



**Missouri Housing**  
Development Commission

# Environmental Compliance Application Workshop

A look at Common and Unique Topics of the Environmental Compliance Process to help with the Application process

MHDC.com

# Agenda

- Environmental Compliance: What is it?
- Key Words and Definitions
- Type of Environmental Compliance Reviews (by Funding Type)
- Construction Type
- Environmental Compliance Roles
- Other Funding Sources
- Phase I Report
- Lead Based Paint & Asbestos Report
- Radon
- Choice Limiting Action
- Importance of HUD Partner Worksheets
- Exterior Noise
- Indian Tribes
- Historic Preservation
- Endangered Species
- Floodplains and Wetlands
- Farmlands

# Environmental Compliance: What is it?

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

# Key Words and Definitions

- **Responsible Entity (RE)** – MHDC is considered a non-recipient of the federal monies and in coordination with the developer conducts the environmental review, maintains an ERR, provides for public comment period, complies with all environmental laws, and provides environmental certification and funding requests.
- **National Environmental Policy Act (NEPA)** – A United States environmental law that promotes the enhancement of the environment and establishes the President’s Council on Environmental Quality (CEQ). The law was enacted on January 1, 1970. Using the effects of their proposed actions, agencies also provide opportunities for public review and comment on those evaluations.
- **Environmental Review Record (ERR)** –The documentation of the environmental review process including all assessments, published, published notices, notifications and correspondence relating to a specific project or group of projects. This must be properly documented and in the correct format.
- **Exempt Activities** – A type of determination where activities for the documentation of compliance must be provided in the proper form and format.
- **Mitigation / Modification** – Avoiding the impact by not taking certain actions; limiting the magnitude of an action; rectifying the impact by rehabilitating or restoring; reducing or eliminating the impact over time by preservation and maintenance operations; compensating for the impact by replacement or substitute resources.
- **CFR** – Code of Federal Regulation

# Key Words and Definitions Continued

- **Environmental Assessment (EA)** – A type of determination and concise public document that serves to:
  - Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS, a finding of significant impact (FOSI) or a finding of no significant impact (FONSI).
  - Identify and discuss alternatives considered.
  - Identify and discuss mitigation when relevant.
  - Identify agencies and persons consulted and document their comments and concerns.
- **Categorically Excluded (CE)** – Categorical exclusion are types of determinations which refer 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 24 CFR part 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 24 CFR part 58.5 is required for any categorical exclusion listed in paragraph (a) of section 24 CFR part 58.35.
  - **CENST** (Categorically Excluded Not Subject To) – (24 CFR part 58.35(B ((6) (b))
  - **CEST** (Categorically Excluded Subject To) - (24 CFR part 58.35(a)

# Type of Environmental Compliance (By Funding Type)

## ■ **National Housing Trust Fund (NHTF) - Federal**

- More restrictive - when combined with other federal funding the HTF environmental issues take precedence.
- 24 CFR § 93.301(f)(1) New Construction / 24 CFR § 93.301(f)(2) Rehabilitation

## ■ **HOME / Risk Share Investment Partnerships Program (HOME/HOME-ARP/RS) - Federal**

- Requires a 24 CFR part 58 environmental review
- Requires full environmental clearance process from HUD, including public notice and public comment period

## ■ **Low Income Housing Tax Credit (LIHTC) – Non-Federal**

- Review for developments with no federal funding includes less extensive requirements
- State and local regulations still apply

# Construction Type

- There are 5 different types of construction:
  - New Construction
  - Rehabilitation
  - Rehabilitation & New Construction
  - Demolition & New Construction
  - Demolition & Rehabilitation
- Accuracy on identifying from the start helps speed up the process as each type comes with it's own regulations and requirements.
- Often times we will start down a certain path to realize it's something different.

