CDBG GRANT ADMINISTRATION HANDBOOK

Updated May 2026

Chapter 2 – Environmental Requirements

South Dakota Community Development Block Grant Program

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Table of Contents

ENVIRONMENTAL REQUIREMENTS 3
INTRODUCTION 3
THE RESPONSIBLE ENTITY 3
ENVIRONMENTAL CERTIFYING OFFICER 3
GRANTEE RESPONSIBILITIES 3
GOED RESPONSIBILITIES 4
WHEN TO BEGIN THE ENVIRONMENTAL REVIEW 5
PROJECT AGGREGATION 5
LIMITATIONS PENDING CLEARANCE 5
CLASSIFYING ACTIVITIES 6
Exempt Activities *(24 CFR 58.34)* 6
Categorically Excluded Not Subject To 58.5 Activities *(24 CFR 58.35b)* 7
Categorically Excluded Subject To 58.5 Activities *(24 CFR 58.35a)* 8
Environmental Assessment 10
Considering Radon in the Environmental Review 11
Projects in Floodplains and Wetlands *(24 CFR Part 55)* 14
REQUIRED PUBLIC NOTICES 18
NEED FOR RE-ASSESSMENTS 19
TIERED REVIEWS 20
COMMON PROBLEMS WITH ENVIRONMENTAL REVIEWS 20
REVISION HISTORY 22

ENVIRONMENTAL REQUIREMENTS

INTRODUCTION

Every project undertaken with state administered CDBG funds and all activities related to that project are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA). In addition to the NEPA, there are other laws and regulations that contain environmental provisions with which CDBG Grantees must comply.

The purpose of this section is to provide the guidance necessary to prepare the Environmental Review Record (ERR) which is required by NEPA and related laws. In developing the ERR, all activities associated with the project will be assessed with respect to both their beneficial as well as adverse environmental impacts.

THE RESPONSIBLE ENTITY

Under Part 58, the term "Responsible Entity" Responsible Entity means the entity responsible for completing the environmental review. In the state CDBG Program, the local unit of government Grantee is the Responsible Entity. Therefore, these terms are used interchangeably with Grantee throughout this chapter and the appendices. The responsible entity must complete the environmental review process. Environmental review responsibilities have both legal and financial ramifications.

ENVIRONMENTAL CERTIFYING OFFICER

When a Grantee accepts CDBG funding, the Chief Elected Official, or formal designee, shall serve as the "Environmental Certifying Officer" and accepts full responsibility for the completeness and accuracy of the reviews. Consultants, staff, and/or state resources may provide technical assistance to support local efforts; but the Environmental Certifying Officer retains the legal responsibility for the environmental review. A sample Authorization for the Designation of Certifying Officer is attached as Form 2-1: Authorization for Designation of Certifying Officer Sample.

The Grantee's Environmental Certifying Officer has two principal responsibilities:

1. That of representing the Grantee for environmental matters and being subject to the jurisdiction of the Federal courts if the Grantee becomes involved in environmental litigation.
2. That of making sure that all environmental, procedural, and record requirements are fully and properly satisfied and signing all environmental documents.

GRANTEE RESPONSIBILITIES

There are five (5) basic environmental responsibilities for each CDBG Grantee. These responsibilities will be further explained in this and subsequent sections. The responsibilities include:

1. **Conducting an Environmental Review**. The Grantee must determine what type of environmental provisions pertain to its specific project activities. For those that are not EXEMPT or CATEGORICALLY EXCLUDED, the Grantee will be required to conduct an Environmental Assessment in order to assess what possible environmental impact may be involved.

2. **Maintaining Environmental Review Records**. Grantee must establish and maintain an Environmental Review Record (ERR). The ERR will contain all documentation related to determinations, findings, consultation and coordination, certifications, and approvals involved in the environmental review process.
3. **Providing Public Comment Opportunities**. Except for "exempt" activities, the Grantee must provide for a period of public comment related to the Grantee environmental finding and intent to request CDBG funding for affected activities.
4. **Complying with All Environmental Laws**. Grantees must comply with NEPA as well as other related federal law authorities. This compliance responsibility remains for the entire life of the project.
5. **Environmental Certification and Funding Requests**. The initial environmental review process is not completed until the Grantee has properly certified its environmental findings and records to the Governor's Office of Economic Development (GOED). This certification process also serves as a request for the release of CDBG activity funds.

The Environmental Review requirements of the NEPA can, at first glance, appear overwhelming; however, when taken step by step, the process can be completed with relative ease. Please keep in mind that, for the most part, activities and projects are unique in their effect on the environment; a project in one community may require a different or more in-depth review than a similar project in a different locality.

