

# Environmental Review

**Program Environmental Review – Tier I**  
**Request for Release of Funds & Certification**  
**Site Specific Environmental Review – Tier II**



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# Purpose

- Provide general guidance on carrying out your Environmental Review responsibilities under 24 CFR Part 58 and 24 CFR Part 50
- Discuss the basics for obtaining your Request for Release of Funds and Certification
- Period for open discussion



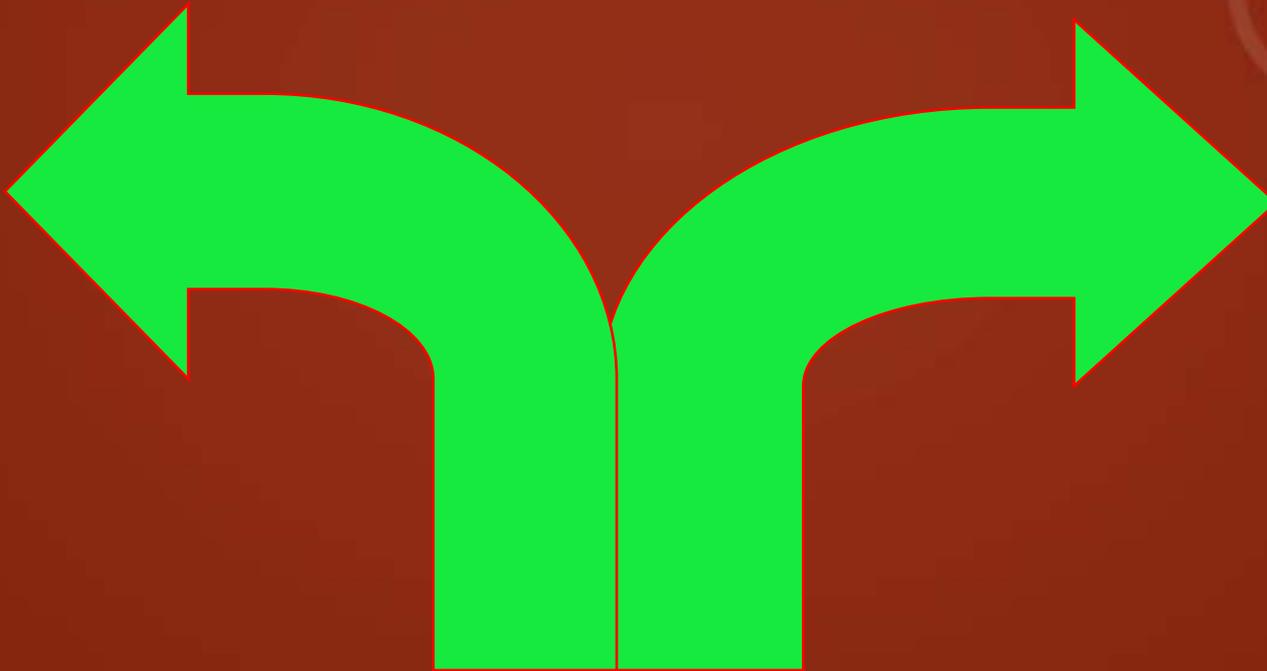
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# Which Regulation Applies?

- **Part 58?**

- **Part 50?**



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# Tiering - § 58.15

- **Tier I review –**

- PECO reviews RE's ER submission.
- Identifies environmental conditions of target area
- Identifies capacity and capability of RE to perform ER
- Establishes policy, standard or process for site specific review
- Releases funds

- **Tier II review –**

- Site specific review performed by RE or HUD if required
- All documents are kept in the grantee's ERR



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# 24 CFR Part 58

- **Environmental Review Procedures  
for Entities Assuming HUD  
Environmental Responsibilities**



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# Assumption of Tier II Authority §58.4(a)

- Recipients of **LHC & LHRD** grants if state, Unit of General Local Government (UGLG) or tribe must assume role of RE.
- **LEAP** grantees must find a RE, usually UGLG. If UGLG or HUD objects, HUD may assign another RE or HUD may take on the responsibility under 24 CFR Part 50.
- **Lead Outreach** grantees are “Exempt” from Environmental Review process.



