPWA, Supportive Housing, Shelter Plus Care, or Self-Help Homeownership Opportunity recipient that is not a responsible entity objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.

(c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with § 58.77(d)(1).

(d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.12 Technical and administrative capacity.

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the requirements of this part.

[↑ Back to Top](#)

§ 58.13 Responsibilities of the certifying officer.

Under the terms of the certification required by § 58.71, a responsible entity's certifying officer is the “responsible Federal official” as that term is used in section 102 of NEPA and in statutory provisions cited in § 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in § 58.5. The Certifying Officer must also:

(a) Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and

(b) Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

[↑ Back to Top](#)

§ 58.14 Interaction with State, Federal and non-Federal entities.

A responsible entity shall consult with appropriate environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in § 58.5 and § 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2 (b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs or joint environmental assessments (see 40 CFR 1501.5(b) and 1501.6). A single EIS or EA may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

[63 FR 15271, Mar 30, 1998]

[↑ Back to Top](#)

§ 58.15 Tiering.

Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate

when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better done at a later date. The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged to use the Consolidated Plan process to facilitate environmental reviews.

[↑ Back to Top](#)

§ 58.17 [Reserved]

[↑ Back to Top](#)

§ 58.18 Responsibilities of States assuming HUD environmental responsibilities.

States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The state must:

(a) Designate the state agency or agencies that will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart H of this part and which will:

(1) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.

(2) Receive public notices, RROFs, and certifications from recipients pursuant to §§ 58.70 and 58.71; accept objections from the public and from other agencies (§ 58.73); and perform other related responsibilities regarding releases of funds.

(b) Fulfill the state role in subpart H relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

[68 FR 56129, Sept. 29, 2003]

[↑ Back to Top](#)

Subpart C—General Policy: Environmental Review Procedures

[↑ Back to Top](#)

§ 58.21 Time periods.

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

[↑ Back to Top](#)

§ 58.22 Limitations on activities pending clearance.

(a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in § 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

(b) If a project or activity is exempt under § 58.34, or is categorically excluded (except in extraordinary circumstances) under § 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination as required in § 58.34(b) and § 58.35(d), but the recipient must comply with applicable requirements under § 58.6.

(c) If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

(e) *Self-Help Homeownership Opportunity Program (SHOP)*. In accordance with section 11(d)(2)(A) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note), an organization, consortium, or affiliate receiving assistance under the SHOP program may advance nongrant funds to acquire land prior to completion of an environmental review and approval of a Request for Release of Funds (RROF) and certification, notwithstanding paragraph (a) of this section. Any advances to acquire land prior to approval of the RROF and certification are made at the risk of the organization, consortium, or affiliate and reimbursement for such advances may depend on the result of the environmental review. This authorization is limited to

the SHOP program only and all other forms of HUD assistance are subject to the limitations in paragraph (a) of this section.

(f) *Relocation*. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR part 42.

[68 FR 56129, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.23 Financial assistance for environmental review.

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in § 58.5 and § 58.6, are eligible costs to the extent allowable under the HUD assistance program regulations.

[↑ Back to Top](#)

Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

[↑ Back to Top](#)

§ 58.30 Environmental review process.

(a) The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with § 58.32.

(b) The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

[↑ Back to Top](#)

§ 58.32 Project aggregation.

(a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

(b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: *functional aggregation* when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; *geographic aggregation* when a mix of dissimilar but related activities is to be

concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or *a combination of aggregation approaches*, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.

(c) The purpose of project aggregation is to group together related activities so that the responsible entity can:

(1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).

(2) Consider reasonable alternative courses of action.

(3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.

(4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

(d) *Multi-year project aggregation* —(1) *Release of funds*. When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.

(2) When one or more of the conditions described in § 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

[↑ Back to Top](#)

§ 58.33 Emergencies.

(a) In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

(b) If funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance during a Presidentially declared disaster, or during a local emergency that has been declared by the chief elected official of the responsible entity who has proclaimed that there is an immediate need for public action to protect the public safety, the combined Notice of FONSI and Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the RROF. The

combined Notice of FONSI and NOI/RROF shall state that the funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to ensure that these comments will receive full consideration.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.34 Exempt activities.

(a) Except for the applicable requirements of § 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in § 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

(1) Environmental and other studies, resource identification and the development of plans and strategies;

(2) Information and financial services;

(3) Administrative and management activities;

(4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;

(5) Inspections and testing of properties for hazards or defects;

(6) Purchase of insurance;

(7) Purchase of tools;

(8) Engineering or design costs;

(9) Technical assistance and training;

(10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;

(11) Payment of principal and interest on loans made or obligations guaranteed by HUD;

(12) Any of the categorical exclusions listed in § 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in § 58.5.

(b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

[↑ Back to Top](#)

§ 58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see § 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

(a) *Categorical exclusions subject to § 58.5.* The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in § 58.5:

(1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

(i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;

(ii) In the case of multifamily residential buildings:

(A) Unit density is not changed more than 20 percent;

(B) The project does not involve changes in land use from residential to non-residential; and

(C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(iii) In the case of non-residential structures, including commercial, industrial, and public buildings:

(A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

(B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(4)(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or

(ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

(iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

(5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

(6) Combinations of the above activities.

(b) *Categorical exclusions not subject to § 58.5.* The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in paragraph (c) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (c) of this section applies. The recipient remains responsible for carrying out any applicable requirements under § 58.6.

(1) Tenant-based rental assistance;

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;

(5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.

(6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

(7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under § 58.47.

(c) *Circumstances requiring NEPA review.* If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

(d) The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998; 68 FR 56129, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.36 Environmental assessments.

If a project is not exempt or categorically excluded under §§ 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under § 58.37, the responsible entity should proceed directly to an EIS.

[↑ Back to Top](#)

§ 58.37 Environmental impact statement determinations.

(a) An EIS is required when the project is determined to have a potentially significant impact on the human environment.

(b) An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:

(1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.

(2) The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.

(3) The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

(c) If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

(d) Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where § 58.53 is applicable.

(e) *Recommended EIS Format.* The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

[↑ Back to Top](#)

§ 58.38 Environmental review record.

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the “Environmental Review Record” (ERR), and shall be available for public review. The responsible entity must use the current HUD-recommended formats or develop equivalent formats.

(a) *ERR Documents.* The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of

review, decisionmaking and actions pertaining to a particular project of a recipient. The document shall:

(1) Describe the project and the activities that the recipient has determined to be part of the project;

(2) Evaluate the effects of the project or the activities on the human environment;

(3) Document compliance with applicable statutes and authorities, in particular those cited in § 58.5 and 58.6; and

(4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

(b) *Other documents and information.* The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

[↑ Back to Top](#)

Subpart E—Environmental Review Process: Environmental Assessments (EA's)

[↑ Back to Top](#)

§ 58.40 Preparing the environmental assessment.

The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, the responsible entity must:

(a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.

(b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.

(c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in § 58.5 and § 58.6.

(d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.

(e) Examine alternatives to the project itself, if appropriate, including the alternative of no action.

(f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in §§ 58.5 and 58.6.

(g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:

(1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to § 58.43.

(2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subpart F or G of this part.

[↑ Back to Top](#)

§ 58.43 Dissemination and/or publication of the findings of no significant impact.

(a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process.

(b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by § 58.70. If the notices are released as a combined notice, the combined notice shall:

(1) Clearly indicate that it is intended to meet two separate procedural requirements; and

(2) Advise the public to specify in their comments which “notice” their comments address.

(c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

[↑ Back to Top](#)

§ 58.45 Public comment periods.

Required notices must afford the public the following minimum comment periods, counted in accordance with § 58.21:

(a) Notice of Finding of No Significant Impact (FONSI)	15 days when published or, if no publication, 18 days when mailing and posting
(b) Notice of Intent to Request Release of Funds (NOI-RROF)	7 days when published or, if no publication, 10 days when mailing and posting
(c) Concurrent or combined notices	15 days when published or, if no publication, 18 days when mailing and posting

[68 FR 56130, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.46 Time delays for exceptional circumstances.

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

- (a) There is a considerable interest or controversy concerning the project;
- (b) The proposed project is similar to other projects that normally require the preparation of an EIS; or
- (c) The project is unique and without precedent.

[↑ Back to Top](#)

§ 58.47 Re-evaluation of environmental assessments and other environmental findings.

(a) A responsible entity must re-evaluate its environmental findings to determine if the original findings are still valid, when:

- (1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;

(2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or

(3) The recipient proposes the selection of an alternative not in the original finding.

(b)(1) If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.

(2) If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

(3) Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the findings before proceeding.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

[↑ Back to Top](#)

Subpart F—Environmental Review Process: Environmental Impact Statement Determinations

[↑ Back to Top](#)

§ 58.52 Adoption of other agencies' EISs.

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in § 58.60(d) and otherwise comply with the clearance and time requirements of the EIS process, except that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

[↑ Back to Top](#)

§ 58.53 Use of prior environmental impact statements.

Where any final EIS has been listed in the FEDERAL REGISTER for a project pursuant to this part, or where an areawide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

(a) The ERR contains a decision based on a finding pursuant to § 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:

(1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(3) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;

(4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(b) The prior final EIS has been filed within five (5) years, and updated as follows:

(1) The EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;

(2) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

[↑ Back to Top](#)

Subpart G—Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements

[↑ Back to Top](#)

§ 58.55 Notice of intent to prepare an EIS.

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

[↑ Back to Top](#)

§ 58.56 Scoping process.

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under § 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.

[↑ Back to Top](#)

§ 58.57 Lead agency designation.

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

[↑ Back to Top](#)

§ 58.59 Public hearings and meetings.

(a) *Factors to consider.* In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:

(1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.

(2) The degree of interest in or controversy concerning the project.

(3) The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.

(4) The extent to which public involvement has been achieved through other means.

(b) *Procedure.* All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date. The Notice must:

(1) State the date, time, place, and purpose of the hearing or meeting.

(2) Describe the project, its estimated costs, and the project area.

(3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.

(4) State the responsible entity's name and address and the name and address of its Certifying Officer.

(5) State what documents are available, where they can be obtained, and any charges that may apply.

[↑ Back to Top](#)

§ 58.60 Preparation and filing of environmental impact statements.

(a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.

(b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:

(1) Five copies to EPA Headquarters;

(2) Five copies to EPA Regional Office;

(3) Copies made available in the responsible entity's and the recipient's office;

(4) Copies or summaries made available to persons who request them; and

(5) FEIS only—one copy to State, HUD Field Office, and HUD Headquarters library.

(c) The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.

(d) When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.

(e) The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1505.2.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

[↑ Back to Top](#)

Subpart H—Release of Funds for Particular Projects

[↑ Back to Top](#)

§ 58.70 Notice of intent to request release of funds.

The NOI/RROF must be disseminated and/or published in the manner prescribed by § 58.43 and § 58.45 before the certification is signed by the responsible entity.

[↑ Back to Top](#)

§ 58.71 Request for release of funds and certification.

(a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(b). The RROF and certification must be in a form specified by HUD.

(b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in § 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.

(c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

[↑ Back to Top](#)

§ 58.72 HUD or State actions on RROFs and certifications.

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

(a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.

(b) HUD (or the state) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in § 58.75, or that the RROF and certification are inaccurate.

(c) In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated § 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.73 Objections to release of funds.

HUD (or the State) will not approve the ROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to § 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. HUD (or the State) can refuse the RROF and certification on any grounds set forth in § 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

[↑ Back to Top](#)

§ 58.74 Time for objecting.

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.

[↑ Back to Top](#)

§ 58.75 Permissible bases for objections.

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

(a) The certification was not in fact executed by the responsible entity's Certifying Officer.

(b) The responsible entity has failed to make one of the two findings pursuant to § 58.40 or to make the written determination required by §§ 58.35, 58.47 or 58.53 for the project, as applicable.

(c) The responsible entity has omitted one or more of the steps set forth at subpart E of this part for the preparation, publication and completion of an EA.

(d) The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.