GOED RESPONSIBILITIES

The Governor's Office of Economic Development (GOED) has five (5) primary responsibilities related to the environmental review process.

1. Withholding all CDBG grant funds (not including general administration or planning funds) until the Grantee has fully and properly certified that all environmental review requirements have been satisfied.
2. Releasing CDBG funds to the Grantee once the proper environmental certification has been submitted to the GOED and the required comment period has transpired without negative comment or objection. It should be noted that the GOED release of activity funds does not constitute a GOED approval of the Grantee's findings, but only an acceptance that the certification requirements have been properly satisfied. The Grantee remains responsible and legally accountable for all environmental findings, even if later any findings are inaccurate or proper review procedures were not followed.
3. If later environmental findings result in a determination that the Grantee's certification or procedures were inadequate, the GOED is required to withhold further funding to the Grantee until these findings are resolved. This will require the Grantee to resubmit its environmental review along with a second public comment period, recertification to the GOED, and a revision to the Grantee's Environmental Review Record (ERR).
4. The GOED is required to monitor the Grantee during its project period, including an examination of the Grantee's environmental review process and ERR.
5. The GOED will provide, to the extent possible and as requested, both guidance and technical assistance to the Grantee for its environmental review process and ERR.

WHEN TO BEGIN THE ENVIRONMENTAL REVIEW

The Grantee should begin its environmental review as soon as possible. Since the environmental review processes may become lengthy and complex, it is vital that Grantees start the process as soon as possible to allow for applicable comment periods and citizen participation. The Grantee may have to do another environmental review if the project is amended or changed.

A completed environmental review is valid for 3 years from the date the review is completed and signed by the Certifying Officer. As such, a Grantee may not have to conduct a new environmental review for a subsequent application if not successful on the first attempt. However, there can be *no changes* to the project service area, or the scope of work as documented in the certified environmental review for it to remain valid.

PROJECT AGGREGATION

A Grantee must group together and evaluate as a single project all individual activities which are related either geographically or functionally. For example, several activities carried out in a distinct neighborhood, such as demolition, street paving, and construction of a water line could be grouped together as one project. Grouping activities allow the Grantee to consider the combined environmental effect of a project and will lessen the number of ERRs and the accompanying paperwork. The term "project" means an activity, or a group of integrally related activities designed to accomplish, in whole or in part, a specific goal.

LIMITATIONS PENDING CLEARANCE

According to the NEPA and 24 CFR 58.22, the Responsible Entity is required to ensure that environmental information is available **before** decisions are made and **before** actions are taken. In order to achieve this objective, Part 58 prohibits the commitment or expenditure of CDBG funds until the environmental review process has been completed and, if required, the Grantee receives a release of funds from the state. This means that the Grantee may not spend either public or private funds (CDBG, other federal or non-federal funds), or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. In other words, Grantees must avoid any and all actions that would preclude the selection of alternative choices before a final decision is made, that decision being based upon an understanding of the environmental consequences and actions that can protect, restore and enhance the human environment (i.e., the natural, physical, social, and economic environment). Until the Grantee has completed the environmental review process, these same restrictions apply to all subrecipients, as well.

For the purposes of the CDBG program, this includes:

- Advertising bids on activities that would be choice limiting (e.g., construction, demolition)
- Execution of a legally binding agreement, such as a property purchase or construction contract (this does not include option agreements and contingent agreements);
- Expenditure of CDBG funds (e.g., hiring an architect or engineer for design or engineering specifications);
- Use of any non-CDBG funds on actions that would have an adverse impact (e.g., demolition, dredging, filling, excavating); and
- Use of non-CDBG funds on actions that would be "choice limiting" (e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures).

It is acceptable for Grantees to execute legal agreements that do not financially bind the Grantee prior to completion of the environmental review process and receiving GOED approval. An option agreement for the acquisition of property is allowable when the following requirements are met:

- The option agreement is subject to a determination by the Grantee on the desirability of the property for the project as a result of the completion of the environmental review in accordance with Part 58; and
- The cost of the option is a nominal portion of the purchase price.

GOED considers once a project is publicly announced and federal funds will be sought (date the public hearing for the application is advertised), your project is subject to NEPA.

CLASSIFYING ACTIVITIES

To begin the environmental review process, the responsible entity must first determine the environmental classification of each activity in the project. A complete and accurate project description is needed, or the project may be noncompliant with Part 58 and related federal laws and authorities. A complete and accurate project description ensures that the responsible entity is performing the correct level of NEPA review. The project description must include all elements of the project whether funded with or without HUD funds. The description shall include a project budget as well as a narrative of how the project will impact the environment, neighborhood, and project residents.

