



2020 Environmental Topics: Developers Workshop for “Approved” Properties

Environmental Review



2020 Environmental Review



This presentation is an overview only

- Contact HUD at <http://www.hudexchange.info/programs/environmental-review/>
- Contact MHDC at Kjustice@MHDC.com (Karen Justice)



Overview



Various federal funding sources qualify for MHDC Rental Production projects. In some cases additional environmental reviews are required.

National Housing Trust Fund (NHTF)

- More stringent - when combined with other federal funding the HTF environmental issues take precedence. Requires a combined environmental review that includes *24 CFR part 58*

Community Development Block Grant Disaster Relief (CDBG-DR)

- Requires a *24 CFR part 58* environmental review

HOME Investment Partnerships Program (HOME)

- Requires a *24 CFR part 58* environmental review



HUD Risk Sharing Program (RS / Risk Share)

- Requires a *24 CFR part 58* environmental review

Overview



The following only applies to approved projects with federal funding:

- **Environmental Analyst** – Environmental firm(s) consisting of entities that are engaged directly by developers to conduct environmental reviews. They can work directly with MHDC, and are responsible for making amendments / corrections prior to MHDC uploading the environmental review into HEROS
- **Environmental Consultant** – A third party environmental firm(s), engaged by MHDC, to independently review the Analyst's work.
 - Consultants will review and comment.
 - Works directly with the MHDC and Analyst.
 - Are not responsible for making the actual amendments, corrections, testing, letter writing, completing applications and so forth.



The MHDC Environmental Reviewer will work in HEROS exclusively.

Overview



- After project approval, MHDC will distribute the Exhibit B to the Developer.
- **Exhibit B** - gives general guidance specific to the development to begin the environmental review. Items such as determination, level of review, etc.
- **NOTE:** To ensure there is no conflict of interest with MHDC's choice of Environmental Consultant firms, the developer must inform MHDC what companies will be conducting the Phase I, II, asbestos, lead, radon and so forth. Please provide this information as soon as possible after the Exhibit B document is distributed.
- The environmental package (Exhibit B) must be submitted in electronic form. Please submit the package in its entirety if possible.



Overview



MHDC is Responsible for:

- Publications
- Comment periods
- Obtaining the HUD Release of Funds
- Also, any other HUD required comment and publishing periods
 - For example: The HUD 8 Step Process for floodplains and wetlands. The Analyst would be responsible for completing the required information for the HUD 8 Step Process after MHDC has approved this formal consultation.
- MHDC is solely responsible for working in the HEROS System

Tight deadlines for the 2020 projects may require the MHDC Environmental Reviewer to adjust the above process.



Environmental Review – The Process



HUD NEPA Partner Worksheets

(Used by Environmental Analyst)

- Partner Worksheets and directions on how to complete them are found on the HUD website:
<https://www.hudexchange.info/programs/environmental-review/>
- There is a Partner Worksheet that must be completed for each NEPA issue by the Environmental Analyst.
- If required the Analyst will also complete the “NHTF Worksheets Suggested Format” for NHTF also located on the HUD website.



• NEPA Issues:

- Air Quality [Clean Air Act sections 176 (c) and (d), 40 CFR 6, 51, 93]
- Airport Hazards [24 CFR 51 D] (Clear Zones and Accident Potential Zones)
- Coastal Zone Management [16 U.S.C. 3501]
- Contamination and Toxic Substances [24 CFR 58.3(i), 24 CFR 58.5(i)(2)]
- Endangered Species [50 DFR 402]
- Environmental Justice [Executive Order 12898]
- Explosive and Flammable Operations [24 CFR part 53.3(i), 24 CFR 51C]
- Farmland Protection [7 U.S.C. 4201 et seq, 7 CFR 658]
- Floodplain Management [42 U.S.C. 4106, Executive 11988, 24 CFR part 55, 78 CFR 68719]
- Historic Preservation [36 CFR 800]
- Noise Control [24 CFR 51B]
- Water Quality (Sole Source Aquifers) [40 CFR 149]
- Wetland Protection [24 CFR 55, Executive Order 11990, 48 CFR 68719]
- Wild and Scenic Rivers [16 U.S.C. 1271 et seq]
- Flood Disaster Protection Act (Flood Insurance) [24 CFR part 58.6(a)]
- Coastal Barrier Resources Act / Coastal Barrier Improvement Act [24 CFR part 58.6(c)]
- Airport Runway Clear Zone Disclosure and Notification [24 CFR part 58.6(d)]



Environmental Review – The Process (cont.)