(e) The recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by this part before release of funds and approval of the environmental certification by HUD (or the state).

(f) Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

[↑ Back to Top](#)

§ 58.76 Procedure for objections.

A person or agency objecting to a responsible entity's RROF and certification shall submit objections in writing to HUD (or the State). The objections shall:

(a) Include the name, address and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of an agency.

(b) Be dated when signed.

(c) Describe the basis for objection and the facts or legal authority supporting the objection.

(d) State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

[↑ Back to Top](#)

§ 58.77 Effect of approval of certification.

(a) *Responsibilities of HUD and States.* HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at § 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in § 58.1(b).

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It is HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.

(c) *Implementation of environmental review decisions.* Projects of a recipient will require post-review monitoring and other inspection and enforcement actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

(d) *Responsibility for monitoring and training.* (1) At least once every three years, HUD intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:

(i) In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;

(ii) HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided periodically at various locations around the country;

(iii) HUD may refuse to accept the certifications of environmental compliance on subsequent grants;

(iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;

(v) HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.

(2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under § 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.

Appendix B

National Environmental Policy Act Regulations

General CEQU Regulations

CHAPTER V--COUNCIL ON ENVIRONMENTAL QUALITY

1500	1500.1 to 1500.6	PURPOSE, POLICY, AND MANDATE
1501	1501.1 to 1501.8	NEPA AND AGENCY PLANNING
1502	1502.1 to 1502.25	ENVIRONMENTAL IMPACT STATEMENT
1503	1503.1 to 1503.4	COMMENTING
1504	1504.1 to 1504.3	PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY UNSATISFACTORY
1505	1505.1 to 1505.3	NEPA AND AGENCY DECISIONMAKING
1506	1506.1 to 1506.12	OTHER REQUIREMENTS OF NEPA
1507	1507.1 to 1507.3	AGENCY COMPLIANCE
1508	1508.1 to 1508.28	TERMINOLOGY AND INDEX
1500		INDEX TO PARTS THROUGH 1508

1515	1515.1 to 1515.17- 1515.19	FREEDOM OF INFORMATION ACT PROCEDURES
1516	1516.1 to 1516.10	PRIVACY ACT IMPLEMENTATION
1517	1517.1 to 1517.7	PUBLIC MEETING PROCEDURES OF THE COUNCIL ON ENVIRONMENTAL QUALITY
1518	1518.1 to 1518.4	OFFICE OF ENVIRONMENTAL QUALITY MANAGEMENT FUND

§ 1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains “action-forcing” provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(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. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.

[↑ Back to Top](#)

§ 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations.

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(c) Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

[↑ Back to Top](#)

§ 1500.3 Mandate.

Parts 1500 through 1508 of this title provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 *et seq.*) (NEPA or the Act) except where compliance would be inconsistent with other statutory requirements. These regulations are issued pursuant to NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*) section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977). These regulations, unlike the predecessor guidelines, are not confined to sec. 102(2)(C) (environmental impact statements). The regulations apply to the whole of section 102(2). The provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law. It is the Council's intention that judicial review of agency compliance with these regulations not occur before an agency has filed the final environmental impact statement, or has

made a final finding of no significant impact (when such a finding will result in action affecting the environment), or takes action that will result in irreparable injury. Furthermore, it is the Council's intention that any trivial violation of these regulations not give rise to any independent cause of action.

[↑ Back to Top](#)

§ 1500.4 Reducing paperwork.

Agencies shall reduce excessive paperwork by:

(a) Reducing the length of environmental impact statements (§ 1502.2(c)), by means such as setting appropriate page limits (§§ 1501.7(b)(1) and 1502.7).

(b) Preparing analytic rather than encyclopedic environmental impact statements (§ 1502.2(a)).

(c) Discussing only briefly issues other than significant ones (§ 1502.2(b)).

(d) Writing environmental impact statements in plain language (§ 1502.8).

(e) Following a clear format for environmental impact statements (§ 1502.10).

(f) Emphasizing the portions of the environmental impact statement that are useful to decisionmakers and the public (§§ 1502.14 and 1502.15) and reducing emphasis on background material (§ 1502.16).

(g) Using the scoping process, not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (§ 1501.7).

(h) Summarizing the environmental impact statement (§ 1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (§ 1502.19).

(i) Using program, policy, or plan environmental impact statements and tiering from statements of broad scope to those of narrower scope, to eliminate repetitive discussions of the same issues (§§ 1502.4 and 1502.20).

(j) Incorporating by reference (§ 1502.21).

(k) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(l) Requiring comments to be as specific as possible (§ 1503.3).

(m) Attaching and circulating only changes to the draft environmental impact statement, rather than rewriting and circulating the entire statement when changes are minor (§ 1503.4(c)).

(n) Eliminating duplication with State and local procedures, by providing for joint preparation (§ 1506.2), and with other Federal procedures, by providing that an agency may adopt appropriate environmental documents prepared by another agency (§ 1506.3).

(o) Combining environmental documents with other documents (§ 1506.4).

(p) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and which are therefore exempt from requirements to prepare an environmental impact statement (§ 1508.4).

(q) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment and is therefore exempt from requirements to prepare an environmental impact statement (§ 1508.13).

[43 FR 55990, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

[↑ Back to Top](#)

§ 1500.5 Reducing delay.

Agencies shall reduce delay by:

(a) Integrating the NEPA process into early planning (§ 1501.2).

(b) Emphasizing interagency cooperation before the environmental impact statement is prepared, rather than submission of adversary comments on a completed document (§ 1501.6).

(c) Insuring the swift and fair resolution of lead agency disputes (§ 1501.5).

(d) Using the scoping process for an early identification of what are and what are not the real issues (§ 1501.7).

(e) Establishing appropriate time limits for the environmental impact statement process (§§ 1501.7(b)(2) and 1501.8).

(f) Preparing environmental impact statements early in the process (§ 1502.5).

(g) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(h) Eliminating duplication with State and local procedures by providing for joint preparation (§ 1506.2) and with other Federal procedures by providing that an agency may adopt appropriate environmental documents prepared by another agency (§ 1506.3).

(i) Combining environmental documents with other documents (§ 1506.4).

(j) Using accelerated procedures for proposals for legislation (§ 1506.8).

(k) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment (§ 1508.4) and which are therefore exempt from requirements to prepare an environmental impact statement.

(l) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment (§ 1508.13) and is therefore exempt from requirements to prepare an environmental impact statement.

[↑ Back to Top](#)

§ 1500.6 Agency authority.

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase “to the fullest extent possible” in section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

§ 1501.1 Purpose.

The purposes of this part include:

(a) Integrating the NEPA process into early planning to insure appropriate consideration of NEPA's policies and to eliminate delay.

(b) Emphasizing cooperative consultation among agencies before the environmental impact statement is prepared rather than submission of adversary comments on a completed document.

(c) Providing for the swift and fair resolution of lead agency disputes.

(d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly.

(e) Providing a mechanism for putting appropriate time limits on the environmental impact statement process.

[↑ Back to Top](#)

§ 1501.2 Apply NEPA early in the process.

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. Each agency shall:

(a) Comply with the mandate of section 102(2)(A) to “utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment,” as specified by § 1507.2.

(b) Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents.

(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act.

(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

(1) Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action.

(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.

(3) The Federal agency commences its NEPA process at the earliest possible time.

[↑ Back to Top](#)

§ 1501.3 When to prepare an environmental assessment.

(a) Agencies shall prepare an environmental assessment (§ 1508.9) when necessary under the procedures adopted by individual agencies to supplement these regulations as described in § 1507.3. An assessment is not necessary if the agency has decided to prepare an environmental impact statement.

(b) Agencies may prepare an environmental assessment on any action at any time in order to assist agency planning and decisionmaking.

[↑ Back to Top](#)

§ 1501.4 Whether to prepare an environmental impact statement.

In determining whether to prepare an environmental impact statement the Federal agency shall:

(a) Determine under its procedures supplementing these regulations (described in § 1507.3) whether the proposal is one which:

(1) Normally requires an environmental impact statement, or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by § 1508.9(a)(1).

(c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.

(d) Commence the scoping process (§ 1501.7), if the agency will prepare an environmental impact statement.

(e) Prepare a finding of no significant impact (§ 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.

(1) The agency shall make the finding of no significant impact available to the affected public as specified in § 1506.6.

(2) In certain limited circumstances, which the agency may cover in its procedures under § 1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to § 1507.3, or

(ii) The nature of the proposed action is one without precedent.

[!\[\]\(104fbf564e2e5a8fbd84f31656d114c7_img.jpg\) Back to Top](#)

§ 1501.5 Lead agencies.

(a) A lead agency shall supervise the preparation of an environmental impact statement if more than one Federal agency either:

- (1) Proposes or is involved in the same action; or
- (2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (§ 1506.2).

(c) If an action falls within the provisions of paragraph (a) of this section the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

- (1) Magnitude of agency's involvement.
- (2) Project approval/disapproval authority.
- (3) Expertise concerning the action's environmental effects.
- (4) Duration of agency's involvement.
- (5) Sequence of agency's involvement.

(d) Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated.

(e) If Federal agencies are unable to agree on which agency will be the lead agency or if the procedure described in paragraph (c) of this section has not resulted within 45 days in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

- (1) A precise description of the nature and extent of the proposed action.
- (2) A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified in paragraph (c) of this section.

(f) A response may be filed by any potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies.

[43 FR 55992, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

[↑ Back to Top](#)

§ 1501.6 Cooperating agencies.

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(3) Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

(1) Participate in the NEPA process at the earliest possible time.

(2) Participate in the scoping process (described below in § 1501.7).

(3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.

(5) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

(c) A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement (described in paragraph (b)(3), (4), or (5) of this section) reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council.

[↑ Back to Top](#)

§ 1501.7 Scoping.

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (§ 1508.22) in the FEDERAL REGISTER except as provided in § 1507.3(e).

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under § 1507.3(c). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule.

(b) As part of the scoping process the lead agency may:

- (1) Set page limits on environmental documents (§ 1502.7).
- (2) Set time limits (§ 1501.8).
- (3) Adopt procedures under § 1507.3 to combine its environmental assessment process with its scoping process.
- (4) Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.
- (c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

[↑ Back to Top](#)

§ 1501.8 Time limits.

Although the Council has decided that prescribed universal time limits for the entire NEPA process are too inflexible, Federal agencies are encouraged to set time limits appropriate to individual actions (consistent with the time intervals required by § 1506.10). When multiple agencies are involved the reference to agency below means lead agency.

(a) The agency shall set time limits if an applicant for the proposed action requests them: *Provided*, That the limits are consistent with the purposes of NEPA and other essential considerations of national policy.

(b) The agency may:

(1) Consider the following factors in determining time limits:

(i) Potential for environmental harm.

(ii) Size of the proposed action.

(iii) State of the art of analytic techniques.

(iv) Degree of public need for the proposed action, including the consequences of delay.

(v) Number of persons and agencies affected.

(vi) Degree to which relevant information is known and if not known the time required for obtaining it.

(vii) Degree to which the action is controversial.

- (viii) Other time limits imposed on the agency by law, regulations, or executive order.
- (2) Set overall time limits or limits for each constituent part of the NEPA process, which may include:
- (i) Decision on whether to prepare an environmental impact statement (if not already decided).
 - (ii) Determination of the scope of the environmental impact statement.
 - (iii) Preparation of the draft environmental impact statement.
 - (iv) Review of any comments on the draft environmental impact statement from the public and agencies.
 - (v) Preparation of the final environmental impact statement.
 - (vi) Review of any comments on the final environmental impact statement.
 - (vii) Decision on the action based in part on the environmental impact statement.
- (3) Designate a person (such as the project manager or a person in the agency's office with NEPA responsibilities) to expedite the NEPA process.
- (c) State or local agencies or members of the public may request a Federal Agency to set time limits.

§ 1502.1 Purpose.

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

[↑ Back to Top](#)

§ 1502.2 Implementation.