The level of environmental review will be dictated by whichever project activity requires the higher level of review. For example, if one activity in a project requires an environmental assessment then the entire project must be assessed at this level of review.

In addition, all levels require compliance with 24 CFR 58.6. Regardless of whether the level of review is determined to be exempt, categorically excluded, or an environmental assessment, these "other requirements" must also be documented for compliance.

There are five environmental classifications recognized under the CDBG program:

- Exempt activities;
- Categorically excluded activities not subject to 24 CFR 58.5 and – related federal laws and authorities (**CENST**);
- Categorically excluded activities subject to 24 CFR 58.5 and – related federal laws and authorities (**CEST**);
- Activities requiring an environment assessment (**EA**); or
- Activities requiring an environmental impact statement (**EIS**).

Exempt Activities *(24 CFR 58.34)*

Certain activities are by their nature highly unlikely to have any direct impact on the environment. Accordingly, these activities are not subject to most of the procedural requirements of environmental review. Listed below are examples which are considered exempt from NEPA.

1. **Environmental Studies.** The reasonable cost of environmental studies, including historic preservation clearances.

2. **Eligible Planning and Urban Environmental Design Costs.** The reasonable cost of comprehensive planning activities or the development of a comprehensive Community Plan or a policy-planning management capacity.
3. **Eligible Administrative Costs.** Payment of reasonable administrative costs and carrying charges related to the planning and execution of Community Development activities financed, in whole or in part, with funds provided under the CDBG program.
4. **Engineering and Design Costs.** If incurred for an activity eligible under the South Dakota CDBG program.
5. **Interim Assistance Activities.** Provided assistance is for imminent threats to health and safety, if the assisted activities do not alter environmental conditions and are for temporary or permanent improvements limited to protection, repair, or restoration actions necessary only to control or arrest the effects of imminent threats or physical deterioration.

Categorically Excluded Not Subject To 58.5 Activities *(24 CFR 58.35b)*

Though CENST and exempt activities fall under different levels of review and are described in separate sections, the compliance procedure and requirements are the same. Listed below are examples which are considered exempt from NEPA and are not subject to other related environmental laws and authorities.

1. **Supportive Services.** Supportive services including, but not limited to, health care, housing services, permanent housing placement, daycare, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services.
2. **Operation/Maintenance.** Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs.
3. **Economic Development.** Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations.

Requirements

A Grantee does not have to submit a Request for Release of Funds (RROF) and certification to the GOED. However, the Grantee must document in writing its determination that each activity or project is exempt or categorically excluded not subject to Part 58.5 and meets the conditions specified for such exemption under this section. Approval from the GOED will be needed by the Grantee for the drawdown of CDBG funds to carry out the activities and projects proposed in the approved application. Form 2-2: Environmental Review For Activities that are Exempt or Categorically Excluded, Not Subject To 58.5 must be used in documenting the exemption.

Procedures For Exempt and Categorically Excluded Not Subject To 58.5 Activities:

Once the activity is classified as EXEMPT or CATEGORICALLY EXCLUDED NOT SUBJECT TO 58.5, , the Grantee must follow the steps below:

1. Appoint an Environmental Certifying Officer and submit resolution to GOED. (Form 2-1)
2. Project determined to be exempt .
3. Complete Form 2-2: Environmental Review For Activities that are Exempt or Categorically Excluded, Not Subject To 58.5. Instructions for 24 CFR 58.5 and 24 CFR 58.6 compliance requirements can be found on Form 2-3: Instructions for Compliance with 58.5 and 58.6 Requirements.

4. Submit Form 2-2 with applicable source documentation to GOED.
5. GOED notifies the Grantee of concurrence via emailed letter. A sample has been provided as Form 2-13.
6. Additional compliance steps may be necessary to satisfy other CDBG requirements before the drawdown of grant funds.
7. Grantee begins the project and may draw down funds.

The Following Forms Must Be Submitted To GOED:

For those projects which were initially declared Exempt:

Form 2-1 - Environmental Certifying Officer Resolution.

Form 2-2 - Environmental Review for Activity/Project that is Exempt or Categorically Excluded, Not Subject To 58.5, including documentation.

For those projects that were initially declared Categorically Excluded, Subject To and then declared Exempt:

Form 2-1 - Environmental Certifying Officer Resolution.

Form 2-2 - Environmental Review for Activity/Project that is Exempt or Categorically Excluded, Not Subject To 58.5, including documentation.

Form 2-4 – Environmental Review for Activity/Project that is Categorically Excluded, Subject to 58.5, including documentation.

