

# INTRODUCTION TO THE ENVIRONMENTAL REVIEW PROCESS



**Louisiana Housing**  
Corporation

Agaha Y. Brass

# The 5 W's...a formula for understanding the complete story.

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- What
- Who
- Why
- When
- Where



# What is an Environmental Review?



- An environmental review 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.
- **Also Known As...24 CFR Part 58 or NEPA**

Complexity

# Exempt CENST

Categorically Excluded  
Not Subject To Part 58

## CEST

Categorically Excluded  
Subject To Part 58

## EA

Environmental Assessment

## EIS

Environmental Impact Statement

Exempt and CENST  
(24 CFR § 58.6)

Airport Hazards

Coastal Barrier Resources

Flood Insurance

CEST, EA, and EIS  
(24 CR § 58.5 and 58.6)

- ALL of 58.6
- Clean Air
- Coastal Zone Management
- Contamination & Toxic Substances
- Endangered Species
- Explosive & Flammable Hazards
- Farmlands Protection
- Floodplain Management
- Historic Preservation
- Noise Abatement & Control
- Sole Source Aquifers
- Wetlands Protection
- Wild and Scenic Rivers
- Environmental Justice

# What in more detail...

## 24 CFR 50.4, 58.5, 58.6 Laws & Authorities

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1. Airport Hazard
2. Coastal Barrier Resources
3. Flood Insurance
  - 8-step process (may be necessary)
4. Clean Air
5. Coastal Zone Management
6. Contamination & Toxic Substances
  - Phase I and if needed Phase II - if needed
  - ? Lead based paint (LBP)
  - ? Asbestos containing materials (ACM)

# What in more detail...

## 24 CFR 50.4, 58.5, 58.6 Laws & Authorities

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### 7. Endangered Species

### 8. Explosive & Flammable Hazards

### 9. Farmland Protection

### 10. Floodplain Management

- 8-step process (may be necessary)

### 11. Historic Preservation

- Advisory Council on Historic Preservation (ACHP)
- Section 106 – State Historic Preservation Office (SHPO)

### 12. Noise Abatement & Control

- Noise Study

# What in more detail...

## 24 CFR 50.4, 58.5, 58.6 Laws & Authorities

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13. Sole Source Aquifers

14. Wetlands Protection

- 8-step process (may be necessary)

15. Wild & Scenic Rivers

16. Environmental Justice



# What in more detail...

## Environmental Assessment Factors 24 CFR 58.40; Ref. 40 CFR 1508.8 & 1508.27

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### **Categories within the Assessment Factors:**

1. Land Development
2. Socioeconomic
3. Community Facilities & Services
4. Natural Features

### **Within each EA Factor Category individual factors are rated with an “Impact Code” #s 1-2-3-4:**

- 1 = minor beneficial
- 2 = no impact
- 3 = minor adverse
- 4 = significant adverse



# What in more detail...

## Environmental Assessment Factors 24 CFR 58.40; Ref. 40 CFR 1508.8 & 1508.27

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### 1. Land Development

- Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design
- Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff
- Hazards and Nuisances including Site Safety & Noise
- Energy Consumptions

### 2. Socioeconomic

- Employment & Income Patterns
- Demographic Character Changes, Displacement

1 = minor beneficial impact   2 = no Impact   3 = minor adverse   4 = significant adverse



# What in more detail...

## Environmental Assessment Factors

24 CFR 58.40; Ref. 40 CFR 1508.8 & 1508.27

### Community Facilities & Services

1. Educations & Cultural Facilities
2. Commercial Facilities
3. Healthcare & Social Services
4. Solid Waste Disposal/Recycling
5. Wastewater / Sanitary Sewers
6. Water Supply
7. Public Safety – Police, Fire, EMS
8. Parks Open Space & Recreation
9. Transportation Accessibility

1= minor beneficial impact   2 = no Impact   3 = minor adverse   4 = significant adverse



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# What in more detail...

