

Department of Administration  
Division of Housing

# Chapter 4: Environmental Compliance



# What is Environmental Review?

“A process that leads to the preparation of a document that includes all assessment narratives, checklists, agency contacts and responses, maps and photographs for all activities funded in whole or in part with CDBG funds.”

# Why is environmental review part of the administrative process?

1. It satisfied the requirements of the National Environmental Policy Act (“NEPA”); and
2. It results in an improved environment for citizens

## Two Types of Documents that satisfy this legal requirement:

1. An environmental review record (“ERR”); and
2. An environmental assessment (“EA”)

**>>Use of either depends on the type of project you’ve proposed.**

Under HUD's implementing  
regulations—found at 24 CFR  
Part 58—Three Types of  
Activities:

# First type:

## Categorically Excluded Activities (page 4)

- Definition: “Reconstruction or rehabilitation of public facilities when the facilities are in place and will be retained in the same use w/o change in size or capacity of more than 20%
- Examples: replacement of water or sewer lines, reconstruction of curbs and sidewalks, expansion of a WWTF, repaving streets;
- Other examples: removal of architectural barriers that restrict mobility and accessibility; rehab of buildings (under certain conditions);
- Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained in the same use; and
- Combinations of the above
- >>Categorically Excluded Projects require an ERR

## Second type:

# Projects requiring an Environmental Assessment (page 6)

- Definition: Activities that will establish new or significantly enlarged facilities or services;
- Examples: A new multi-family apartment building; a new road serving an industrial park; a new fire station; a new WWTF
- >>An EA is required for such projects.

# Third Type: Exempt Activities (page 4)

- Activities that have no impact on the physical environment and are primarily administrative or service-oriented in nature;
- Exempt activities do not require either an ERR or an EA
- BUT they are invariably part of a larger project and therefore must be listed on a STATEMENT OF ACTIVITIES form that is included

# What documents do I need to fill out?

- **If only Exempt Activities: Complete p. 24**
- **FOR an ERR: Complete pages 18; 20-22; 25-26; 33-35; 37-43 (top of 43 only);**
- **For an EA: Complete 18; 20-22; 25-26; 33-35; 37-43; and 43-51.**

**Where to begin:**  
**Step 1: Classify your projects,**  
**using Attachment 4-1 ‘The flow**  
**chart’ as your guide (page 17)**

**Step 2: Review the regulatory requirements as presented on page 9 through 16; and begin to gather documents that indicate your compliance with each regulatory issue that applies to your project**

# Step 3: Complete the ERR OR EA...

**Step 4: Write to agencies and other stakeholders to give them an opportunity to comment on project—see page 52 for a sample letter**

# Tip: Not every issue will apply to every project:

- Coastal Zone Management rules don't apply to inland counties;
- Endangered species rules don't normally apply to urban environments;
- Airport clear zone regulations apply to only a few properties where regular jet service is provided (Milwaukee, La Crosse, and a few others)

# Historical and Archeological Review

**\*\*\*Important Note: Historical and Archeological Reviews are carried out under a Programmatic Agreement between the WI DOA and the WI Historical Society; Reviews can be quite lengthy:**

***THEREFORE, IT IS IMPORTANT TO REVIEW THESE REQUIREMENTS EARLY ON TO MAKE SURE THAT THESE ISSUES DO NOT UNNECESSARILY DELAY PROJECTS.\*\****

# SOME IMPORTANT INFORMATION ABOUT HISTORIC & ARCHEOLOGICAL REVIEW:

- An Archeological Survey is required on previously undisturbed parcels of land 0.5 acres in size or larger. Farming is not considered to be an activity that disturbs archeological sites.
- The re-use of older buildings is commended; however buildings that are listed on, or eligible for listing on, the National Register of Historic Places may be subject to extensive review by WHS architects.

# **SOME OTHER ISSUES TO WATCH OUT FOR**

- New construction in 100-year floodplains is discouraged by HUD regulations and requires a special public notice process—consult with Environmental Desk before proceeding.

# Manmade hazards

The reuse of industrial sites may present special hazards in terms of public health and safety, as well as legal liability. In such cases a Phase I Environmental Assessment may be useful in determining the suitability of a specific site for its intended use. The decision whether to prepare a Phase I EA is the property developer's or owner's, not DOA's.

# **When the document is completed, The Public Notice Process can begin...**

## **ERR PROJECTS**

- ▣ 24-day notice process (p. 25-26)**
- ▣ Notarized affidavit [proof of pub] to DOA**

## **EA PROJECTS**

- ▣ 32-day notice process (p.29-30)**
- ▣ Notarized affidavit [proof of pub] to DOA**

**Then, complete the  
Request for Release  
of Funds form (p 33-  
34)**

# When all the paperwork is completed, send a copy of the following to the Environmental Desk at DOA:

- The ERR or EA including supporting documentation;
- The Statutory Checklist;
- The public notice + notarized affidavit;
- The Request for Release of Funds form

**If everything is in order, you will receive an environmental clearance letter shortly after the close of the 24-day or 32-day review period**

# ENVIRONMENTAL QUESTIONS?

*Follow-up questions can be emailed to:*

[DOADOHCDBGCD@Wisconsin.gov](mailto:DOADOHCDBGCD@Wisconsin.gov)

Please complete the **Chapter 4: Environmental Review** section of your **Training Survey** at this time.

Thank you!

**CONTACT INFORMATION:**

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