Categorically Excluded Subject To 58.5 Activities *(24 CFR 58.35a)*

Listed below are examples which are considered exempt from NEPA but subject to the related laws and authorities at 58.5.

1. Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements (other than buildings), when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
2. Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
3. Rehabilitation of buildings and improvements when certain conditions are met.
4. Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
5. Combination of the above activities.

Procedures for Categorically Excluded Subject to 58.5 Activities:

Once the Grantee has determined that its activity/project falls within one or more of the CATEGORICALLY EXCLUDED activities, the following steps will be followed:

1. Appoint an Environmental Certifying Officer and submit the resolution to GOED. (Form 2-1)
2. Project determined to be categorically excluded from NEPA environmental review.

3. Complete Form 2-4: Environmental Review for Activity/Project that is Categorically Excluded, Subject to 58.5.
4. Determine if the project is or will be located in a floodplain or a wetland. Publish Form 2-9: Floodplains and Wetlands Early Public Notice and Form 2-10: Floodplains and Wetlands Notice of Explanation, if applicable. See Projects Located in Floodplains and Wetlands (24 CFR Part 55) below for more information on publication of Flood Plain Notices.
5. All determinations made on the checklist must be explained. Instructions for 24 CFR 58.5 and 24 CFR 58.6 compliance requirements can be found on Form 2-3: Instructions for Compliance with 58.5 and 58.6 Requirements.
6. If activities do not impact related laws, the project may be declared exempt. (Refer to the process for Exempt Activities above.)
7. For all related laws impacted by the activity, contact the appropriate State or Federal agency for clearance. The Grantee must show consultation through documented letters or other forms of written communication. All letters and responses must become a part of the ERR.
8. If the Grantee has learned through the consultation process that it must comply with certain environmental provisions of other federal environmental laws or regulations, the Grantee must document in its ERR:
    A. Which activity(ies) of the project was so affected.
    B. The nature of compliance required.
    C. How the Grantee has or will meet such compliance requirements.
9. Grantee publishes "Notice of Intent to Request Release of Funds" (RROF) in their local newspaper and waits a period of seven days for comments on published RROF. A sample is included as Form 2-5: Notice of Intent to Request Release of Funds. If there is no newspaper, the notice must be prominently displayed at the local post office and also displayed in other public buildings. This notice must be distributed to the local news media, individuals and groups interested in the project, and appropriate local, state, and federal agencies which must include among them:
    A. State Historical Preservation Office.
    B. Regional Office of the U.S. Environmental Protection Agency.
10. After the seven-day comment period expires, the Grantee sends Form 2-6: Request for Release of Funds and Certification to the GOED.
11. After receiving these documents, GOED must allow for a fifteen (15) day public comment period before taking any further action. If no adverse public comments are received by the GOED during this period, the GOED will then send Form 2-14: Authority to Use Grant Funds to the Grantee indicating Environmental Clearance and Release of Funds. CDBG funds may not be drawn down until the Grantee has also satisfied the other basic grant payment conditions.
12. Additional compliance may be necessary to satisfy other CDBG requirements before the drawdown of grant funds.

The Following Forms Must Be Submitted To GOED:

Form 2-1 – Authorization of Environmental Certifying Officer.

Form 2-4 - Environmental Review for Activity/Project that is Categorically Excluded, Subject to 58.5, including documentation.

Form 2-5 – Notice of Intent to Request Release of Funds **(Full tear sheet or Affidavit of publication)**

Form 2-6 - Request for Release of Funds and Certification.

Environmental Assessment

If a Grantee's activity or project is neither EXEMPT nor CATEGORICALLY EXCLUDED from NEPA requirements, the Grantee will have to undertake an ENVIRONMENTAL ASSESSMENT for the activity or project. An Environmental Assessment (EA) enables the Grantee and others to determine the degree of significant impact that an activity (by itself or in combination with other activities) may have on the environment.

An Environmental Assessment will permit all interested public agencies, community groups, and individuals to examine the environmental data developed and to comment on the environmental impact findings and course of action determined by the Grantee.

There is, however, one important exception to the environmental assessment requirement. In some circumstances, the Grantee may want to forego the EA and proceed directly to the preparation of an ENVIRONMENTAL IMPACT STATEMENT (EIS). An EIS is required for activities/projects that will have a significant impact on the environment. When this determination can be made early, the Grantee should contact GOED and the EIS process will be explained.

If it is not clearly evident that an EIS is required, then the Grantee should proceed with the environmental assessment procedures explained in this section.

NOTE: If a Grantee has more than one project, a separate ER will have to be completed for each one.

REMEMBER: A project is defined as containing one or more integrally related activities designed to achieve, in whole or in part, a specific program goal.