## Environmental Assessment Factors 24 CFR 58.40; Ref. 40 CFR 1508.8 & 1508.27

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### Natural Features

- Unique Natural Features
- Water Resources
- Vegetation
- Wildlife

1= minor beneficial impact   2 = no Impact   3 = minor adverse   4 = significant adverse



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# Environmental Review Record (ERR) Components Letters

As Responsible Entity for U. S. Department of Housing and Urban Development (HUD) projects, the Louisiana Housing Corporation (LHC) performs environmental review services for all projects receiving federal funding. The environmental review process can take up to 120 days to complete so prompt delivery of the following project specific items (**ELECTRONIC EDITABLE .PDF FORMAT WITH INDEXING AND A TABLE OF CONTENTS**) to the Corporation's **PROGRAM** (i.e., **HOME, HTF, NOAH, or LIHTC**) staff is required to initiate the environmental review process:

- 1) Environmental Preparer's Choice Form
- 2) 24 CFR §58.5 Statutory Checklist
- 3) 24 CFR §58.6 Compliance Checklist
- 4) Environmental Assessment Checklist
- 5) Partner Laws and Authorities Worksheets
  - <https://www.hudexchange.info/resource/5119/environmental-review-record-related-federal-laws-and-authorities-partner-worksheets/>
- 6) Phase I Environmental Assessment to include but not limited to:
  - Interviews, Environmental cleanup liens, Government records searches, Visual inspections, Toxics and Contamination reports, Environmental professionals' declarations, etc.
    - Phase I cannot be more than 180 days old upon receipt at LHC
  - Vapor Encroachment – Define Area of Concern (migration vs. intrusion), Cost, Reporting requirements, Mitigation (sub-slab barrier & active or passive ventilation)
    - <https://www.epa.gov/vaporintrusion>
    - [https://clu-in.org/conf/itrc/PVI\\_083016/](https://clu-in.org/conf/itrc/PVI_083016/)
  - Noise Calculations (new construction or substantial rehab)
    - <https://www.hudexchange.info/environmental-review/dnl-calculator/>
- 7) Project Description to include:
  - **HUD's Action** - providing insurance, grant, or loan
  - **Amount of HUD Funds**
  - **Location** - street address or map coordinates
  - **Purpose and Need** - describe what is being done and why it is necessary
  - **Project Beneficiaries** - affordable, mixed use, or market rate housing project
  - **Activity Description** - type of project (new construction or rehabilitation); details of aggregation; implementation timeframe; and size of project (area coverage, disturbance footprint, number of units, population served)

- **Area Setting** (character, features, resources, and trends likely in absence of the project)
  - **All Funding Sources and Development Partners**
- 8) Tribal Identification (refer to HUD's TDAT 2.3 database):
    - New Construction
    - Rehabilitation (only triggered with changes to existing footprint)
      - **Provide maps with GPS coordinates and description of all earthwork activities.**
      - **LHC will handle consultation coordination for tribal determinations.**
  - 9) Agency Response Letters
    - USACE - Wetlands determination or clearance
    - SHPO - Historic significance and tribal clearance
    - NRCS - Farmland determination or clearance
    - EPA - Sole source aquifers determination or clearance
    - USFWS - Threatened and Endangered Species Clearance
      - LDWF (State level clearance via their website)
  - 10) Flood Insurance Map and NFIP and HUD 8-Step Process (if applicable)
    - Early Flood Notice: 15 days
    - Final Flood Notice: 7 days
  - 11) Coastal Barrier Resources Clearance
    - John H. Chafee Map with project location identified
  - 12) Louisiana Natural & Scenic Rivers System Clearance
    - Map with proximity of proposed project/property to Saline Bayou
  - 13) Louisiana 8-hour Ozone Nonattainment Areas Classification or Clearance

Once the environmental review is completed, a 15-day legal combined notice for a finding of no significant impact/notice of intent (FONSI/NOI) would be published in newspapers for public comment. If no issues are identified during the notice period, a Request for Release of Funds will be sent to HUD. Upon receipt, HUD will initiate their 15-18 day review and comment period. Given no objections, an Authority to Use Grant Funds (AUGF) will be provided shortly thereafter though they have been known to take longer. We appreciate your cooperation, patience, and prompt resolution of any items requiring your attention as we navigate these processes.