# Environmental Compliance Roles

## MHDC Roles

- Responsible entity
- Determination of Level of Review
- Evaluate scope of work
- Evaluate for compliance with National Environmental Policy Act (NEPA)

## Developer Roles

- Site Plan, surveys, maps
- Phase I Report
- Engage Environmental Professional
- Completion of additional evaluation resources, per MHDC request
- Communicate changes



# Other Funding Sources

- Need to know other funding sources from other entities ASAP!
- Coordination between MHDC and the other entity might require additional time and communication
- Earlier we know about the other source the better!
- If city or local source, MHDC will take the lead

# Phase I ESA Report

- The more thorough the better
- Refrain from sentences like “Nothing was found in regards to this topic except...”. Something was found. Stop trying to hide it
- Ensure that recommended next steps are listed if something of concern is found in the report
- If land was farmland, there may be concerns of prior pesticide use that may have tainted the land
- If land used to be gas station, mechanic, or laundry mat, a Phase II report will more often than not be needed

# Lead Based Paint and Asbestos

## **Lead Based Paint Report**

- Needed for any rehab or rehab/new construction
- Buildings built before 1978
- Necessary not only for residents but also contractors to safely work

## **Asbestos Report**

- Needed for any rehabilitation or demolition project
- Building built any time
- Necessary not only for residents but also contractors to safely work

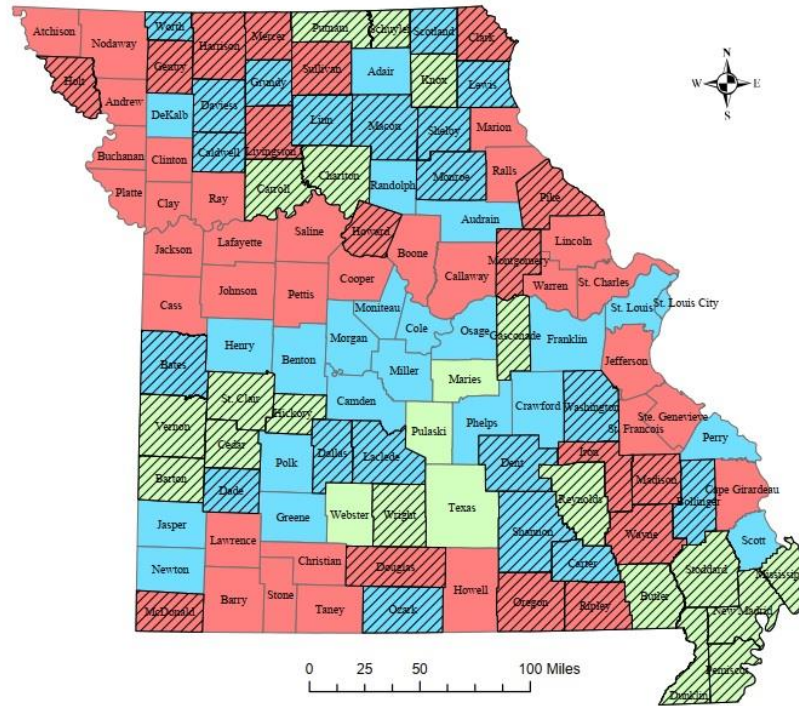
# Radon

- Radon is a radioactive gas that cannot be seen, smelled, or tasted.
- Test after rehabilitation or new construction and before occupancy
- If high levels, must mitigate and don't forget to test AFTER mitigation to ensure success
- HUD focusing on Radon currently
- Occurs often in urbanized areas but not uncommon for rural
- MO Department of Health and Senior Services can provide free testing kits

# Radon Map - Missouri



Average Radon Level in Tested Homes



**Average by County**

- < 2.0 pCi/L
- 2.0 - 3.9 pCi/L
- >= 4.0 pCi/L
- < 30 homes tested

\*Source: Bureau of Environmental Epidemiology  
Indoor Air Quality Database 2005 - 2015