Procedures for Environmental Assessment Activities:

1. Appoint an Environmental Certifying Officer and submit the resolution to GOED. (Form 2-1)
2. Project is determined to require a full environmental assessment.
3. Determine if the project is or will be located in a floodplain or a wetland. Publish Form 2-9: Floodplains and Wetlands Early Public Notice and Form 2-10: Floodplains and Wetlands Notice of Explanation, if applicable. See Projects Located in Floodplains and Wetlands (24 CFR Part 55) below for more information on publication of Flood Plain Notices.
4. Complete Form 2-7: Part 58 Environmental Assessment Form. Explanations must be provided for all determinations made. Instructions for compliance with 24 CFR 58.5 and 24 CFR 58.6 requirements can be found on Form 2-3: Instructions for Compliance with 58.5. and 58.6.
5. Grantees must conclude the Environmental Assessment by indicating the appropriate assessment finding, i.e.,
    a. **Finding of No Significant Impact** (FONSI), meaning that the project is in compliance with all applicable environmental laws/regulations and that an EIS is not required; or

b. **Finding of Significant Impact** (FOSI), meaning that the project may or will have a significant environmental impact, and will require an EIS.

6. Publication of Form 2-8: Combined Notice of Finding of No Significant Impact and Notice of Intent to Request Funds. See Required Public Notices below for more information.
7. Publication of Form 2-9: Floodplains and Wetlands Early Public Notice and Form 2-10: Floodplains and Wetlands Notice of Explanation, if applicable. See Projects in a Floodplain/Wetlands below.
8. Grantee waits for 15 calendar days after publication for comments.
9. Grantee transmits to GOED Form 2-6: Request for Release of Funds and Certification, and other required documents.
10. After receiving the RROF and Certification, GOED must allow for a 15-day public comment period.
11. If no comments are received by the State, GOED notifies the Grantee of Environmental Clearance and Release of funds with Form 2-14: Authority to Use Grant Funds.
12. Additional compliance may be necessary to satisfy other CDBG requirements before drawdown of CDBG funds.

NOTE: If any of the procedures above are not followed, this will constitute the grounds for GOED to withhold CDBG funds from the grantee until all procedures are properly satisfied.

The Following Forms Must Be Submitted To GOED:

Form 2-1 – Authorization of Environmental Certifying Officer.

Form 2-5 – Notice of Intent to Request Release of Funds **(Full tear sheet or Affidavit of publication)**

Form 2-6: Request for Release of Funds (RROF) & Certification

Form 2-7: Part 58 Environmental Assessment Form

Form 2-8: Combined Notice of Finding of No Significant Impact and Notice of Intent to Request Funds, if applicable (see below)

Form 2-9: Floodplains and Wetlands Early Public Notice, if applicable

Form 2-10: Floodplains and Wetlands Notice of Explanation, if applicable

Form 2-11: Notice of FONSI on the Environment, if applicable (see below)

If the Grantee's EA results in a FONSI determination, then the Grantee should proceed below. If a Finding of Significant Impact (FOSI) determination is made, the Grantee must prepare an EIS and should contact GOED for further information.

Considering Radon in the Environmental Review

HUD guidance (HUD CPD Notice CPD-23-103) and regulations (24 CFR 58.5(i)) dictate that all properties that are being proposed for use in HUD funded projects be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

As radon is a radioactive substance, the grantee must consider it as part of the site contamination analysis for projects that:

- Require an environmental review at the level of Categorically Excluded Subject to 58.5 ("CEST"), Environmental Assessment, or Environmental Impact Statement; and
- Involve structures that are occupied or are intended to be occupied at least four (4) hours a day.

Exemptions from having to consider radon in the contamination analysis:

- Buildings with no enclosed areas having ground contact.
    - Buildings containing crawlspaces, utility tunnels, or parking garages would not be exempt, however buildings built on piers would be exempt, provided that there is open air between the lowest floor of the building and the ground.
- Buildings that are not residential and will not be occupied for more than 4 hours per day.
- Buildings with existing radon mitigation systems - document radon levels are below 4 pCi/L with test results dated within two years of submitting the application to DOH and document the system includes an ongoing maintenance plan that includes periodic testing to ensure the system continues to meet the current EPA recommended levels.
- Buildings tested within five years of the submission of application to DOH: test results document indoor radon levels are below EPA's current recommended action levels of 4.0 pCi/L. For buildings with test data older than five years, any new environmental review must include consideration of radon using one of the methods below.

NOTE: HUD's contamination policy does not apply to projects that are Exempt or Categorically Excluded Not Subject to 58.5 ("CENST").