To achieve the purposes set forth in § 1502.1 agencies shall prepare environmental impact statements in the following manner:

- (a) Environmental impact statements shall be analytic rather than encyclopedic.
- (b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.
- (c) Environmental impact statements shall be kept concise and shall be no longer than absolutely necessary to comply with NEPA and with these regulations. Length should vary first with potential environmental problems and then with project size.
- (d) Environmental impact statements shall state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.
- (e) The range of alternatives discussed in environmental impact statements shall encompass those to be considered by the ultimate agency decisionmaker.
- (f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (§ 1506.1).
- (g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

[!\[\]\(dfbd6b3763a6d1d9afaa974f64e2e4b5_img.jpg\) Back to Top](#)

§ 1502.3 Statutory requirements for statements.

As required by sec. 102(2)(C) of NEPA environmental impact statements (§ 1508.11) are to be included in every recommendation or report.

On proposals (§ 1508.23).

For legislation and (§ 1508.17).

Other major Federal actions (§ 1508.18).

Significantly (§ 1508.27).

Affecting (§§ 1508.3, 1508.8).

The quality of the human environment (§ 1508.14).

[↑ Back to Top](#)

§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.25) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§ 1501.7), tiering (§ 1502.20), and other methods listed in §§ 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay.

[↑ Back to Top](#)

§ 1502.5 Timing.

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (§ 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not

be used to rationalize or justify decisions already made (§§ 1500.2(c), 1501.2, and 1502.2). For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

(b) For applications to the agency appropriate environmental assessments or statements shall be commenced no later than immediately after the application is received. Federal agencies are encouraged to begin preparation of such assessments or statements earlier, preferably jointly with applicable State or local agencies.

(c) For adjudication, the final environmental impact statement shall normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

(d) For informal rulemaking the draft environmental impact statement shall normally accompany the proposed rule.

[↑ Back to Top](#)

§ 1502.6 Interdisciplinary preparation.

Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7).

[↑ Back to Top](#)

§ 1502.7 Page limits.

The text of final environmental impact statements (e.g., paragraphs (d) through (g) of § 1502.10) shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

[↑ Back to Top](#)

§ 1502.8 Writing.

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

[↑ Back to Top](#)

§ 1502.9 Draft, final, and supplemental statements.

Except for proposals for legislation as provided in § 1506.8 environmental impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

[↑ Back to Top](#)

§ 1502.10 Recommended format.

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

- (a) Cover sheet.
- (b) Summary.
- (c) Table of contents.
- (d) Purpose of and need for action.
- (e) Alternatives including proposed action (sections 102(2)(C)(iii) and 102(2)(E) of the Act).
- (f) Affected environment.
- (g) Environmental consequences (especially sections 102(2)(C)(i), (ii), (iv), and (v) of the Act).
- (h) List of preparers.
- (i) List of Agencies, Organizations, and persons to whom copies of the statement are sent.
- (j) Index.
- (k) Appendices (if any).

If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, as further described in §§ 1502.11 through 1502.18, in any appropriate format.

[!\[\]\(6605b201d6f14d9b3bcb8ab5f274d107_img.jpg\) Back to Top](#)

§ 1502.11 Cover sheet.

The cover sheet shall not exceed one page. It shall include:

- (a) A list of the responsible agencies including the lead agency and any cooperating agencies.
- (b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.

(c) The name, address, and telephone number of the person at the agency who can supply further information.

(d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) The date by which comments must be received (computed in cooperation with EPA under § 1506.10).

The information required by this section may be entered on Standard Form 424 (in items 4, 6, 7, 10, and 18).

[↑ Back to Top](#)

§ 1502.12 Summary.

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

[↑ Back to Top](#)

§ 1502.13 Purpose and need.

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.

[↑ Back to Top](#)

§ 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (§ 1502.15) and the Environmental Consequences (§ 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

[↑ Back to Top](#)

§ 1502.15 Affected environment.

The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

[↑ Back to Top](#)

§ 1502.16 Environmental consequences.

This section forms the scientific and analytic basis for the comparisons under § 1502.14. It shall consolidate the discussions of those elements required by sections 102(2)(C)(i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in § 1502.14. It shall include discussions of:

(a) Direct effects and their significance (§ 1508.8).

(b) Indirect effects and their significance (§ 1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See § 1506.2(d).)

(d) The environmental effects of alternatives including the proposed action. The comparisons under § 1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(h) Means to mitigate adverse environmental impacts (if not fully covered under § 1502.14(f)).

[43 FR 55994, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

[↑ Back to Top](#)

§ 1502.17 List of preparers.

The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement (§§ 1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages.

[↑ Back to Top](#)

§ 1502.18 Appendix.

If an agency prepares an appendix to an environmental impact statement the appendix shall:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (§ 1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decision to be made.

(d) Be circulated with the environmental impact statement or be readily available on request.

[↑ Back to Top](#)

§ 1502.19 Circulation of the environmental impact statement.

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in § 1502.18(d) and unchanged statements as provided in § 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

- (a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.
- (b) The applicant, if any.
- (c) Any person, organization, or agency requesting the entire environmental impact statement.
- (d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.

[↑ Back to Top](#)

§ 1502.20 Tiering.

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (§ 1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Section 1508.28).

[↑ Back to Top](#)

§ 1502.21 Incorporation by reference.

Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on

proprietary data which is itself not available for review and comment shall not be incorporated by reference.

[↑ Back to Top](#)

§ 1502.22 Incomplete or unavailable information.

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

(a) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement:

(1) A statement that such information is incomplete or unavailable; (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment; (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

(c) The amended regulation will be applicable to all environmental impact statements for which a Notice of Intent (40 CFR 1508.22) is published in the FEDERAL REGISTER on or after May 27, 1986. For environmental impact statements in progress, agencies may choose to comply with the requirements of either the original or amended regulation.

[51 FR 15625, Apr. 25, 1986]

[↑ Back to Top](#)

§ 1502.23 Cost-benefit analysis.

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. To assess the adequacy of compliance with section 102(2)(B) of the Act the statement shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified

environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision.

[↑ Back to Top](#)

§ 1502.24 Methodology and scientific accuracy.

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

[↑ Back to Top](#)

§ 1502.25 Environmental review and consultation requirements.

(a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), and other environmental review laws and executive orders.

(b) The draft environmental impact statement shall list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall so indicate.

§ 1503.1 Inviting comments.

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

- (ii) Indian tribes, when the effects may be on a reservation; and
- (iii) Any agency which has requested that it receive statements on actions of the kind proposed.

Office of Management and Budget Circular A-95 (Revised), through its system of clearinghouses, provides a means of securing the views of State and local environmental agencies. The clearinghouses may be used, by mutual agreement of the lead agency and the clearinghouse, for securing State and local reviews of the draft environmental impact statements.

- (3) Request comments from the applicant, if any.
- (4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.
- (b) An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided under § 1506.10.

[↑ Back to Top](#)

§ 1503.2 Duty to comment.

Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment in § 1506.10. A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment.

[↑ Back to Top](#)

§ 1503.3 Specificity of comments.

- (a) Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.
- (b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.
- (c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects

associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences.

[↑ Back to Top](#)

§ 1503.4 Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

- (1) Modify alternatives including the proposed action.
- (2) Develop and evaluate alternatives not previously given serious consideration by the agency.
- (3) Supplement, improve, or modify its analyses.
- (4) Make factual corrections.
- (5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a)(4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (§ 1502.19). The entire document with a new cover sheet shall be filed as the final statement (§ 1506.9).

§ 1504.1 Purpose.

(a) This part establishes procedures for referring to the Council Federal interagency disagreements concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is “unsatisfactory from the standpoint of public health or welfare or environmental quality,” section 309 directs that the matter be referred to the Council (hereafter “environmental referrals”).

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public.

[43 FR 55998, Nov. 29, 1978]

[↑ Back to Top](#)

§ 1504.2 Criteria for referral.

Environmental referrals should be made to the Council only after concerted, timely (as early as possible in the process), but unsuccessful attempts to resolve differences with the lead agency. In determining what environmental objections to the matter are appropriate to refer to the Council, an agency should weigh potential adverse environmental impacts, considering:

- (a) Possible violation of national environmental standards or policies.
- (b) Severity.
- (c) Geographical scope.
- (d) Duration.
- (e) Importance as precedents.
- (f) Availability of environmentally preferable alternatives.

[43 FR 55998, Nov. 29, 1978]

[↑ Back to Top](#)

§ 1504.3 Procedure for referrals and response.

(a) A Federal agency making the referral to the Council shall:

- (1) Advise the lead agency at the earliest possible time that it intends to refer a matter to the Council unless a satisfactory agreement is reached.

(2) Include such advice in the referring agency's comments on the draft environmental impact statement, except when the statement does not contain adequate information to permit an assessment of the matter's environmental acceptability.

(3) Identify any essential information that is lacking and request that it be made available at the earliest possible time.

(4) Send copies of such advice to the Council.

(b) The referring agency shall deliver its referral to the Council not later than twenty-five (25) days after the final environmental impact statement has been made available to the Environmental Protection Agency, commenting agencies, and the public. Except when an extension of this period has been granted by the lead agency, the Council will not accept a referral after that date.

(c) The referral shall consist of:

(1) A copy of the letter signed by the head of the referring agency and delivered to the lead agency informing the lead agency of the referral and the reasons for it, and requesting that no action be taken to implement the matter until the Council acts upon the referral. The letter shall include a copy of the statement referred to in (c)(2) of this section.

(2) A statement supported by factual evidence leading to the conclusion that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall:

(i) Identify any material facts in controversy and incorporate (by reference if appropriate) agreed upon facts,

(ii) Identify any existing environmental requirements or policies which would be violated by the matter,

(iii) Present the reasons why the referring agency believes the matter is environmentally unsatisfactory,

(iv) Contain a finding by the agency whether the issue raised is of national importance because of the threat to national environmental resources or policies or for some other reason,

(v) Review the steps taken by the referring agency to bring its concerns to the attention of the lead agency at the earliest possible time, and

(vi) Give the referring agency's recommendations as to what mitigation alternative, further study, or other course of action (including abandonment of the matter) are necessary to remedy the situation.

(d) Not later than twenty-five (25) days after the referral to the Council the lead agency may deliver a response to the Council, and the referring agency. If the lead agency requests more time and gives assurance that the matter will not go forward in the interim, the Council may grant an extension. The response shall:

- (1) Address fully the issues raised in the referral.
- (2) Be supported by evidence.
- (3) Give the lead agency's response to the referring agency's recommendations.

(e) Interested persons (including the applicant) may deliver their views in writing to the Council. Views in support of the referral should be delivered not later than the referral. Views in support of the response shall be delivered not later than the response.

(f) Not later than twenty-five (25) days after receipt of both the referral and any response or upon being informed that there will be no response (unless the lead agency agrees to a longer time), the Council may take one or more of the following actions:

- (1) Conclude that the process of referral and response has successfully resolved the problem.
- (2) Initiate discussions with the agencies with the objective of mediation with referring and lead agencies.
- (3) Hold public meetings or hearings to obtain additional views and information.
- (4) Determine that the issue is not one of national importance and request the referring and lead agencies to pursue their decision process.
- (5) Determine that the issue should be further negotiated by the referring and lead agencies and is not appropriate for Council consideration until one or more heads of agencies report to the Council that the agencies' disagreements are irreconcilable.
- (6) Publish its findings and recommendations (including where appropriate a finding that the submitted evidence does not support the position of an agency).
- (7) When appropriate, submit the referral and the response together with the Council's recommendation to the President for action.
- (g) The Council shall take no longer than 60 days to complete the actions specified in paragraph (f)(2), (3), or (5) of this section.
- (h) When the referral involves an action required by statute to be determined on the record after opportunity for agency hearing, the referral shall be conducted in a manner consistent with 5 U.S.C. 557(d) (Administrative Procedure Act).

[43 FR 55998, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

§ 1505.1 Agency decisionmaking procedures.