# Who is involved in the Environmental Review?

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- Project Applicant: Development Teams
- Responsible Entity: Louisiana Housing Corporation
- Funding Programs
  - HOME - Home Investment Partnership
  - CDBG - Community Development Block Grant
  - LIHTC - Low Income Housing Tax Credits
  - NHTF - National Housing Trust Fund
  - CoC - Continuum of Care
  - Other, etc.
- Preparer: Various Contractors
- Review Analysts: Environmental Staff
- Certifying Officer: Executive Director for EA level and above or environmental manager for exempt and categorical exclusions.

# Required Consultations

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1. State Historic Preservation Office – SHPO
2. U.S. Army Corps of Engineers – USACE
3. Natural Resources Conservation Service (NRCS)
4. U.S. Environmental Protection Agency (EPA)
5. U.S. Fish & Wildlife Service (USFWS)
6. Louisiana Department of Wildlife & Fisheries (LDWF)



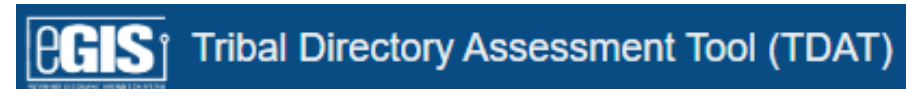
# Who Else is involved?

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1. Louisiana Department of Environmental Quality (DEQ)
2. Coastal Protection and Restoration Authority – (CPRA)
3. U.S. Department of Housing & Urban Development (HUD)
4. Federal Emergency Management Administration (FEMA)
5. Tribal Directory Assessment Tool (TDAT)



FEMA



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# Why is an Environmental Review Important

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1. Requirement of receiving federal funding (i.e., HOME, CDBG, etc.)
2. Ensures Federal investments are meeting the Federal goals;
3. Ensures that local stakeholders are having input into federally funded projects;
4. If you want to receive federal funds you must complete the ER process
5. There is a cost - staff time and 3rd party expenditures to complete the ER



# When, a question of time...

- ✓ ER approval is required prior to use of any federal funds; applicants must avoid choice limiting actions.
- ✓ Components of an ERR have a shelf life (e.g., Phase I expires after 1 year and requires updating after 6 months from the initial site visit date).
- ✓ Start to Finish - measured in **months** (not days nor weeks)
  - Get approval to proceed with project's "Environmental" (i.e., conditional award letter)
  - Engage Consultant for the "Environmental Assessment 24 CFR Part 58"
    - Proceed with Phase I (an attachment to the Part 58)
    - Proceed with the other aspect of project's EA (i.e., solicitations of views [SOV])
    - Section 106 Letters (SHPO and/or ACHP)
  - Submit complete ERR to project's Responsible Entity (RE – LHC or OCD for State)
  - Tribal Process (government to government consultation)



## Environmental Review Record Compilation (by consultants)

### 1) Request received by consultant from LHC staff

- Check for completeness
- Validate location

### 2) Right of Entry Request

- Property owner grants written permission for environmental professionals to enter their property.

### 3) Site visit

- Environmental professionals conduct on-site investigations: photos, notes, samples, 8-step floodplain determination (if required), etc.

### 4) Collect Data

- Environmental professionals conduct desktop research from their office. (Online research.)
- Meet requirements of HUD's Environmental Review Procedures - Section 24 CFR Part 58

### 5) Agency Correspondence

- Solicitation-of-Views letters issued to check compliance:
- US Army Corps of Engineers - wetlands issues
  - US Environmental Protection Agency - Sole Source Aquifer Impact check
  - US Fish and Wildlife Services and LDWF - endangered species check
  - Natural Resources Conservation Service (of the USDA) - farmland clearance
  - State Historic Preservation Office - historic and cultural impacts, Section 106
  - Native American Tribes (varies by parish)

### 6) Checklist Draft Complete

(pending review by Responsible Entity)

- EA / Phase I ESA, 8-Step Flood, Tier II
- Meeting Section 24 CFR Part 58 requirements

### 7) Environmental Review Record [draft]

- Internal QA/QC review

### 8) Submit to LHC



## Environmental Review Process (To Be Conducted by Responsible Entity)



Responsible Entity  
State Program: Unit of General Local Government  
Entitlement Program: Entitlement Community