How to consider Radon in the Environmental Review

This section details how environmental review preparers may consider radon in the environmental review. This section provides a recommended "best practice" method; however, preparers may utilize one of the alternate options if they choose not to implement the best practice.

Recommended Best Practice

When considering radon in the contamination analysis, HUD strongly recommends using the American National Standards Institute/American Association of Radon Scientists and Technologists (ANSI/AARST) Radon Testing Standards for Multifamily, School, Commercial and Mixed-Use Buildings. The ANSI/AARST standards describe how to conduct testing, interpret test results, and draft a Radon Test Report to document the process for the building owner (and to use as documentation for the ERR). The ANSI/AARST standards can be viewed online for free and are intended to be implemented by licensed radon professionals.

- To find a licensed radon professional in your area contact the Department of Agriculture and Natural Resources (DANR) Radon Information Line 1-800-438-3367, the National Radon Proficiency Program (NRPP) at https://nrpp.info, or the National Radon Safety Board (NRSB) at https://nrsb.org.

Alternative Options

Using the ANSI/AARST radon testing standards is not the only option available for considering the risk that occupants may be exposed to high radon levels. If the environmental review preparer chooses not to conduct radon testing per the ANSI/AARST standards, one of the following alternative strategies must be used to consider radon in the contamination analysis.

1. Do-it-yourself (DIY) radon test kits may be used to measure radon levels in single-family dwelling units. In CDBG assisted single-family buildings with multiple units, one DIY test kit must be used for each dwelling unit. DIY radon test kits may be available for low or no cost through local health department offices and are available to purchase through the National Radon Program Services Test Kits website. When using a DIY test kit, there can be quality control issues that affect the quality of the test results. To ensure the DIY test results are as accurate as possible, it is important to read the entire test kit instructions before activating the test device and to follow them fully. The EPA's Citizen's Guide to Radon and the ANSI/AARST standard for testing single-family housing are excellent resources for detailed instructions about conducting the radon test, including where to place the test device(s), how to prepare the home (whether to close the windows, turn off fans, the length of time to test), how to document the test process, and interpret the results. HUD encourages that test devices be approved by either the NRPP or NRSB. Contact the DANR Radon Information Line 1-800-438-3367, the National Radon Program Services helpline at (800) 55-RADON or radon@ksu.edu, or your local health department for assistance.
2. In remote or other areas where there are no licensed/certified radon professionals and/or DIY test kits cannot be shipped to a lab in sufficient time, the local government, such as a local health department or environmental department, may decide to purchase radon monitoring equipment and train staff to use it. Monitoring equipment, such as continuous radon monitors, should be used in accordance with the manufacturer's instructions and intended use and staff should ensure proper quality control and quality assurance practices are adhered to.

Mitigating Radon

When radon testing determines indoor air radon levels are at or above 4 pCi/L, the Environmental Review Record (ERR) must include a mitigation plan. When the testing demonstrates that radon levels within the building are below 4 pCi/L, mitigation would not be required; environmental review preparers can simply document the test results in the ERR.

The mitigation plan must identify the radon level; consider the risk to occupants' health; describe the radon reduction system that will be installed; whenever possible, establish an ongoing maintenance plan to ensure the system is operating as intended; establish a reasonable timeframe for implementation; and require post-installation testing. Where feasible, post-installation testing should be conducted by a licensed radon professional. In an area where there are no licensed radon professionals, there may be other personnel, such as trained staff, other professionals (i.e., engineers, geologist, scientists, public health staff) who have experience conducting radon testing or have the relevant skills and knowledge to follow the device instructions or ANSI/AARST test protocols and mitigation standards. For assistance Contact the DANR Radon Information Line (800) 438-3367, the National Radon Program Services at https://sosradon.org, or refer to the applicable ANSI/AARST standard for guidance. If using the ANSI/AARST Radon Testing Standards to install the radon reduction system, follow the guidance in the standard to draft the mitigation and the operation, maintenance, and monitoring plans.

Documenting the Environmental Review Record

Under HUD's regulations, 24 CFR 58.38(a)(3) the Grantee is required to document the radon evaluation as part of the contamination analysis in the ERR. Radon documentation information should be included under "compliance determinations" in the Contamination and Toxic Substances section of the environmental format for CEST and EA projects.

In instances where radon testing will be conducted but cannot be conducted until after the environmental review record is certified (i.e., new construction or certain rehabilitation projects) then the initial documentation would not include a radon evaluation but must include a condition for post-construction radon testing followed by mitigation if needed. Environmental preparers should include a copy of the EPA Map of Radon Zones in the Environmental Review Record along with testing and mitigation plans at the time of application.