Agencies shall adopt procedures (§ 1507.3) to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

(a) Implementing procedures under section 102(2) to achieve the requirements of sections 101 and 102(1).

(b) Designating the major decision points for the agency's principal programs likely to have a significant effect on the human environment and assuring that the NEPA process corresponds with them.

(c) Requiring that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings.

(d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions.

(e) Requiring that the alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker consider the alternatives described in the environmental impact statement. If another decision document accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.

[↑ Back to Top](#)

§ 1505.2 Record of decision in cases requiring environmental impact statements.

At the time of its decision (§ 1506.10) or, if appropriate, its recommendation to Congress, each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, including that required by OMB Circular A-95 (Revised), part I, sections 6(c) and (d), and part II, section 5(b)(4), shall:

(a) State what the decision was.

(b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all

such factors including any essential considerations of national policy which were balanced by the agency in making its decision and state how those considerations entered into its decision.

(c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.

[↑ Back to Top](#)

§ 1505.3 Implementing the decision.

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

- (a) Include appropriate conditions in grants, permits or other approvals.
- (b) Condition funding of actions on mitigation.
- (c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.
- (d) Upon request, make available to the public the results of relevant monitoring.

§ 1506.1 Limitations on actions during NEPA process.

(a) Until an agency issues a record of decision as provided in § 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:

- (1) Have an adverse environmental impact; or
- (2) Limit the choice of reasonable alternatives.

(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the

interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

- (1) Is justified independently of the program;
 - (2) Is itself accompanied by an adequate environmental impact statement; and
 - (3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.
- (d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance. Nothing in this section shall preclude Rural Electrification Administration approval of minimal expenditures not affecting the environment (e.g. long leadtime equipment and purchase options) made by non-governmental entities seeking loan guarantees from the Administration.

[↑ Back to Top](#)

§ 1506.2 Elimination of duplication with State and local procedures.

- (a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.
- (b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:
 - (1) Joint planning processes.
 - (2) Joint environmental research and studies.
 - (3) Joint public hearings (except where otherwise provided by statute).
 - (4) Joint environmental assessments.
- (c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

[↑ Back to Top](#)

§ 1506.3 Adoption.

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify.

[↑ Back to Top](#)

§ 1506.4 Combining documents.

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork.

[↑ Back to Top](#)

§ 1506.5 Agency responsibility.

(a) *Information.* If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers (§ 1502.17). It is the intent of this paragraph that acceptable work not be redone, but that it be verified by the agency.

(b) *Environmental assessments.* If an agency permits an applicant to prepare an environmental assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment.

(c) *Environmental impact statements.* Except as provided in §§ 1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or where appropriate under § 1501.6(b), a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency.

[↑ Back to Top](#)

§ 1506.6 Public involvement.

Agencies shall:

(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern notice shall include publication in the FEDERAL REGISTER and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the *102 Monitor*. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).

(ii) Notice to Indian tribes when effects may occur on reservations.

- (iii) Following the affected State's public notice procedures for comparable actions.
 - (iv) Publication in local newspapers (in papers of general circulation rather than legal papers).
 - (v) Notice through other local media.
 - (vi) Notice to potentially interested community organizations including small business associations.
 - (vii) Publication in newsletters that may be expected to reach potentially interested persons.
 - (viii) Direct mailing to owners and occupants of nearby or affected property.
 - (ix) Posting of notice on and off site in the area where the action is to be located.
- (c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:
- (1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.
 - (2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).
- (d) Solicit appropriate information from the public.
- (e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.
- (f) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

[↑ Back to Top](#)

§ 1506.7 Further guidance.

The Council may provide further guidance concerning NEPA and its procedures including:

(a) A handbook which the Council may supplement from time to time, which shall in plain language provide guidance and instructions concerning the application of NEPA and these regulations.

(b) Publication of the Council's Memoranda to Heads of Agencies.

(c) In conjunction with the Environmental Protection Agency and the publication of the 102 Monitor, notice of:

(1) Research activities;

(2) Meetings and conferences related to NEPA; and

(3) Successful and innovative procedures used by agencies to implement NEPA.

[↑ Back to Top](#)

§ 1506.8 Proposals for legislation.

(a) The NEPA process for proposals for legislation (§ 1508.17) significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress. A legislative environmental impact statement is the detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement which can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

(b) Preparation of a legislative environmental impact statement shall conform to the requirements of these regulations except as follows:

(1) There need not be a scoping process.

(2) The legislative statement shall be prepared in the same manner as a draft statement, but shall be considered the “detailed statement” required by statute; *Provided*, That when any of the following conditions exist both the draft and final environmental impact statement on the legislative proposal shall be prepared and circulated as provided by §§ 1503.1 and 1506.10.

(i) A Congressional Committee with jurisdiction over the proposal has a rule requiring both draft and final environmental impact statements.

(ii) The proposal results from a study process required by statute (such as those required by the Wild and Scenic Rivers Act (16 U.S.C. 1271 *et seq.*) and the Wilderness Act (16 U.S.C. 1131 *et seq.*)).

(iii) Legislative approval is sought for Federal or federally assisted construction or other projects which the agency recommends be located at specific geographic locations. For proposals requiring an environmental impact statement for the acquisition of space by the General Services Administration, a draft statement shall accompany the Prospectus or the 11(b) Report of Building Project Surveys to the Congress, and a final statement shall be completed before site acquisition.

(iv) The agency decides to prepare draft and final statements.

(c) Comments on the legislative statement shall be given to the lead agency which shall forward them along with its own responses to the Congressional committees with jurisdiction.

[↑ Back to Top](#)

§ 1506.9 Filing requirements.

(a) Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities, EIS Filing Section, Ariel Rios Building (South Oval Lobby), Mail Code 2252-A, Room 7220, 1200 Pennsylvania Ave., NW., Washington, DC 20460. This address is for deliveries by US Postal Service (including USPS Express Mail).

(b) For deliveries in-person or by commercial express mail services, including Federal Express or UPS, the correct address is: US Environmental Protection Agency, Office of Federal Activities, EIS Filing Section, Ariel Rios Building (South Oval Lobby), Room 7220, 1200 Pennsylvania Avenue, NW., Washington, DC 20004.

(c) Statements shall be filed with the EPA no earlier than they are also transmitted to commenting agencies and made available to the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President. EPA may issue guidelines to agencies to implement its responsibilities under this section and § 1506.10.

[70 FR 41148, July 18, 2005]

[↑ Back to Top](#)

§ 1506.10 Timing of agency action.

(a) The Environmental Protection Agency shall publish a notice in the FEDERAL REGISTER each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded under § 1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described above in paragraph (a) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described above in paragraph (a) of this section for a final environmental impact statement.

An exception to the rules on timing may be made in the case of an agency decision which is subject to a formal internal appeal. Some agencies have a formally established appeal process which allows other agencies or the public to take appeals on a decision and make their views known, after publication of the final environmental impact statement. In such cases, where a real opportunity exists to alter the decision, the decision may be made and recorded at the same time the environmental impact statement is published. This means that the period for appeal of the decision and the 30-day period prescribed in paragraph (b)(2) of this section may run concurrently. In such cases the environmental impact statement shall explain the timing and the public's right of appeal. An agency engaged in rulemaking under the Administrative Procedure Act or other statute for the purpose of protecting the public health or safety, may waive the time period in paragraph (b)(2) of this section and publish a decision on the final rule simultaneously with publication of the notice of the availability of the final environmental impact statement as described in paragraph (a) of this section.

(c) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement is filed with the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently. However, subject to paragraph (d) of this section agencies shall allow not less than 45 days for comments on draft statements.

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency. (Also see § 1507.3(d).) Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days. When the Environmental Protection Agency reduces or extends any period of time it shall notify the Council.

[43 FR 56000, Nov. 29, 1978; 44 FR 874, Jan. 3, 1979]

[↑ Back to Top](#)

§ 1506.11 Emergencies.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

[↑ Back to Top](#)

§ 1506.12 Effective date.

The effective date of these regulations is July 30, 1979, except that for agencies that administer programs that qualify under section 102(2)(D) of the Act or under section 104(h) of the Housing and Community Development Act of 1974 an additional four months shall be allowed for the State or local agencies to adopt their implementing procedures.

(a) These regulations shall apply to the fullest extent practicable to ongoing activities and environmental documents begun before the effective date. These regulations do not apply to an environmental impact statement or supplement if the draft statement was filed before the effective date of these regulations. No completed environmental documents need be redone by reasons of these regulations. Until these regulations are applicable, the Council's guidelines published in the FEDERAL REGISTER of August 1, 1973, shall continue to be applicable. In cases where these regulations are applicable the guidelines are superseded. However, nothing shall prevent an agency from proceeding under these regulations at an earlier time.

(b) NEPA shall continue to be applicable to actions begun before January 1, 1970, to the fullest extent possible.

[↑ Back to Top](#)

§ 1507.1 Compliance.

All agencies of the Federal Government shall comply with these regulations. It is the intent of these regulations to allow each agency flexibility in adapting its implementing procedures authorized by § 1507.3 to the requirements of other applicable laws.

[↑ Back to Top](#)

§ 1507.2 Agency capability to comply.

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements enumerated below. Such compliance may include use of other's resources, but the using agency shall itself have sufficient capability to evaluate what others do for it. Agencies shall:

(a) Fulfill the requirements of section 102(2)(A) of the Act to utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on the human environment. Agencies shall designate a person to be responsible for overall review of agency NEPA compliance.

- (b) Identify methods and procedures required by section 102(2)(B) to insure that presently unquantified environmental amenities and values may be given appropriate consideration.
- (c) Prepare adequate environmental impact statements pursuant to section 102(2)(C) and comment on statements in the areas where the agency has jurisdiction by law or special expertise or is authorized to develop and enforce environmental standards.
- (d) Study, develop, and describe alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. This requirement of section 102(2)(E) extends to all such proposals, not just the more limited scope of section 102(2)(C)(iii) where the discussion of alternatives is confined to impact statements.
- (e) Comply with the requirements of section 102(2)(H) that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.
- (f) Fulfill the requirements of sections 102(2)(F), 102(2)(G), and 102(2)(I), of the Act and of Executive Order 11514, Protection and Enhancement of Environmental Quality, Sec. 2.

[↑ Back to Top](#)

§ 1507.3 Agency procedures.

- (a) Not later than eight months after publication of these regulations as finally adopted in the FEDERAL REGISTER, or five months after the establishment of an agency, whichever shall come later, each agency shall as necessary adopt procedures to supplement these regulations. When the agency is a department, major subunits are encouraged (with the consent of the department) to adopt their own procedures. Such procedures shall not paraphrase these regulations. They shall confine themselves to implementing procedures. Each agency shall consult with the Council while developing its procedures and before publishing them in the FEDERAL REGISTER for comment. Agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting similar information from applicants. The procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations. The Council shall complete its review within 30 days. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are encouraged to publish explanatory guidance for these regulations and their own procedures. Agencies shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.
- (b) Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:
 - (1) Those procedures required by §§ 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), and 1508.4.
 - (2) Specific criteria for and identification of those typical classes of action:

(i) Which normally do require environmental impact statements.

(ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (§ 1508.4)).

(iii) Which normally require environmental assessments but not necessarily environmental impact statements.

(c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes, in order that the unclassified portions can be made available to the public.

(d) Agency procedures may provide for periods of time other than those presented in § 1506.10 when necessary to comply with other specific statutory requirements.

(e) Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by § 1501.7 may be published at a reasonable time in advance of preparation of the draft statement.

§ 1508.1 Terminology.

The terminology of this part shall be uniform throughout the Federal Government.

[↑ Back to Top](#)

§ 1508.2 Act.

Act means the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et seq.*) which is also referred to as “NEPA.”

[↑ Back to Top](#)

§ 1508.3 Affecting.

Affecting means will or may have an effect on.

[↑ Back to Top](#)

§ 1508.4 Categorical exclusion.