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# Assumption of Tier II Authority §58.4(a)

- **Healthy Homes Demo** grantees if state, Unit of General Local Government (UGLG) or tribe must assume role of RE. Non-profits & other orgs. must contract with state, UGLG or tribe to be RE. This is an allowable cost. If non-recipient RE or HUD objects HUD may designate a RE or perform RE role itself under 24 CFR Part 50.
- **Lead & Healthy Homes Tech. Studies** grantees may be subject to 24 CFR Part 58 Environmental Review requirements if performing work that will physically change the housing unit.



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# Assumption of Tier II Authority - §58.4(a)

- **Responsible Entities must:**
- Possess the legal capacity to comply with Part 58 requirements.
- Develop the technical and administrative capacity to comply with Part 58 requirements.
- **Assume the responsibility from HUD for:**
  - Site Specific environmental review
  - Environmental decision-making
  - Environmental action



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# Related Laws and Authorities - 24 CFR § 58.5

- Historic Preservation – 36 CFR Part 800**
- Floodplain Management – 24 CFR Part 55**
- Coastal Zone Management -
- Sole Source Aquifers
- Endangered Species
- Wild and scenic rivers
- Air Quality
- Farmlands Protection
- HUD Environmental Standards – 24 CFR Part 51**
- Environmental Justice



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# Other Requirements § 58.6

- **Flood Disaster Protection Act - 58.6(a)**
- **Coastal Barrier Resources Act - 58.6(c)**
- **Runway Clear Zone Notification – 58.6(d)**
  - (limited circumstances where purchase or sale is involved)



# OHHLHC and Other HUD Funds?

- If LBP grantee funds are used with CDBG, HOME or other HUD funding streams - NEPA and additional Related Laws and Authorities may be applicable.
- Consult your GTR and PECO



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# Basic ER Submittal Package

- 58.34(a) Determination of Exemption form
- Rehabilitation Environmental Review form and source documentation
  - Does 8-step Floodplain Process apply? If yes, follow process and submit two publications with proof of publication.
- Published Notice of Intent/Request for Release of Funds with proof of publication
- HUD 7015.15 Request for Release of Funds and Certification Form signed by Certifying Officer



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# Time Periods for Public Comment

- **Periods in calendar days**
  - Comment period begins at 12:01 a.m. local time on the day following the notice publication or posted/mailed
- Floodplain Step 2 – 15 days
- Floodplain Step 7 – 7 days
- NOI/RROf – 7 days
- HUD period – 15 days



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# Struck it Rich?



- If you were awarded more than one grant from OHHLHC this year you may combine both programs into one Notice of Intent/Request for Release of Funds publication as long as each program is detailed separately.
- **However**, must submit separate Environmental Review documentation



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# Recent OHHLHC award?

- If you completed the Environmental Review process for a previous award within the last 3 years, we may be able to utilize some of that previous documentation if there has been no changes in the Area of concern or environmental conditions. This is on a case by case basis.



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# Certifying Officer - § 58.13

- Assumes the role of “responsible Federal Official” under NEPA & related Federal laws and authorities
- Accepts the jurisdiction of the Federal Courts for the responsible entity in environmental matters



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# Permissible Basis for Objection to RROF/Certification - § 58.75

## Matters of procedural noncompliance only:

- 7015.15 not executed by Certifying Officer
- Committed funds and executed non exempt
  - activities prior to ROF
- Mischaracterized environmental conditions
- Failure to provide public notice or comment



# Limitations prior to ROF – § 58.22

- Neither a recipient nor any participant may commit or expend NON-HUD funds on an activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives

- Neither a recipient nor any participant may commit or expend HUD funds on an activity or project until HUD has approved the RROF and Certification (**unless that activity is exempt per**

- **§ 58.34(a))**



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# Exempt Projects & Activities – subject to § 58.6

- Activities at **58.34(a)(1-12)** that will not alter the physical condition of a dwelling may be undertaken and funds drawn down prior to a ROF
- Examples: **(not complete list)**
  - Development of plans & strategies
  - Administrative
  - Purchase of tools
  - Technical assistance & training
  - **\*Inspections & Risk Assessments**
    - **(See Policy Guidance 2008-03)**



# Common Deficiencies

- Project funds are committed or expended on non-exempt activities prior to ROF
- Incorrect timing of public notices
- Public notices do not contain all required information
- An ERR was not completed or it lacks required documentation & references



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# 24 CFR Part 50

- **Protection and Enhancement  
of Environmental Quality**



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# When is Part 50 Applicable?