The environmental preparer must then update the environmental review record with the results of the radon evaluation and proof of any required mitigation when complete. Acceptable methods to document radon consideration in the ERR include:

- ANSI/AARST standard: Include a copy of the test report and mitigation plan (if applicable) as described in the standard in the ERR. For Office of Housing programs, follow program guidance requirements on timing and documentation.

- When all this is documented in the ERR, no further consideration of radon is needed and no further action with respect to radon is needed for the environmental review.

Resources for Implementation of Radon Compliance

Costs for radon testing and mitigation are considered eligible program costs in the CDBG program. As such, costs for radon testing and mitigation can be included in the total project costs funded by GOED. However, costs for ongoing operation and/or maintenance of installed mitigation systems are **not** eligible under the CDBG program.

Projects in Floodplains and Wetlands *(24 CFR Part 55)*

When a project meets one or more of the following criteria, the implementation of a specific decision-making process is required for compliance with Executive Orders 13690 and 11990 and 24 CFR Part 55:

- The project is in a Federal Flood Risk Management Standard floodplain;
- The project is a "critical action" (as defined in 24 CFR 55.2(b)(3)) in a 500-year floodplain, also known as the .2% Annual Chance Floodplain. A "critical action" is any activity where even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that;
    1) produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;
    2) provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., community stormwater management infrastructure, water treatment plants, data storage centers, principal utility lines, fire stations, and roads providing egress from flood prone areas; or

3) are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events (e.g., hospitals, nursing homes, etc. Housing for independent living for the elderly is not considered a critical action.); or

- The project proposes construction in a wetland.

There are two decision-making processes identified in Part 55 concerning floodplains and wetlands. They are the 8- step process (24 CFR 55.20) and the 5-step process (24 CFR 55.12). The 8-step process will apply unless a project falls under the allowed criteria for using the 5-step decision making process, which are:

- Disposition of multifamily and single family (1-4 unit) properties [55.14(a)].
- Repair, rehabilitation, modernization, weatherization, or improvement of existing residential properties (multifamily, single family, assisted living, etc.) [55.14.(c)]
    1) Number of units is not increased more than 20%;
    2) Does not involve conversion from non-residential to residential; and
    3) Does not meet definition of "substantial improvement" [55.2(b)(12)].
- Repair, rehabilitation, modernization, weatherization, or improvement of nonresidential properties (i.e., public facilities, commercial/retail, and industrial) [55.14(d)]
    1) Does not meet the threshold of "substantial improvement" (i.e., the cost equals or exceeds 50% of the market value before damage occurred; and
    2) The structure footprint and paved area is not increased more than 10%.
- Repair, rehabilitation, modernization, weatherization, or improvement of a structure listed on the National Register of Historic Places of on a State Inventory of Historic Places. ["Substantial improvement" does not apply to historic properties, 55.2(b)(12)(ii)(B)].
- The grantee must document in writing which process is applicable and each step of the applicable process.

NOTE: When a project is located in a floodplain AND also proposes construction in a wetland, the HUD 8-Step Decision Making Process (Form 2-15) must be completed (24 CFR 55.20(a)(3)). Below is an overview of each of the steps in the 8-Step decision process. When the HUD 5-Step Decision Making Process (Form 2-16) is permissible for floodplains, only Steps 1, 4 through 6, and 8 are applicable. All steps must be documented in writing.

Step One: Floodplain Determination. Determine if the project is located in a Federal Flood Risk Management Standard (FFRMS) floodplain or a wetland.

The Final Rule published on April 23, 2024, establishes HUD's preference for a Climate Informed Science Approach (CISA) to determine the floodplain of concern for HUD funded projects.

- Check the following maps to determine if the project is located in the FFRMS floodplain or results in new construction that directly impacts an onsite wetland:
    1. Grantees may use the Federal Emergency Management Agency (FEMA) Flood Map Service Center: https://msc.fema.gov/portal/home.

2. If FEMA maps are not available, a determination of whether the project is located in a floodplain may be made by consulting other sources, such as:
    - U. S. Army Corps of Engineers - Hydrology, Hydraulics, and Coastal Team;
    - Local Soil Conservation Service District;
    - Floodplain Information Reports;
    - USGS Flood-prone Area;
    - Topographic Quadrangle maps; or
    - State and local maps and records of flooding.
3. Determine if the project is in a wetland: https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper.
4. Use all available maps and data to make a determination if the project is located in a floodplain or wetland and document in the ERR. If the project activity does not occur in the FFRMS floodplain or include new construction directly impacting an onsite wetland, then no further compliance with this section is required.