Categorical exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in § 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

[↑ Back to Top](#)

§ 1508.5 Cooperating agency.

Cooperating agency means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in § 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

[↑ Back to Top](#)

§ 1508.6 Council.

Council means the Council on Environmental Quality established by title II of the Act.

[↑ Back to Top](#)

§ 1508.7 Cumulative impact.

Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

[↑ Back to Top](#)

§ 1508.8 Effects.

Effects include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

[↑ Back to Top](#)

§ 1508.9 Environmental assessment.

Environmental assessment:

(a) Means a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

[↑ Back to Top](#)

§ 1508.10 Environmental document.

Environmental document includes the documents specified in § 1508.9 (environmental assessment), § 1508.11 (environmental impact statement), § 1508.13 (finding of no significant impact), and § 1508.22 (notice of intent).

[↑ Back to Top](#)

§ 1508.11 Environmental impact statement.

Environmental impact statement means a detailed written statement as required by section 102(2)(C) of the Act.

[↑ Back to Top](#)

§ 1508.12 Federal agency.

Federal agency means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. It also includes for purposes of these regulations States and units of general local government and Indian tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974.

[↑ Back to Top](#)

§ 1508.13 Finding of no significant impact.

Finding of no significant impact means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§ 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

[↑ Back to Top](#)

§ 1508.14 Human environment.

Human environment shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of “effects” (§ 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

[↑ Back to Top](#)

§ 1508.15 Jurisdiction by law.

Jurisdiction by law means agency authority to approve, veto, or finance all or part of the proposal.

[↑ Back to Top](#)

§ 1508.16 Lead agency.

Lead agency means the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement.

[↑ Back to Top](#)

§ 1508.17 Legislation.

Legislation includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

[↑ Back to Top](#)

§ 1508.18 Major Federal action.

Major Federal action includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (§ 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (§§ 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

[↑ Back to Top](#)

§ 1508.19 Matter.

Matter includes for purposes of part 1504:

(a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major federal action to which section 102(2)(C) of NEPA applies.

[↑ Back to Top](#)

§ 1508.20 Mitigation.

Mitigation includes:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

[↑ Back to Top](#)

§ 1508.21 NEPA process.

NEPA process means all measures necessary for compliance with the requirements of section 2 and title I of NEPA.

[↑ Back to Top](#)

§ 1508.22 Notice of intent.

Notice of intent means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

- (a) Describe the proposed action and possible alternatives.
- (b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.
- (c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

[↑ Back to Top](#)

§ 1508.23 Proposal.

Proposal exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (§ 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

[↑ Back to Top](#)

§ 1508.24 Referring agency.

Referring agency means the federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality.

[↑ Back to Top](#)

§ 1508.25 Scope.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its

relationships to other statements (§§ 1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include:

(1) No action alternative.

(2) Other reasonable courses of actions.

(3) Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct; (2) indirect; (3) cumulative.

[↑ Back to Top](#)

§ 1508.26 Special expertise.

Special expertise means statutory responsibility, agency mission, or related program experience.

[↑ Back to Top](#)

§ 1508.27 Significantly.

Significantly as used in NEPA requires considerations of both context and intensity:

(a) *Context*. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity*. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

[43 FR 56003, Nov. 29, 1978; 44 FR 874, Jan. 3, 1979]

[↑ Back to Top](#)

§ 1508.28 Tiering.

Tiering refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

- (a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

- (b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

Appendix C

Agency Scoping Checklist

**NC Division of Water Infrastructure
CDBG-I Environmental Review
Agency Scoping Check List**

This list is intended to be a guide to help ensure that all environmental cross-cutting agency review has been completed. It not intended to be an exhaustive list of environmental requirements. A supplement is attached to the end of the checklist with additional information including county lists and contact information. Every effort will be made to keep the contact information up to date; however, information should always be verified when making contact for project scoping.

Historic Preservation			
1. For all projects receiving assistance, a letter must be obtained from the State Historic Preservation Officer (SHPO) with the NC Dept. of Natural and Cultural Resources. Provide details of correspondence with SHPO below and include any findings, impacts, mitigative measures, and recommendations in the ERR.			
Date of Correspondence:		Finding:	<input type="checkbox"/> No historic properties affected <input type="checkbox"/> No adverse effect <input type="checkbox"/> Adverse effect
2. For all projects involving ground disturbance, a letter must be obtained from the Catawba Indian Nation Tribal Historic Preservation Officer (THPO). Provide details of correspondence with the Catawba THPO below and include any findings, impacts, mitigative measures, and recommendations in the ERR.			
Date of Correspondence:		Finding:	<input type="checkbox"/> No historic properties affected <input type="checkbox"/> No adverse effect <input type="checkbox"/> Adverse effect
3. For projects located in the counties listed in the attachment and involving disturbance of soil not classified as Urban Soil (as defined in the attachment), a letter must be obtained from the Eastern Band of Cherokee Indians (EBCI) THPO. <ul style="list-style-type: none"> • Is the project located in an EBCI county? <input type="checkbox"/> Yes <input type="checkbox"/> No • Does the project disturb soil not classified as Urban Soil? <input type="checkbox"/> Yes <input type="checkbox"/> No <ul style="list-style-type: none"> • If “Yes” to both, then provide details of correspondence from the EBCI THPO. 			

Date of Correspondence:		Finding:	<input type="checkbox"/> No historic properties affected <input type="checkbox"/> No adverse effect <input type="checkbox"/> Adverse effect
<p>4. For projects located in the counties listed in the attachment and involving ground disturbance, the Tuscarora Nation of New York must be contacted.</p> <ul style="list-style-type: none"> • Is the project located in a Tuscarora county? <input type="checkbox"/> Yes <input type="checkbox"/> No • Does the project include ground disturbance? <input type="checkbox"/> Yes <input type="checkbox"/> No • If “Yes” to both, then provide details of correspondence from the Tuscarora Nation. 			
Date of Correspondence:		Result:	<input type="checkbox"/> No response <input type="checkbox"/> No Interest in the project <input type="checkbox"/> Interest in the project
<p>5. For projects located in the counties listed in the attachment and involving ground disturbance, the Muscogee (Creek) Indian Nation must be contacted.</p> <ul style="list-style-type: none"> • Is the project located in a Muscogee county? <input type="checkbox"/> Yes <input type="checkbox"/> No • Does the project include ground disturbance? <input type="checkbox"/> Yes <input type="checkbox"/> No • If “Yes” to both, then provide details of correspondence from the Tuscarora Nation. 			
Date of Correspondence:		Result:	<input type="checkbox"/> No response <input type="checkbox"/> No Interest in the project <input type="checkbox"/> Interest in the project
Floodplain Management			
<p>6. Obtain FIRM maps from FEMA to determine whether development will be occurring in a floodplain.</p> <ul style="list-style-type: none"> • Does the project require the 8-step process for floodplains as outlined in the ER/EID guidance? 			
<input type="checkbox"/> Yes	Then send a copy of each notice prepared as part of the process to FEMA. Obtain any required floodplain development permits.		
<input type="checkbox"/> No	FEMA does not need to be notified. Maintain maps as part of the ERR.		

Wetland Protection

7. For all projects resulting in construction of structures or including grading and filling activities, determine the presence or absence of wetlands, including non-jurisdictional wetlands. Contact the local U.S. Army Corps of Engineers (USACE) office for assistance as needed.
8. If any development is occurring in a wetland, the 8 step process must be completed and documented in the ERR. This requirement applies regardless of whether the USACE requires or has issued a Section 404 permit.
- Will construction result in the loss of any wetlands?

<input type="checkbox"/> Yes	Contact the USACE and Div. of Water Resources (DWR) to determine whether authorization is required. Provide details of the correspondence below.
------------------------------	--

<input type="checkbox"/> No	Correspondence data is not required.
-----------------------------	--------------------------------------

Date of Correspondence with ACE:		Finding:	
----------------------------------	--	----------	--

Date of Correspondence with NCDWR:		Finding:	
------------------------------------	--	----------	--

Coastal Management

9. Certain projects may require a Consistency Determination from the Division of Coastal Management (DCM).
- Is the project located in a CAMA county?
 Yes No
 - Does the project involve new construction, conversion of land use, major rehabilitation, or acquisition of undeveloped land?
 Yes No
 - If “Yes” to both, then a Consistency Determination must be submitted the State Environmental Review Clearinghouse for distribution to the DCM. Contact DCM for information regarding preparing the submission and the Clearinghouse for information on submitting documents to them. Include all documentation in the ERR and provide date below.

Date Sent to Clearinghouse:		Finding:	
-----------------------------	--	----------	--

Threatened & Endangered Species

10. Does the project include ground disturbance, vegetation removal, filling of ponds, streams, or other waters, or generation of a typical noise levels?

<input type="checkbox"/> Yes	Then proceed with biological survey steps below		
<input type="checkbox"/> No	No further action is required.		
11. Consult county list of species from US FWS here: http://www.fws.gov/raleigh/species/cntylist/nc_counties.html			
• Are listed species present in the county where the project will take place?			
<input type="checkbox"/> Yes	Then continue with biological survey steps.		
<input type="checkbox"/> No	Document finding of “No Impact” in ERR and no further action is required		
12. Prepare a biological survey following instructions from the US FWS here: http://www.fws.gov/raleigh/es_consultation.html			
• Can a finding of “no effect” be made based on the instructions for the biological evaluation? NOTE: “No Effect” means no positive or negative effect.			
<input type="checkbox"/> Yes	Include the biological survey in the ERR and no further action is required.		
<input type="checkbox"/> No	Then Fish and Wildlife Service or National Marine Fisheries Service must be contacted for concurrence with a determination of “not likely to adversely affect” or for formal consultation for “likely to adversely affect”		
13. Provide details of correspondence with USFWS or NMFS below, and include any findings, impacts, mitigative measures, and recommendations in the ERR.			
Date of Correspondence:		Finding:	<input type="checkbox"/> Not likely to adversely affect <input type="checkbox"/> Likely to adversely affect
Wild and Scenic Rivers			
14. Certain projects may require consultation with the National Park Service or USFWS regarding wild and scenic rivers.			
• Is the project located in a county that contains a designated Wild and Scenic River or in a river basin that contains a listed river? <input type="checkbox"/> Yes <input type="checkbox"/> No			
• Will a listed river potentially be affected?			
<input type="checkbox"/> Yes	Contact the USFWS or National Park Service and provide details of correspondence below.		
<input type="checkbox"/> No	Correspondence data is not required.		
Date of Correspondence:		Finding:	

Air Quality

15. Projects that include emergency generators may require a permit from the NC Division of Air Quality (NCDAQ). Does the project include any of the following generators:

- Natural gas-fired generator with capacity greater than 310 kw or 460 hp?
- Liquefied petroleum generator with capacity greater than 830 kw or 1,150 hp
- Diesel or kerosene fired generator with capacity greater than 370 kw or 410 hp
- Gasoline-fired generator with capacity greater than 21 kw or 31 hp?

