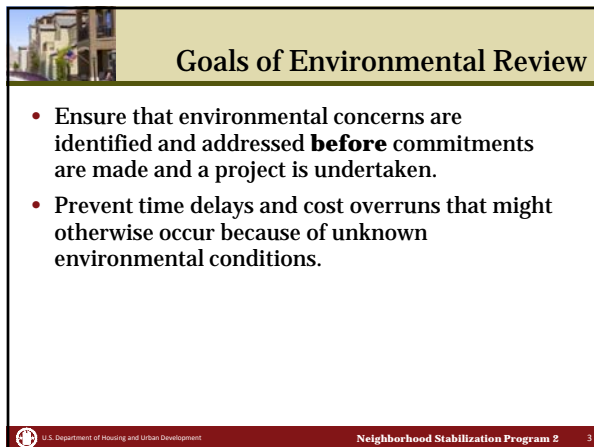


Session Objectives

- Identify standard procedures for conducting environmental compliance reviews.
- Highlight key steps in the environmental review process.

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Goals of Environmental Review

- Ensure that environmental concerns are identified and addressed **before** commitments are made and a project is undertaken.
- Prevent time delays and cost overruns that might otherwise occur because of unknown environmental conditions.

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Goals of Environmental Review

- Ensure a quality project by:
 - Assuring a safe, decent and sanitary environment for people occupying or residing there.
 - Taking impacts on the environment into account.
 - Ensuring the project site is suitable for the activity being proposed.



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When Environmental Requirements Become Applicable

- An application for NSP2 funds is made to HUD.
- An application for NSP2 funds is made to a state, unit of general local government, tribe, or government lead consortium.



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Standard Procedures for Environmental Compliance

- 24 CFR 58
 - State, unit of general local government, tribe, or government lead consortium assume Federal environmental review responsibility.
- 24 CFR 50
 - HUD completes environmental reviews for its nonprofit recipients' projects.



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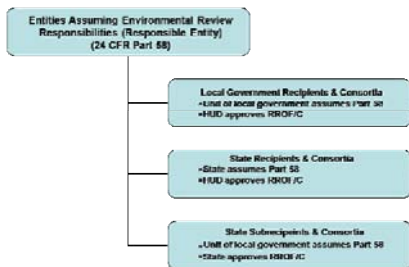
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24 CFR 58- Standard Procedures for Environmental Compliance

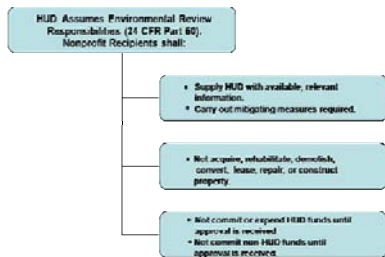
- Responsible Entity (RE)
 - Government entity with jurisdiction over land use in the area where the project is located.
- Certifying Officer
 - Chief executive officer (or other line officer) with legal authority to act on behalf of the RE.
 - Recognized as the “responsible Federal official”.

Government Recipients & Consortia*



* Consortia may include for-profit partners.

Nonprofit Recipients & Consortia*



* Consortia may include for-profit partners.



Relevant Federal Laws & Authorities

- National Environmental Policy Act (NEPA)
 - Basic national charter for protection of environment.
- Other NEPA related Federal laws and authorities include, for example:
 - Historic Preservation, Floodplains, Endangered Species, Coastal Zones, Hazardous Substances, Noise Abatement.



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Levels of Environmental Review

- Exempt
 - Administrative and management activities (including relocation required by 24 CFR 42), environmental studies, engineering & design studies, etc.
 - Exempt from NEPA and the other Federal related laws and authorities.
- Environmental studies are an eligible project cost.



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Levels of Environmental Review

- Categorical exclusions
 - Tenant based rental assistance, acquisition, disposition, residential rehabilitation, 1-4 unit demolition and construction, etc.
 - Excluded from NEPA compliance
- Some categorical exclusions are “subject to” and others are “NOT subject to” compliance with the other related Federal laws and authorities.



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Levels of Environmental Review

- Environmental Assessment
 - Development of 5+ residential units, converting current land use to an alternative land use, installation of new sewer and water systems to support development, etc.
 - Subject to compliance with NEPA and the other related Federal laws and authorities.



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Limitations on Activities Prior to Environmental Clearance

- Recipients and their partners:
 - Cannot commit or spend HUD funds
 - Cannot commit non-HUD funds that would have an *adverse environmental impact or limit the choice of reasonable alternatives*



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HUD Policy on Conditional Contracts

- Applicable to existing single family homes (1-4 dwelling units) only.
- REs may allow a recipient, subrecipient, or third party to enter into a *conditional purchase contract* prior to completion of the environmental process.



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HUD Policy on Conditional Contracts

- Any deposit using NSP funds or other funds must be refunded if conditions aren't met.
 - If non-refundable, only a nominal amount may be used for the deposit (\$1000 or less).





HUD Policy on Conditional Contracts

- Transfer of title may not occur until:
 - RE completes the review and determines the site is acceptable for housing.
 - RE obtains approval from HUD or state, if required.
 - Mechanisms are in place to ensure mitigation measures and conditions for approval are implemented.
 - RE executes an agreement with Purchaser.





Single Family Unit Conditional Contract

- Appropriate contract language:
 - Purchaser is not obligated to purchase the property, and
 - RE provides the purchaser and/or seller a written determination that transaction may proceed
 - subject to contingencies, and/or
 - subject to environmental conditions being satisfied







Environmental Review Process

- Evaluate in a single review all *related actions/activities*, regardless of whether HUD funds will be used in whole or in part. Related actions/activities:
 - Automatically trigger other actions,
 - Cannot or will not proceed unless other actions are taken beforehand or at the same time, and/or
 - Are mutually dependent parts of a larger activity/action.