- Program's legislation doesn't allow delegation to Local Government (LG)
- Projects where City **refuses** to accept responsibility (and is not direct recipient)
- HUD determines LG does not have capacity



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# Responsibility for Tier II if no RE?

- OHHLHC may designate a RE

Or

Grantee will submit Part 50 EA Package

- HUD PECO or surrogate
- Evaluate documentation
- Request supplemental documentation
- Provide PECO with recommendation



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2008

# Related Laws and Authorities



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# Historic Preservation



# Secretary's Standards for Rehabilitation

- Use for historic purpose or one requiring minimal changes
- Preserve the historic materials and features
- Do not add conjectural features
- Preserve historic changes
- Preserve distinctive features, finishes, craftsmanship
- Repair or replicate historic features



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# Section 106

- Before approval, agencies shall take into account the effect of undertakings on historic properties and shall afford the Advisory Council reasonable opportunity to comment
- Mandates consultation, not preservation



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# Floodplain Management - 24 CFR Part 55



# Floodplain Management - 8-Step Process - §55.20

- Procedure for activities in Special Flood Hazard Areas (SFHA) where project is located in or incidental to a 100-year\* floodplain designated by FEMA as Zones A or V
  - \*1 percent chance of a flood event occurring in any given year
- Also applies to “critical actions” (55.2(b)(2)) in the 500-year floodplain



# Floodplain Management - 8-Step Process - §55.20

1. Determine if proposed action is in a special flood hazard area (FEMA FIRM)
2. Early public notification (15 day)
3. Id & evaluate practicable alternatives
4. Identify the potential direct & indirect impacts of the proposed action
5. Identify mitigation measures that would minimize the impacts of the proposed action



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# Floodplain Management - 8-Step Process 55.20

6. Reevaluate the alternatives
7. Public notification of decision of “no practicable alternative” (7 days)
8. Implement the action

Note: Step 7 notice may be combined with  
NOI/RROF



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# Flood Disaster Protection Act - 1972

For properties to be assisted with HUD funds two types of Flood Insurance are mandatory if properties are located in the Special Flood Hazard Area (SFHA) or 100 year flood plain



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# Flood Insurance Requirements

- Prohibits federal financial assistance for communities not participating in the NFIP
- Prohibits federal financial assistance for buildings not possessing personal flood insurance



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# Coastal Barriers Resources Act § 58.6(c)

**Prohibits** federal funding for projects in  
Coastal Barriers Resource System



Atlantic Ocean  
Gulf of Mexico  
Great Lakes

[http://www.fws.gov/habitatconservation/coastal\\_barrier.html](http://www.fws.gov/habitatconservation/coastal_barrier.html)



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# Siting Near Hazardous Operations 24 CFR 51 Subpart C



Too close for  
comfort!!



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# Siting Near Hazardous Operations - 24 CFR 51 C

- Prevent injury to occupants of HUD-assisted projects and damage to property due to industrial accidents.



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# How?

- *Acceptable separation distances based on blast overpressure from explosive material and thermal radiation from flammable materials*





# Siting of HUD -Assisted Projects Near Hazardous Facilities

A Guidebook

Acceptable Separation Distances  
from Explosive and  
Flammable Hazards

Obtain a  
copy  
from your  
PECO



# Toxic / Hazardous / Radioactive Materials 24 CFR § 58.5(i)(2)



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# HUD Environmental Policy

All property used in HUD projects be free of:

- hazardous materials
- Contamination
- toxic chemicals and gases

that may effect health and safety of occupants



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# HUD Environmental Policy

In Particular:

- Landfills
- Dumps
- Industrial sites
- Gas Stations
- Substations



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# OHHLHC Environmental Clearance Officer

Edward Thomas

U.S. Dept. of Housing and Urban Development

Wanamaker Building, 12<sup>th</sup> Floor

100 Penn Square East

Philadelphia, PA 19107-3380

Phone 215.861.7670

FAX 215.686.3442

e-mail: [edward.a.thomas@hud.gov](mailto:edward.a.thomas@hud.gov)



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# Discussion Period

- Questions
- Suggestions
- Pitfalls
- Sharing



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