<input type="checkbox"/> Yes	Contact the NCDAQ about permitting requirements and provide details below
<input type="checkbox"/> No	Correspondence data is not required.
Date of Correspondence:	Finding:

Farmland Protection

16. Does the project involve construction on vacant land that is not urban?

<input type="checkbox"/> Yes	Contact the Natural Resource Conservation Service (NRCS) to determine if the project will remove important farmlands from agricultural production and provide details below.
<input type="checkbox"/> No	Correspondence data is not required.
Date of Correspondence:	Finding:

Supplemental Information for completion of the Agency scoping list

State Historic Preservation Office:

Renee Gledhill-Earley
Environmental Review Coordinator
State Historic Preservation Office
4617 Mail Service Center
Raleigh, NC 27699-4617
(Physical Address: 109 E. Jones St. Raleigh, NC 27601)
(919) 807-6570
Environmental.Review@ncdcr.gov
http://www.hpo.ncdcr.gov/er/er_email_submittal.html

Catawba Indian Nation THPO:

Caitlin Rogers
Catawba Indian Nation
THPO Archaeology Department
1536 Tom Steven Road
Rock Hill, SC 29730
(803) 328-2427 ex. 226
No email - Must submit consultation requests via letter

Tuscarora Nation of New York:

Chief Leo Henry
Tuscarora Nation of New York
Tuscarora Reservation
2006 Mt. Hope Road
Lewiston, NY 14092
(716) 297-1148
No email - Must submit consultation requests via letter

Eastern Band of Cherokee Indians THPO:

Stephen J. Yerka
Tribal Historic Preservation Officer
Eastern Band of Cherokee Indians
Qualla Boundary Reservation
P.O. Box 455
Cherokee, NC 28719
(828) 359-6852
syerka@nc-cherokee.com

Muscogee (Creek) Nation THPO:

Corain Lowe-Zepeda
Tribal Historic Preservation Officer
Cultural Preservation Department
Muscogee (Creek) Nation
P.O. Box 580
Okmulgee, OK 74447
(918) 732-7835
section106@mcn-nsn.gov

FEMA:

Stephanie Madson
Department of Homeland Security
FEMA Deputy Environmental Office
3003 Chamblee Tucker Road
Atlanta, GA 30341-4112
stephanie.madson@fema.dhs.gov

US Army Corps of Engineers:

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/Contact.aspx>

ASHEVILLE REGULATORY FIELD OFFICE

US Army Corps of Engineers
151 Patton Avenue, Room 208
Asheville, North Carolina 28801-5006
General Number: (828) 271-7980
Fax Number: (828) 281-8120

RALEIGH REGULATORY FIELD OFFICE

US Army Corps of Engineers
3331 Heritage Trade Drive, Suite 105
Wake Forest, North Carolina 27587
General Number: (919) 554-4884
Fax Number: (919) 562-0421

WASHINGTON REGULATORY FIELD OFFICE
US Army Corps of Engineers
2407 West Fifth Street Washington, NC 27889
General Number: (910) 251-4610
Fax Number: (252) 975-1399

WILMINGTON REGULATORY FIELD OFFICE
US Army Corps of Engineers
69 Darlington Avenue
Wilmington, NC 28403
General Number: 910-251-4633
Fax Number: (910) 251-4025

Division of Coastal Management:
Daniel Govoni
Federal Consistency Coordinator
NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557-3421
(252) 808-2808 ext. 233
Daniel.govoni@ncdenr.gov

U.S. Fish & Wildlife Service:

See map to determine appropriate field office: http://www.fws.gov/raleigh/media/work_area.gif

Raleigh Field Office
Attn: John Ellis
P.O. Box 33726
Raleigh, NC 27636
(919) 856-4520 ex. 26

Asheville Field Office
Attn: Byron Hamstead
160 Zillcoa Street
Asheville, NC 28801
(828) 258-3939

US EPA Region 4

Christopher A. Militscher
 Chief, NEPA Program Office
 U.S. EPA Region 4
 61 Forsyth Street SW
 Atlanta, GA 30303-8960
 (404) 562-9512
 Militscher.chris@epa.gov

Division of Air Quality:

Contact the air quality staff at the appropriate DEQ regional office:

<http://deq.nc.gov/contact/regional-offices>

Natural Resource Conservation Service:

Contact the appropriate local NRCS office:

<http://offices.sc.egov.usda.gov/locator/app>

Eastern Band of Cherokee Indian Counties

Alleghany	Caldwell	Gaston	Lincoln	Polk	Wilkes
Ashe	Catawba	Graham	Macon	Rutherford	Yancey
Avery	Cherokee	Haywood	Madison	Swain	
Buncombe	Clay	Henderson	McDowell	Transylvania	
Burke	Cleveland	Jackson	Mitchell	Watauga	

Tuscarora Nation of New York Counties

Beaufort	Edgecombe	Johnston	Nash	Wayne
Bertie	Greene	Jones	Northampton	Wilson
Craven	Halifax	Lenoir	Pitt	

Muscogee (Creek) Indian Nation Counties

Ashe	Clay	Jackson	Mitchell	Transylvania
Avery	Graham	Macon	Polk	Watauga

Buncombe	Haywood	Madison	Rutherford	Yancey
Cherokee	Henderson	McDowell	Swain	

CAMA Counties

Beaufort	Carteret	Dare	New Hanover	Pender
Bertie	Chowan	Gates	Onslow	Perquimans
Brunswick	Craven	Hertford	Pamlico	Tyrrell
Camden	Currituck	Hyde	Pasquatank	Washington

Wild & Scenic Rivers in North Carolina

River	Drainage Basin	Designated Reach	River Counties
Chattooga River	Savannah	The segment from 0.8 miles below Cashiers Lake in North Carolina to the Tugaloo Reservoir. The West Fork from its confluence with the main stem upstream 7.3 miles	Jackson
Horsepasture River	Savannah	From Bohaynee Road (N.C. 281) downstream to Lake Jocassee.	Jackson
New River	New	The South Fork from its confluence with Dog Creek downstream 22 miles to the confluence with the North Fork. The main stem from the confluence of the North and South Forks with Dog Creek downstream approximately 4.5 miles to the Virginia state line	Ashe and Alleghany
Lumber River	Lumber	From State Route 1412/1203 (river mile 0) to the Scotland/Robeson County lines at the end of the Maxton Airport Swamp (river mile 22) and from Back Swamp (river mile 56) to the North/South Carolina border (river mile 115).	Hoke, Scotland, Robeson and Columbus
Wilson Creek	Catawba	From the headwaters below Calloway Peak to the confluence with Johns River.	Avery and Caldwell

Appendix D

Environmental Information Document Tables

Table 1.1. Topography					
Project Name					
Owner Name					
<i>Complete this table per Section 4.1 of the guidance for projects categorized as: FONSI.</i>					
Topography Figure Reference Number (if applicable):					
Topography Appendix Reference (if applicable):					
Existing Conditions					
<i>Physiographic Province:</i>	<input type="checkbox"/> Coastal Plain	<input type="checkbox"/> Piedmont	<input type="checkbox"/> Mountains		
<i>Minimum Elevation in Project Area (MSL):</i>			<i>Maximum Elevation in Project Area (MSL):</i>		
<i>Discuss topographical and geological features.</i>					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe benefits and impacts to topography, including slope, associated with the project.</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures</i>					
Sources Consulted				Date	Reference(s)

Table 2.1. Floodplain Management [24 CFR 58.5(b)(1)]					
Project Name					
Owner Name					
Floodplain Figure Reference Number (if applicable):					
Floodplain Information Appendix Reference (if applicable):					
<i>Floodplain Management - Existing Conditions</i>					
<i>Complete the table per Section 4.2 of the guidance for projects categorized as: CEST and FONSI.</i>					
<i>Is the project in the 100-year floodplain, or 500-year floodplain (for critical actions)? (If so, show in Environmental Features Figure and complete Table 2.2.)</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Is the project in the floodway or coastal high-hazard area? (Show any floodway or coastal high-hazard area in Environmental Features Figure.) If the project is not functionally dependent it must be rejected.</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Was the 8-Step Process Completed? (if "Yes", complete Table 2.2)</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Impacts & Mitigation (Choose single most appropriate box for each category.)</i>					
<i>Construction Impacts</i>		<i>Operational Impacts</i>		<i>SCI</i>	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe benefits and impacts to floodplains associated with the project.</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures</i>					
<i>Sources Consulted</i>				<i>Date</i>	<i>Reference(s)</i>

Table 2.2. Floodplains – 8 Step Process (24 CFR Part 55, Subpart C)		
Project Name		
Owner Name		
<i>Complete this table in accordance with Section 4.2 for projects in the floodplain.</i>		
Floodplain Figure Reference Number (if applicable):		
Floodplain Information Appendix Reference (if applicable):		
<i>Complete the 8-step Process for all projects located in the Floodplain</i>		
<i>Step 1: Is the proposed project in the 100-year floodplain, or (for critical actions) 500-year floodplain?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<i>Step 2: Provide date of notice for early review:</i>		
<i>Provide name of publication for early review</i>		
<i>Step 3: Identify and evaluate practicable alternatives to locating in the 100-year, or 500-year (for critical actions) floodplain, including alternative sites outside of the floodplain.</i>		
<i>Step 4: Identify impacts of the proposed action.</i>		
<i>Step 5: Develop measures to minimize the impacts and restore and preserve the floodplain.</i>		
<i>Step 6: Reevaluate Alternatives.</i>		
<i>Step 7: Provide date of notice of finding and a public explanation.</i>		
<i>Provide name of publication for notice of finding</i>		
<i>Step 8: Implement the action.</i>		
<i>Sources Consulted</i>	<i>Date</i>	<i>Reference(s)</i>

Table 3.1. Soils						
Project Name						
Owner Name						
<i>Complete this table per Section 4.3 of the guidance for projects categorized as FONSI.</i>						
Soils Figure Reference Number:						
Soils Information Appendix Reference (if applicable):						
Existing Conditions						
<i>Describe the types of soil. Provide a soils figure in the EID.</i>						
<i>Is soil contamination present?</i>					<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>Does soil type present any constraints to the project?</i>					<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>If yes to either of the above, explain.</i>						
Impacts & Mitigation (Choose single most appropriate box for each category.)						
Construction Impacts		Operational Impacts		SCI		
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	
<i>Will soil be moved offsite?</i>		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<i>Quantity (yd³):</i>		
<i>Will soil be contaminated?</i>		<input type="checkbox"/> Yes	<input type="checkbox"/> No			
<i>Describe benefits and impacts to soils associated with the project</i>						
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>						
Sources Consulted				Date	Reference(s)	

Table 4.1. Prime and Unique Farmland [24 CFR 58.5(h)]					
Project Name					
Owner Name					
<i>Complete this table per Section 4.4 of the guidance for projects categorized as: CEST, FONSI.</i>					
Prime and Unique Farmland Information Appendix Reference (if applicable):					
Existing Conditions & Impacts					
1) <i>Is the proposed project located on or adjacent to land categorized as prime or unique farmlands or farmland of statewide or local importance?</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, is the land committed to urban development (as defined in 7 CFR 658.2) or water storage?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2) <i>Will drainage from the project adversely affect farmland?</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
3) <i>Will the project convert prime or unique farmland or farmland of statewide or local importance directly or indirectly?</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, Acres Impacted:		
a) <i>If Yes, Must attach Form 1006 [7 CFR 658]. Date Form 1006 Submitted to NRCS: Date of Response from NRCS:</i>					
4) <i>Will the project introduce nuisance species which may spread to adjacent farmland?</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Impacts & Mitigation (Choose single most appropriate box.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe benefits and impacts to prime and unique farmlands associated with the project.</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>					

Table 4.1. Prime and Unique Farmland [24 CFR 58.5(h)]		
Project Name		
Owner Name		
<i>Sources Consulted</i>	<i>Date</i>	<i>Reference(s)</i>

Table 5.1. Land Use					
Project Name					
Owner Name					
<i>Complete this table per Section 4.5 of the guidance for projects categorized as: FONSI.</i>					
Land Use Figure Reference Number (if applicable):					
Land Use Information Appendix Reference (if applicable):					
Existing Conditions					
<i>Discuss the current land use for the project site.</i>					
<i>Discuss the current land use for the project area.</i>					
<i>Discuss the zoning for the project site.</i>					
<i>Discuss the zoning for the project area.</i>					
Impacts					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Land Use Impacts		Zoning Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe benefits and impacts to land use associated with the project.</i>					
<i>*If “Requires Mitigation” or “Requires Modification” is checked, describe such measures.</i>					
Sources Consulted				Date	Reference(s)