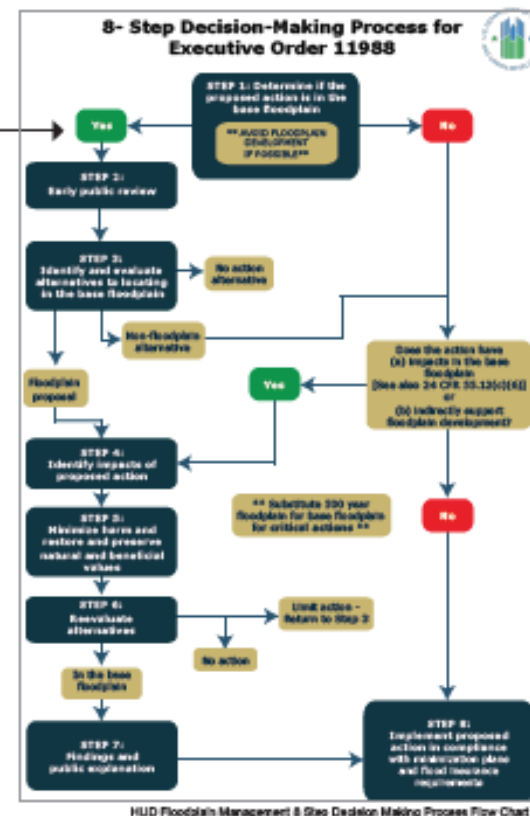


HUD Part 58 Flowchart at [hudexchange.info](http://hudexchange.info)

## Agency Compliance Review Time Allowances (up to)

US ACE	90 days
US EPA	90 days
US FWC	30 days
NRCS	30 days
SHPO	30 days
Tribes	30 days +

Also time allowances for:  
Public notices: 15 days minimum  
HUD review: 15 days minimum



# Mitigation



- Recognized Environmental Conditions (RECs) may add time to your development schedule
  - The more complex the issue, the more time the project may take
- Environmental issues almost always **MUST** be addressed before development can occur
  - Some issues can put project on a standstill



# Examples of When Mitigation is Required

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- New construction of an apartment complex in the middle of Bossier City, Louisiana. The property has been vacant for the last ten years and the Phase I ESA indicates that the property was previously a Dry Cleaners that was destroyed.
  - Project will most likely require a Phase II ESA as well with additional soil, gas, or groundwater sampling to determine if conditions will require remediation prior to building the apartment.
- Rehabilitation of a single-family home in Natchitoches, Louisiana that was built in 1960 and is adjacent to several homes on the National Register of Historic Places. A Phase I ESA indicates that asbestos containing materials were identified in the home.
  - Must complete an asbestos assessment and abatement analysis prior to construction activities commencing.
  - SHPO consultation may indicate that rehabilitation has certain limitation to avoid damage to NRHP homes.



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# When...Timing Continued



- RE issues Public Notices
  - Assuming no adverse comments from public
- Request for Release of Funds (RROF) to certifying officer sign-off
- Then submit RROF to federal partner (i.e., HUD)
- HUD review/approve each project
- Receive an Authority to Use Grant Funds (AUGF)
- Notice to Proceed

## **Total Time in Months**

- 3 months (great) – 6 months (average) – 12+ months (possible)
- Project complexity increases time



# Where does the Environmental Review Go?

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- HUD regional (New Orleans) approval for HOME vs. national (Washington D.C.) approval for CDBG.
- Ultimately each project's ERR ends up in the HUD national database (i.e., HUD Environmental Review Online System - HEROS) tied together by the Grant # or other HUD project #.

# Major Misconceptions About the Process



1. RE's review process begins as soon as a conditional award is made.
2. Contractors don't require lead time to compile Environmental Review Records (ERRs).
3. ERRs are submitted complete and error free.
4. cursory or initial completeness review is the final or only review required.
5. ERRs aren't voluminous or that the comprehensive review of a complete record can be accomplished in short order.
6. Project volume is commiserate with staffing (i.e., 3 staff for 15+ programs).
7. Process can be expedited simply because someone wants it to go faster or makes repeated calls to the executive team.
8. LHC can alter the HUD stipulated review process.
9. HUD doesn't verify that LHC does everything correctly via audits and HEROS.

# Environmental Review Team



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