An Environmental Assessment (EA)

is a type of environmental review (determination) that is more extensive and requires more information beyond the NEPA issues.

- MHDC will complete the “Additional Factors” portion of the Environmental Assessment (EA). These factors include:
 - Conformance with Comprehensive and Neighborhood Plans
 - Land Use Compatibility and Conformance with Zoning
 - Urban Design – Visual Quality and Scale
 - Slope & Erosion
 - Soil Suitability
 - Hazards and Nuisances, including Site Safety
 - Noise – Effects of Ambient noise on Project and Contribution to Community Pollution Levels
 - Air Quality
 - Energy Conservation
 - Demographic Character Changes
 - Displacement
 - Employment and Income Patterns
 - Educational Facilities
 - Commercial Facilities
 - Health Care
 - Social Services



Environmental Review – The Process (cont.)



- **Per HUD regulations (24 CFR part 58.14) –**

The responsible entity (MHDC) 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.

What that means....



Environmental Review – The Process (cont.)



MHDC must be the contact and go between analysts and agencies.

Informal and Formal Consultations:

Informal Consultations - All correspondence and responses with state and federal agencies toward the completion of the environmental review must come and go through the MHDC Environmental Reviewer.

- The Analyst must also receive copies of **ALL** responses and correspondence from the MHDC Environmental Reviewer.
- MHDC will conduct the informal consultations for:
 - Endangered Species
 - Wild and Scenic Rivers
 - Indian Lands
 - 106 Historical (after receiving the completed application and exhibits from the Analyst)



Environmental Review – The Process (cont.)



Formal Consultations

- **MHDC must approve** any formal consultations **before** they begin
- Some formal consultations may require such things as complicated / expensive remediation, further testing and surveys or extended time periods. These factors could affect underwriting deadlines, development costs, and so forth.
- If formal consultations are approved, MHDC must be a major decision maker in these consultations
- Correspondence is the same as informal consultations – everything must go through MHDC.



Environmental Review – NHTF



National Housing Trust Fund (NHTF)

- 24 CFR part 93.301(f)(1) for new construction, 24 CFR part 93.301(f)(2) for rehabilitation
- The Analyst is responsible for completing the “HTF Worksheets Suggested Format” worksheets
- HTF regulations always take precedence over any other federal funding in the MHDC funded portion
- HTF is not entered into HEROS but other federal funding in the project is



Environmental Review – NHTF



- **NHTF regulations take precedence when mixed with HOME and/or Risk Share in the MHDC funded portion:**
 - Historic Preservation
 - Farmlands
 - Airport Zones
 - Floodplains
 - Contamination
 - Noise
 - Safe Drinking Water
 - Wetlands

- **Issues that comply with the NHTF regulations by following the 24 CFR part 58 and 50 regulations are:**
 - Coastal Barrier Resources
 - Coastal Zone Management
 - Sole Source Aquifers
 - Endangered Species
 - Wild and Scenic Rivers
 - Explosive and Hazards
 - Environmental justice



Environmental Review - No Federal Funding (cont.)



Developments with NO federal funding in the MHDC funded portion:

- MHDC Environmental Reviewer will conduct the environmental review
- The Consultant does **not** participate in the environmental review
- The Analyst is not required to complete the worksheets
- Reviews are not entered into the HEROS System
- The developer must still provide the items listed on the Exhibit B to the MHDC Environmental Reviewer



Environmental Review - No Federal Funding (cont.)



THE REVIEW

- The review is similar to the federal review.
- State and local regulations and laws still apply.
- The same determinations (level of review) are made and the same HUD forms are used.
- The main differences are:
 - Historical Review is not required
 - Evaluation and remediation for radon, asbestos, lead-based paint / soils, vapor encroachment, and Phase I and II ESA's are always per the HUD regulations.
 - Noise **level** is evaluated in similar manor as Federal using the HUD guidelines and tools. Noise is a less critical issue and any remediation is MHDC's decision.



Environmental Review - No Federal Funding (cont.)



- Wetland / Floodplain issues do not require the HUD 8 Step Process
MHDC may consider proposals in 100-year and 500-year floodplains. These proposals shall include flood mitigation components, including but not limited to:
 - Whenever possible the design should place all building improvements out of the floodplain
 - Construction design to include flood mitigation features
 - Flood insurance required
 - An emergency plan and reserve must be implemented to evacuate and re-locate residents
 - Prior to lease signing, written and acknowledged notice to prospective residents that the development is in a floodplain
 - Recommended that these type of projects receive prior approval before submittal



2020 Contacts



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HUD

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