## Choice Limiting Action

- Prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions before clearance is received.
  - Commitment of HUD (or non-HUD) funds prior to approval of the ER inherently diminishes and biases objective consideration of alternative locations for the proposed project (including a no-action alternative)
- Acquisition
  - Leasing
  - Rehabilitation
  - Demolition
  - New Construction
  - Ground Disturbance Work
    - Clearing
    - Grading
    - Grubbing

# Importance of HUD Partner Worksheets

- Helps speed up the Environmental Review process
- Fill out all the forms fully and completely
- Each form must include supporting documentation
  - HUD requires supporting docs
  - If a big report is included in the supporting documents, just add the pages that talk about solution
- Include all the partner worksheets on the following slides
- These are all areas that must be considered when deciding on a development location

# HUD Partner Worksheets



Airport Hazards



Flood Insurance



Clear Air Act



Contamination & Toxic Substances



Endangered Species



# HUD Partner Worksheets cont'd



Environmental Justice



Explosive and Flammable Materials



Wild and Scenic Rivers



Farmlands Protection



Floodplain Management

# HUD Partner Worksheets cont'd



Historic Preservation



Noise



Wetland Protection



Sole Source Aquifer

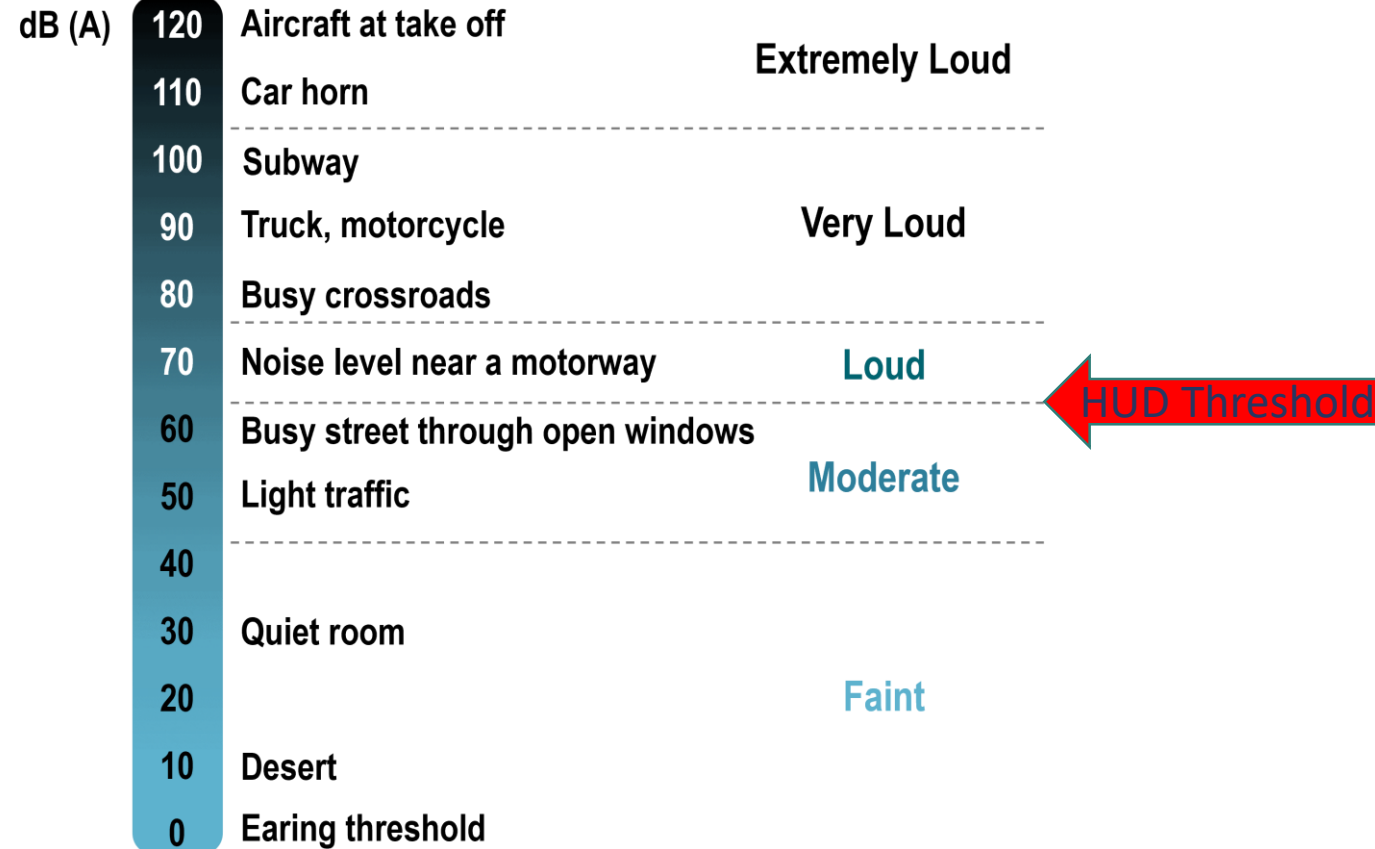


Coastal Barrier/Zone

# Exterior Noise

- HUD requires noise  $\leq 65$  decibels for exterior or interior
- Interior noise can be mitigated by building materials with a high STC (Sound Transmission Class) rating
- Exterior noise cannot as easily be mitigated. Sound barrier, Sound wall, or berm are examples of what can be used but can be time consuming and costly since it must be designed by a professional
  - HUD will allow high exterior noise but any outdoor congregating place must be eliminated from the plans (i.e. patios, balconies, BBQ areas, picnic areas, walking paths, dog parks, etc.)

# Noise Levels Examples



# Indian Tribes

- DO NOT CONTACT THE INDIAN TRIBES
- They must be treated with respect and honor
- MHDC will determine which ones to contact and will formally reach out for their review
- The tribe may request:
  - Cultural survey