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Environmental Review Process

- Determine the appropriate level of review (i.e., exempt, categorically excluded, environmental assessment).
 - HUD or the state will make this determination for their nonprofit recipients and complete reviews on their behalf.



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Environmental Review Process

- Make a written record documenting compliance findings.
 - Use HUD recommended format (or equivalent), or
 - Use environmental reviews that were previously completed and approved for the same project.
 - Amend and recertify, as appropriate



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Environmental Review Process

- Issue a public notice, when required.
 - Categorical exclusions requiring mitigation or conditions in order to comply with one of more the NEPA related Federal laws and authorities.
 - Environmental Assessments
- Submit *Request for Release of Funds and Certification* to HUD or state for approval.
 - Not required if a public notice wasn't required.



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Environmental Review Process

- HUD or state provides the recipient with written approval they may now commit and expend project funds.
 - Together, the noticing and approval process may take a minimum of 22 to 35 days to complete.



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Timeframes for Performing Environmental Reviews

- Preparation of environmental reviews should begin as soon as possible. For example,
 - Single family projects (1-4 units) involving acquisition, rehabilitation, demolition, and/or new construction may take 45 to 75 days to complete.
 - Single family subdivisions (5+ units) involving new construction may take 75 to 110 days to complete.



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Timeframes for Performing Environmental Reviews

- Related Federal laws and authorities
 - Some trigger consultation with Federal or state agencies, others do not. For example,
 - Historic Preservation- *No historic properties affected* or there's agreement with SHPO resolving adverse effects.
 - Floodplain Management- Property is not in the 100-year floodplain or the record shows there's *no practicable alternative*.



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Timeframes for Performing Environmental Reviews

- Related Federal laws and authorities
 - Wetlands Protection- Proposed action doesn't involve construction in a designated wetland *or* the record shows there's *no practicable alternative*.
 - Endangered Species- Native vegetation won't be altered *or* U.S. Fish & Wildlife Service agrees there's no effect.
 - Coastal Zones- Site isn't in the CZ *or* the proposed use is *consistent* with state plan.



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Timeframes for Performing Environmental Reviews


- Related Federal laws and authorities
 - Hazardous Substances- Site is not contaminated *or* site can be "cleaned-up" to health protective standards.
 - Aboveground Tanks- Project is a safe distance from tanks which store materials that can explode and/or catch fire.
 - Air Quality- Project is in an area that meets Federal air quality standards *or* the use is in *conformance* with state air quality plan.



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Timeframes for Performing Environmental Reviews

- Related Federal laws and authorities
 - Noise- Noise from major roads, railroads and/or military and civil airfields is acceptable (≤ 65 dB) *or* can be mitigated (66- 75 dB).
 - Airport Clear Zones- Project is not within a civil or military airport aircraft accident zone *or* the proposed project will not rehabilitate or construct properties in these zones.


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Timeframes for Performing Environmental Reviews

- Related Federal laws and authorities
 - Farmland Protection- Project won't convert *prime* or *unique* agricultural land (designated by U.S. Natural Resource Conservation Service) to an alternative use.
 - Wild & Scenic Rivers- Project isn't within *one mile* of a river or river segment that's on the National Rivers Inventory.


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Timeframes for Performing Environmental Reviews

- Related Federal laws and authorities
 - Sole Source Aquifers- Project won't affect critical underground drinking water sources designated by U.S. EPA (i.e., provides 50% of a communities water supply).
 - Environmental Justice- Project is compatible with surrounding land uses and/or won't create a negative environmental impact or aggravate an existing environmental condition.


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Streamlining the Process – Tiered Reviews

- Helps achieve both compliance and speed, and doesn't require up-front identification of assisted properties.
- Can be used for either *categorically excluded* activities or those that require an *environmental assessment*.


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Streamlining the Process- Tiered Reviews

- A tiered environmental review is a two step process:
 - Tier 1: Target Area Assessment
 - Tier 2: Site Specific Project Review

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Tier 1 – Target Area Assessment

- Focuses on a targeted geographic area.
 - Boundaries are clearly defined so the scope of environmental conditions under consideration is evident.
- Addresses and analyzes environmental impacts related to the proposed activities that might occur on a typical site.

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Tier 1 – Target Area Assessment

- All compliance requirements satisfactorily resolved in this first level are excluded from any additional examination or consideration (i.e., findings of no impact or impacts resolved through mitigation requirements).
- Recipient may issue a public notice and, after the comment period is done, request release of funds from HUD or state.



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Tier 2 – Site Specific Project Review

- Focuses only on the environmental compliance requirements that couldn't be resolved in the Tier 1.
- Tier 1 review provided written standards to be used during this Tier 2 process for determining if a site is acceptable.
- Tier 2 must be completed and entered in the record before funds are committed or spent.



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Environmental Review Record (ERR)

- The ERR must be retained by the Responsible Entity.
 - Recipients
 - Lead recipient for the consortium
- Contents of the ERR will vary according to the level of environmental review required.



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Helpful Resources

- HUD Environment web page
 - Assessment Tools for Environmental Compliance
 - Resource Library (review forms, etc.)
- NSP web page
 - NSP1 FAQ- Environmental Review
 - NSP Resources – Policy Guidance
- HUD Regional and Field Office Environmental Officers