Table 6.1. Wild & Scenic Rivers [24 CFR 58.5(f)]					
Project Name					
Owner Name					
<i>Complete this table per Section 4.6 of the guidance for projects categorized as: CEST, FONSI.</i>					
Wild & Scenic Rivers Information Appendix Reference (if applicable):					
<i>Is the project located within one mile of one of the designated Wild & Scenic Rivers or a river in the Nationwide Rivers inventory, or its tributaries?</i>					
<i>Chattooga River</i>	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<i>New River</i>
<i>Horsepasture River</i>	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<i>Wilson Creek</i>
<i>Lumber River</i>	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<i>If "Yes" is the stream reach in the project area designated as Wild & Scenic? <input type="checkbox"/> Yes <input type="checkbox"/> No</i>					
<i>Describe the stream reach:</i>					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe benefits and impacts to Wild & Scenic Rivers associated with the project.</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>					
Sources Consulted				Date	Reference(s)

Table 7.1 Executive Order 11990 Wetlands [24 CFR 58.5(b)(2)]					
Project Name					
Owner Name					
<i>Complete this table per Section 4.7 of the guidance for projects categorized as: CEST, FONSI.</i>					
<i>Complete this table in accordance with Section 5.2.7 of the guidance.</i>					
Wetlands and Streams Figure Reference Number:					
Wetlands and Streams Information Appendix Reference (if applicable):					
Existing Conditions					
Are wetlands, as defined by Executive Order 11990, present on the project site and in the project area?					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If so, discuss the type, quality, function, and relative importance of wetlands.</i>					
Did a site visit occur?		<input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, supply the date.		
Have delineations occurred?		<input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, supply the date.		
Does the project include wetland crossings?		<input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, Complete Table 7.2.		
Is the 8-Step Process Required?		<input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, Complete Table 7.3.		
Will new construction, as defined by Executive Order 11990, occur in wetlands?		<input type="checkbox"/> Yes <input type="checkbox"/> No			
<i>If yes, explain why practicable alternatives are not available.</i>					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
No Impact anticipated	<input type="checkbox"/>	No Impact anticipated	<input type="checkbox"/>	No Impact anticipated	<input type="checkbox"/>
Potentially beneficial	<input type="checkbox"/>	Potentially beneficial	<input type="checkbox"/>	Potentially beneficial	<input type="checkbox"/>
Potentially adverse	<input type="checkbox"/>	Potentially adverse	<input type="checkbox"/>	Potentially adverse	<input type="checkbox"/>
Requires Mitigation	<input type="checkbox"/>	Requires Mitigation	<input type="checkbox"/>	Requires Mitigation	<input type="checkbox"/>
Requires Modification	<input type="checkbox"/>	Requires Modification	<input type="checkbox"/>	Requires Modification	<input type="checkbox"/>
Total Acres Impacted from Table 5.7.2					
<i>Describe benefits and impacts to wetlands associated with the project.</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>					
Sources Consulted				Date	Reference(s)

Table 7.2. Wetland Crossings			
Project Name			
Owner Name			
<i>Wetland Crossings (Add rows as needed; include all crossings even if impact is zero acres.)</i>			
Wetlands Crossing Figure Reference Number:			
Wetlands Crossing Information Appendix Reference (if applicable):			
# Keyed to Map	Diameter & Type of Sewer	Installation Method	Acres Impacted
Total Wetland Impacts (acres):			

Table 7.3. Wetlands – 8 Step Process			
Project Name			
Owner Name			
<i>Complete this table in accordance with Section 4.7 for projects resulting in new construction in Executive Order 11990 wetlands.</i>			
Wetlands Figure Reference Number:			
Wetlands Appendix Reference (if applicable):			
Complete the 8-step Process for all projects located in Wetlands			
<i>Step 1: Is the proposed project in wetlands, as defined by Executive Order 11990?</i>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>Step 2: Provide date of notice for early review:</i>			
<i>Provide name of publication for early review:</i>			
<i>Step 3: Identify and evaluate practicable alternatives to locating in the wetland, including alternative sites outside of the wetland.</i>			
<i>Step 4: Identify impacts of the proposed action.</i>			
<i>Step 5: Develop measures to minimize the impacts and restore and preserve the wetland.</i>			
<i>Step 6: Reevaluate Alternatives.</i>			
<i>Step 7: Provide date of notice of finding and a public explanation.</i>			
<i>Provide name of publication for notice of finding</i>			
<i>Step 8: Implement the action.</i>			
Correspondence with U.S. Army Corps of Engineers			
<i>Date</i>	<i>Action ID</i>	<i>Finding (Concurrence, Recommendations, Etc.)</i>	<i>Reference(s)</i>
Correspondence with U.S. Fish and Wildlife Service			
<i>Date</i>	<i>Action ID</i>	<i>Finding (Concurrence, Recommendations, Etc.)</i>	<i>Reference(s)</i>

Table 8.1. Streams and Water Resources					
Project Name					
Owner Name					
<i>Complete this table per Section 4.8 of the guidance for projects categorized as: FONSI.</i>					
Water Resources Appendix Reference (if applicable):					
Existing Conditions					
<i>Sole Source Aquifers:</i>		Sole source aquifers are not present in NC; no further action is required.			
<i>River basin(s) for project:</i>					
<i>List all stream(s) found within the project site and greater project area.</i>					
<i>Name</i>	<i>Classification</i>	<i>Impaired?</i>		<i>Reason for Impairment</i>	
		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<i>Discuss groundwater quality and quantity.</i>					
<i>Discuss surface water quality.</i>					
<i>LGU water supply(ies):</i>					
Impacts					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Stream Crossings: Total Acres Impacted from Table 5.8.1</i>					
<i>Describe benefits and impacts to water resources associated with the project.</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>					
Sources Consulted				Date	Reference(s)

Table 8.2. Stream Crossings			
Project Name			
Owner Name			
Stream Crossing Figure Reference Number:			
Stream Crossing Information Appendix Reference (if applicable):			
<i>Stream Crossings (Add rows as needed; include all crossings even if impact is zero feet.)</i>			
# Keyed to Map	Diameter & Type of Sewer	Installation Method	Linear Feet Impacted
Total Stream Impacts (feet):			

Table 9.1. Endangered Species [24 CFR 58.5(e)]					
Project Name					
Owner Name					
<i>Complete this table per Section 4.9 of the guidance for projects categorized as: CEST, FONSI.</i>					
Endangered Species Appendix Reference (if applicable):					
<i>Existing Conditions</i>					
<i>Are federally listed T&E species present within the project site, the project area, or downstream from the project?</i>					
<input type="checkbox"/> Yes <input type="checkbox"/> No, a finding of No Effect can be made					
<i>If Yes, list all federally listed T&E species located within the project site, in the project area, and downstream of the project site. Show approximate location(s) on the Environmental Features Figure.</i>					
T&E Species Figure Reference Number (if applicable):					
<i>Common Name</i>	<i>Scientific Name</i>	<i>Status</i>	<i>Approximate Location (e.g., 5 mi. NE of Project)</i>		
<i>Discuss T&E species habitat.</i>					
<i>Will the project affect any of the federally listed T&E species?</i>					
<input type="checkbox"/> Yes <input type="checkbox"/> No, must obtain concurrence from the USFWS or for marine species NMFS					
<i>If Yes, a Biological Survey must be provided to the USFWS, or for marine species NMFS, and Biological Opinion of "Not Likely to Jeopardize the Existence of" obtained.</i>					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe impacts to threatened & endangered species.</i>					

Table 9.1. Endangered Species [24 CFR 58.5(e)]		
Project Name		
Owner Name		
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>		
<i>Sources Consulted</i>	<i>Date</i>	<i>Reference(s)</i>
U.S. Fish & Wildlife Service		
National Marine Fisheries Service		
Other		

Table 10.1. Wildlife, Natural Vegetation, and Forest Resources					
Project Name					
Owner Name					
<i>Complete this table per Section 4.10 of the guidance for projects categorized as: FONSI.</i>					
Wildlife, Natural Vegetation, and Forest Resources Information Appendix Reference (if applicable)					
Existing Conditions					
<i>Discuss the aquatic and terrestrial wildlife, vegetation, and forest resources present in the project site and project area.</i>					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Will the project require clearing of forest resources?</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No	<i>If Yes, Acres Impacted:</i>		
<i>Will the project require clearing of natural vegetation?</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No	<i>If Yes, Acres Impacted:</i>		
<i>Describe impacts associated with the project (Enter "None" if "No Impact" is checked).</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>					
Sources Consulted				Date	Reference(s)

Table 11.1. Community Facilities					
Project Name					
Owner Name					
<i>Complete this table per Section 4.11 of the guidance for projects categorized as: FONSI.</i>					
Community Facilities Figure Reference Number:					
Community Facilities Information Appendix Reference:					
Existing Conditions					
<i>Are community facilities such as schools, airports, health care facilities, parks, etc. found adjacent to or in the project area? (See guidance for full list)</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If yes, list these areas and show on a figure.</i>					
<i>Name</i>	<i>Type</i>	<i>Location (e.g., 5 mi. NE of Project)</i>			
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Will the project increase the number of school-aged children?</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If "Yes", do potentially affected schools have adequate capacity and safe access to serve these additional students?</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If "Yes" to both of the above, explain measures that will be taken to accommodate additional students.</i>					
<i>Describe impacts associated with the project (Enter "None" if "No Impact" is checked).</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>					

Table 11.1. Community Facilities		
Project Name		
Owner Name		
<i>Sources Consulted</i>	<i>Date</i>	<i>Reference(s)</i>

Table 12.1. Historic Preservation [24 CFR 58.5(a)]		
Project Name		
Owner Name		
<i>Complete this table per Section 4.12 of the guidance for projects categorized as: CEST, FONSI.</i>		
Historic Preservation Figure Reference Number:		
Archaeological or Historical Area Information Appendix Reference:		
Consultation with NC Dept. of Natural and Cultural Resources		
As determined through consultation with NCDNCR, will National Register listed or eligible properties be impacted?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Date of Correspondence:		NCDNCR Record Number:
If yes, list these and show on a figure.		
Consultation with Catawba Indian Nation THPO (Statewide)		
For projects with ground disturbance, as determined through consultation with EBCI will National Register listed or eligible properties be impacted?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Date of Correspondence:		CIN Record Number:
If yes, list these and show on a figure.		
Consultation with Eastern Band of Cherokee Indians THPO (See county list.)		
For projects with ground disturbance, as determined through consultation with EBCI will National Register listed or eligible properties be impacted?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Date of Correspondence:		EBCI Record Number:
If yes, list these and show on a figure.		
Consultation with Tuscarora Nation of New York (See county list.)		
For projects with ground disturbance, has the Tuscarora Nation expressed interest in the project?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Date of Correspondence:		Record Number:
If yes, list these and show on a figure.		
Consultation with Muscogee (Creek) Indian Nation (See county list.)		
For projects with ground disturbance, has the Muscogee (Creek) Indian Nation expressed interest in the project?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Date of Correspondence:		Record Number:
If yes, list these and show on a figure.		
<i>Name</i>	<i>Type</i>	<i>Location (e.g., 5 mi. NE of Project)</i>

Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe impacts associated with the project (Enter "None" if "No Impact" is checked).</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>					
Sources Consulted				Date	Reference(s)

Table 13.1. Air Quality [24 CFR 58.5(g)]					
Project Name					
Owner Name					
<i>Complete this table per Section 4.13 of the guidance for projects categorized as: CEST, FONSI.</i>					
Air Quality Information Appendix Reference (if applicable):					
Existing Conditions					
<i>Discuss the general air quality and identify current sources of emissions from the project and surrounding area. Note whether odors have been a problem.</i>					
<i>Will open burning occur?</i>		<i>If Yes, describe what will be burned.</i>			
<input type="checkbox"/> Yes <input type="checkbox"/> No					
<i>Is the project located in a non-attainment or maintenance area?</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If Yes, is the project in conformance with the State Implementation Plan?</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No	<i>Date of Consultation with DAQ:</i>		
<i>If project is not in conformance with SIP, be sure to include any mitigation as discussed with DAQ</i>					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe impacts associated with the project (Enter "None" if "No Impact" is checked).</i>					
<i>*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.</i>					
Sources Consulted				Date	Reference(s)