  - A representative present during excavation
  - A copy of the SHPO report from the state
  - Other as requested

# Historical Preservation

- Should be top priority and first thing to get to MHDC
- Time is of the essence in regards to this
- Time frame from the State Historical society can vary
- Make sure to fill out the most current and updated form from the state. They will not accept older versions.
- Try to keep file size smaller as the SHPO only accepts file sizes at 10 MB.

# Endangered Species

- MHDC will make contact with US Fish and Wildlife
- One of the first things we accomplish once applications are approved
- More animals getting added to the endangered species list statewide
- USFW may or may not have concerns about the site and may need additional information or restrictions like when you can cut down trees

# Floodplains and Wetlands

## **Floodplains**

- Utilize FEMA Map Service Center
- FIRMette must be included with paperwork
- Any portion of the property being on a floodplain could cause issues
- Avoid when using HUD funds as best as possible
- Even if a floodplain blocks the main means of egress could cause issues with HUD

## **WETLANDS**

- Utilize USFW National Wetlands Inventory
- Wetlands come in all shapes and sizes
- Wetlands can even be seasonal so might not show up during a site visit
- Be cautious when building on or next to wetlands



# Farmland Protection

- Farmland Protection Policy Act was enacted in an effort to assure that the direct or indirect actions of the Federal Government do not cause U.S. Farmland to be irreversibly converted nonagricultural uses.
- Three types of Farmland
  - Prime
  - Unique
  - Farmland of Statewide Importance
- If farmland is within a designated Urbanized Area, then the build will be okay. If not within Urbanized area, then issues and extra steps will occur.
  - HUD Funding: Remediation can include further investigation by filling out USDA Form and submitting back to them.
  - NHTF: No remediation is allowed.
- Utilize US Census Bureau's TigerWeb site to determine the urbanized areas and USDA's Web Soil Survey site to identify what type of farmland



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**Questions?**

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