Table 14.1. Noise Levels and Noise Abatement and Control (24 CFR Part 51, Subpart B)					
Project Name					
Owner Name					
<i>Complete this table per Section 4.14 of the guidance for projects categorized as: FONSI.</i>					
Noise Level Information Appendix Reference (if applicable):					
Existing Conditions					
<i>Discuss the current noise levels for the project site and project area.</i>					
<i>Does the LGU have noise ordinances in place?</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No			
<i>If yes, describe.</i>					
<i>Will the project directly support construction of new housing or other noise sensitive development?</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If "Yes" are any of the following true:</i> <ul style="list-style-type: none"> • <i>Project is located within 5 miles of a civil airport.</i> • <i>Project is located within 15 miles of a military airfield.</i> • <i>Project is located within 1,000 ft of a major highway or busy road.</i> • <i>Project is located within 3,000 ft of a railroad.</i> <i>If "Yes" for any of these, then attach Day/Night Noise Level calculator results.</i>					<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
Will the noise sensitive development be exposed to Normally Unacceptable (>65DNT to 75 DNL) or Unacceptable (>75 DNL) noise levels? <input type="checkbox"/> Yes <input type="checkbox"/> No, attach the Noise Assessment					
<i>If Normally Unacceptable, complete an Environmental Assessment and provide mitigation to reduce interior noise levels to ≤.45 DNL, and outdoor noise levels for designated gathering areas to ≤65 DNL.</i>					
<i>If Unacceptable, an Environmental Impact Statement must be completed unless the project meets the conditions for waiver of the EIS requirement by the Certifying Officer.</i>					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe impacts associated with the project (Enter "None" if "No Impact" is checked).</i>					

Table 14.1. Noise Levels and Noise Abatement and Control (24 CFR Part 51, Subpart B)		
Project Name		
Owner Name		
<i>*If Requires Mitigation” or “Requires Modification” is checked, describe such measures.</i>		
<i>Sources Consulted</i>	<i>Date</i>	<i>Reference(s)</i>

Table 15.1. Energy Consumption					
Project Name					
Owner Name					
<i>Complete this table per Section 4.15 of the guidance for projects categorized as: FONSI.</i>					
Energy Consumption Appendix Reference (if applicable):					
Will the project increase energy consumption?					<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" explain the increase in energy consumption.					
Will the project improve energy consumption?					<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" explain the decrease in energy consumption and place any calculations in an appendix.					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
No Impact anticipated	<input type="checkbox"/>	No Impact anticipated	<input type="checkbox"/>	No Impact anticipated	<input type="checkbox"/>
Potentially beneficial	<input type="checkbox"/>	Potentially beneficial	<input type="checkbox"/>	Potentially beneficial	<input type="checkbox"/>
Potentially adverse	<input type="checkbox"/>	Potentially adverse	<input type="checkbox"/>	Potentially adverse	<input type="checkbox"/>
Requires Mitigation	<input type="checkbox"/>	Requires Mitigation	<input type="checkbox"/>	Requires Mitigation	<input type="checkbox"/>
Requires Modification	<input type="checkbox"/>	Requires Modification	<input type="checkbox"/>	Requires Modification	<input type="checkbox"/>
Describe energy consumption impacts.					
*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures.					
Sources Consulted				Date	Reference(s)

Table 16.1. Site Safety (24 CFR Part 51, Subparts C and D)	
Project Name	
Owner Name	
<i>Airport Hazards [24 CFR Part 51, Subpart D, 24 CFR 58.6(d)]</i>	
<i>Complete this portion of the table per Section 4.16.1 of the guidance for projects categorized as: Exempt, CENST, CEST, FONSI.</i>	
<i>a) Is the project within 3,000 ft from the end of a civil airport runway?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>b) Is the project within 2.5 miles from the end of a military airfield runway?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>c) If “Yes” to a or b, will the project be located in a runway clear zone at a civil airport OR clear zone or accident potential zone at a military airfield.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>d.) If “Yes” to a or b, will the project be located in a runway clear zone at a civil airport OR clear zone or accident potential zone at a military airfield²⁶.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>d.) If “Yes” has the airport operator has provided written assurance to the effect that there are no plans to purchase the land involved with the project site (provide Record Number)¹; or for projects in accident potential zones the project has been found to be compatible with the Airport Installation Compatibility Use Zone.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No Record Number:
<i>Sources Consulted</i>	<i>Reference(s)</i>
<i>Complete this portion of the table per Section 4.16.2 of the guidance for projects categorized as: CEST, FONSI.</i>	
<i>Explosive & Flammable Hazard Operations</i>	
<i>d) Is this a construction or rehab/modernization project that will increase the number of people using a structure?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>e) Is this a rehab/modernization project that will make a vacant building habitable?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>f) If “Yes” to d or e, are there 100+ gallon above ground storage tanks (ASTs) storing common liquid industrial fuels, or any capacity ASTs storing hazardous liquids or gases that are not common liquid industrial fuels. 1 mile from, adjacent to, or visible from the project site?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
<i>g) if “Yes” to f, attach Acceptable Separation Distance documentation. Does the project require mitigation for hazards?²⁷ If yes, describe.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable

²⁶ In accordance with 24 CFR 51.303 HUD funds cannot be used in runway clearzones or clearzones for construction, land development, community development, redevelopment, or provision of services or facilities that are frequently used or occupied by people.

²⁷ In accordance with 24 CFR 51.202(a) if a HUD-assisted project (as defined in 24 CFR Part 51 Subpart C) is located within a ASD the project must be rejected unless mitigation can be provided or already exists

Table 16.1. Site Safety (24 CFR Part 51, Subparts C and D)					
Project Name					
Owner Name					
<i>Sources Consulted</i>				<i>Reference(s)</i>	
Toxic Chemicals and Radioactive Materials					
Complete this portion of the table per Section 4.16.3 of the guidance for projects categorized as: CEST, FONSI.					
h) Is the project near an industry disposing of chemicals or hazardous waste?				<input type="checkbox"/> Yes <input type="checkbox"/> No	
i) Is the site on an EPA Superfund or CERCLA or state equivalent list?				<input type="checkbox"/> Yes <input type="checkbox"/> No	
j) Is the site located within 3,000 feet of a toxic or solid waste landfill?				<input type="checkbox"/> Yes <input type="checkbox"/> No	
k) Does the site have an underground storage tank?				<input type="checkbox"/> Yes <input type="checkbox"/> No	
l) Does the project require a Phase I ASTM or Phase II ASTM report? If "Yes," include a copy and provide the Appendix Reference:				<input type="checkbox"/> Yes <input type="checkbox"/> No	
m) Does the project require mitigation or remediation measures for toxins? If "Yes", describe.				<input type="checkbox"/> Yes <input type="checkbox"/> No	
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
No Impact anticipated	<input type="checkbox"/>	No Impact anticipated	<input type="checkbox"/>	No Impact anticipated	<input type="checkbox"/>
Potentially beneficial	<input type="checkbox"/>	Potentially beneficial	<input type="checkbox"/>	Potentially beneficial	<input type="checkbox"/>
Potentially adverse	<input type="checkbox"/>	Potentially adverse	<input type="checkbox"/>	Potentially adverse	<input type="checkbox"/>
Requires Mitigation	<input type="checkbox"/>	Requires Mitigation	<input type="checkbox"/>	Requires Mitigation	<input type="checkbox"/>
Requires Modification	<input type="checkbox"/>	Requires Modification	<input type="checkbox"/>	Requires Modification	<input type="checkbox"/>
Describe toxic substances that may be introduced to the environment. (Enter "None" if "No Impact" is checked)					
*If "Requires Mitigation" or "Requires Modification" is checked, describe such measures					
Sources Consulted				Date	Reference(s)

Table 17.1. Coastal Resources [24 CFR 58.5(c), 24 CFR 58.6(c)]		
Project Name		
Owner Name		
<i>Complete the section below per Section 4.17.1 of the guidance for projects categorized as: CEST, FONSI.</i>		
CAMA [24 CFR 58.5(c)]		
<i>Is the project in a CAMA county? If "No," skip the rest of the table.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<i>Does the project involve new construction, land conversion, major rehabilitation, and substantial improvement activities?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<i>If "Yes" to a and b, discuss consistency review with Division of Coastal Management.</i>		
<i>Sources Consulted</i>	<i>Reference(s)</i>	
Coastal Barriers [24 CFR 58.6(c)]		
<i>Complete the section below per Section 4.17.2 of the guidance for projects categorized as: Exempt, CENST, CEST, FONSI.</i>		
<i>c) Is project located within a CBRS community? If "Yes," attach a FIRM map indicating whether construction activity occurs in a CBRS and provide documentation of US Fish and Wildlife Service approval.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<i>Sources Consulted</i>	<i>Date</i>	<i>Reference(s)</i>

Table 18.1. Environmental Design					
Project Name					
Owner Name					
<i>Complete the section below per Section 4.18 of the guidance for projects categorized as: FONSI.</i>					
Existing Conditions					
<i>Describe environmental design of the project including visual quality, coherence, diversity, compatible use, and scale.</i>					
Impacts & Mitigation (Choose single most appropriate box for each category.)					
Construction Impacts		Operational Impacts		SCI	
<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>	<i>No Impact anticipated</i>	<input type="checkbox"/>
<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>	<i>Potentially beneficial</i>	<input type="checkbox"/>
<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>	<i>Potentially adverse</i>	<input type="checkbox"/>
<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>	<i>Requires Mitigation</i>	<input type="checkbox"/>
<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>	<i>Requires Modification</i>	<input type="checkbox"/>
<i>Describe benefits and impacts to environmental design associated with the project.</i>					
<i>*If “Requires Mitigation” or “Requires Modification” is checked, describe such measures.</i>					
<i>Sources Consulted</i>				<i>Reference(s)</i>	

Table 19.1. Demographics, Employment & Income, and Environmental Justice Analysis [24 CFR 58.5(j)]									
Project Name									
Owner Name									
<i>Complete the table in accordance with Section 4.19 of the guidance for project categorized as: CEST, FONSI.</i>									
Was the U.S. Environmental Protection Agency’s EJSCREEN used? If No, then complete the Existing Conditions cells below.							<input type="checkbox"/> Yes <input type="checkbox"/> No		
Environmental Justice Figure Reference Number(s):									
Environmental Justice Information Appendix Reference (if applicable):									
Existing Conditions									
<i>Provide the following information and key the Block Groups to the map in the EID. Include figures.</i>									
County	Census Tract	Census Block Group	Total Population	Minority Population	Percent Minority Population	Significant Minority Population?	Low-Income Population	Percent Low-Income Population	Significant Low Income Population?
Impacts									
Will the project significantly alter the demographic characteristics of the community?							<input type="checkbox"/> Yes <input type="checkbox"/> No		
Will the project create physical barriers or difficult access that will isolate a particular neighborhood or population from access to local services, facilities and institutes, and other parts of the city difficult?							<input type="checkbox"/> Yes <input type="checkbox"/> No		
Will the project severely alter residential, commercial, or industrial uses?							<input type="checkbox"/> Yes <input type="checkbox"/> No		
Will the project destroy or harm any community institution, such as a neighborhood church?							<input type="checkbox"/> Yes <input type="checkbox"/> No		
Are there any potentially significant environmental justice populations in the project area?							<input type="checkbox"/> Yes <input type="checkbox"/> No		
Will the project have any impact on job opportunities or income potential in the project area?							<input type="checkbox"/> Yes <input type="checkbox"/> No		
<i>If the answer is "Yes," then below, list the impacts and indicate whether the impacts are potentially significant. If potentially significant, contact the Environmental Assessment Coordinator.</i>									
<i>Impact (add rows as needed)</i>							<i>Potentially Significant?</i>		
							<input type="checkbox"/> Yes <input type="checkbox"/> No		
							<input type="checkbox"/> Yes <input type="checkbox"/> No		
							<input type="checkbox"/> Yes <input type="checkbox"/> No		
Describe any anticipated benefits to environmental justice populations expected to result from the project:									