Step Two: Early Public Review. Executive Order (E.O.) 11988 includes requirements that the public be provided adequate information, opportunity for review and comment, and an accounting of the rationale for the proposed action affecting the floodplain. Involve the public in the decision- making process as follows:

- Publish Form 2-9: Floodplains and Wetlands Early Public Notice in a newspaper of general circulation or on an appropriate Government website that is accessible to individuals with disabilities and provides meaningful access for individuals with Limited English Proficiency.. Refer to 24 CFR 55.20(b) for the minimum information that must be given in the notice. The Floodplains and Wetlands Early Public Notice must be published (it cannot be posted).
- The notice must provide a complete description of the proposed action.
- The notice must allow at least a 15-day comment period for public comments.

Step Three: Identify and Evaluate Alternate Locations. Determine if there is a practical alternative. This determination requires the responsible entity to consider whether the base floodplain can be avoided:

- Through alternative siting;
- Through alternative action that performs the intended function but would minimize harm to/within the floodplain; or
- By taking no action.

Step Four: Identify Impacts of Proposed Project. Regardless of whether the site is located within a floodplain or outside a floodplain, both the direct and indirect potential impacts must be identified and reviewed.

If negative impacts are identified, methods must be developed to prevent potential harm as discussed in Step 5. The term harm, as used in this context, applies to lives, property, natural and beneficial floodplain values.

Step Five: Identify Methods to Restore and Preserve Potential Harm to Floodplains and Wetlands Area. If the proposed project has identifiable impacts (as identified in Step 4), the floodplains and wetlands must be restored and preserved.

- The concept of minimization applies to harm.
- The concept of restoration and preservation applies only in floodplain values.

Methods to be used to perform these actions are discussed in Step 6.

Step Six: Re-evaluate Alternatives. At this stage, the proposed project needs to be re-evaluated, taking into account the identified impacts, the steps necessary to minimize these impacts and the opportunities to restore and preserve floodplain values.

- If the proposed project is determined to be no longer feasible, you should consider limiting the project to make non-floodplain sites practicable.
- If the proposed project is outside the floodplain but has impacts that cannot be minimized, the recipient should consider whether the project can be modified or relocated in order to eliminate or reduce the identified impacts or, again, take no action.
- If neither is acceptable, the alternative is no action.

The re-evaluation should also include a provision for comparison of the relative adverse impacts associated with the proposed project located both in and out of the floodplain. The comparison should emphasize floodplain values and a site outside of the floodplain should not be chosen if the overall harm is significantly greater than that associated a site within the floodplain site.

Step Seven: Publish Form 2-10: Floodplains and Wetlands Notice of Explanation**.** If the re-evaluation results in the determination that the only practicable alternative is to locate the project in the floodplain, the grantee must publish the Floodplains and Wetlands Notice of Explanation in a local newspaper of general circulation (Refer to 24 CFR 55.20(b) and 24 CFR 55.20(g) for the minimum information that must be given in the notice).

- The Floodplains and Wetlands Notice of Explanation (described previously) may ***not*** be posted.
- It should be noted that when a project triggers the E.O. 11988 "Eight Step Process," the Notice of Early Public Review should be published first and the minimum 15-day comment period elapsed ***before*** the grantee can publish the Floodplains and Wetlands Notice of Explanation.
- The Floodplains and Wetlands Notice of Explanation can be published simultaneously with the 24 CFR Part 58 required Combined/Concurrent Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF).
- Any written comments received in response to the above required notice must be addressed and filed in the ERR.
- File all documentation and responses relating to the above-described procedures in the ERR.

Step Eight: Implement the Proposed Project. Implement the project with appropriate mitigation.

NOTE: If directional boring or drilling beneath a wetland is anticipated, please consult with GOED prior to undertaking the Eight-Step Process. HUD issued guidance in 2011 that exempts directional boring/drilling beneath wetlands from the Eight-Step Process *provided that* certain conditions are met. As stated previously, when the 5-Step decision process is required, only Steps 1, 4 through 6, and 8 are applicable.

REQUIRED PUBLIC NOTICES

If the Grantee has concluded its assessment with a Finding of No Significant Impact (FONSI), then there are two ways to publish the required notices:

1. Publish The Finding of No Significant Impact Notice and the Notice of Intent to Request Release of Funds Separately.

    a. Finding of No Significant Impact Notice - This Notice must be released for public review and comment. An example of this Notice is contained in Form 2-11: Notice of FONSI on the Environment. Grantees should follow this public notice format. In addition, this Notice must:

        i. At a minimum, be distributed to the local news media, individuals and groups interested in the project, and appropriate local, state, and federal agencies which must include among them:

            * State Historical Preservation Officer
            * Regional Office of the U.S. Environmental Protection Agency.

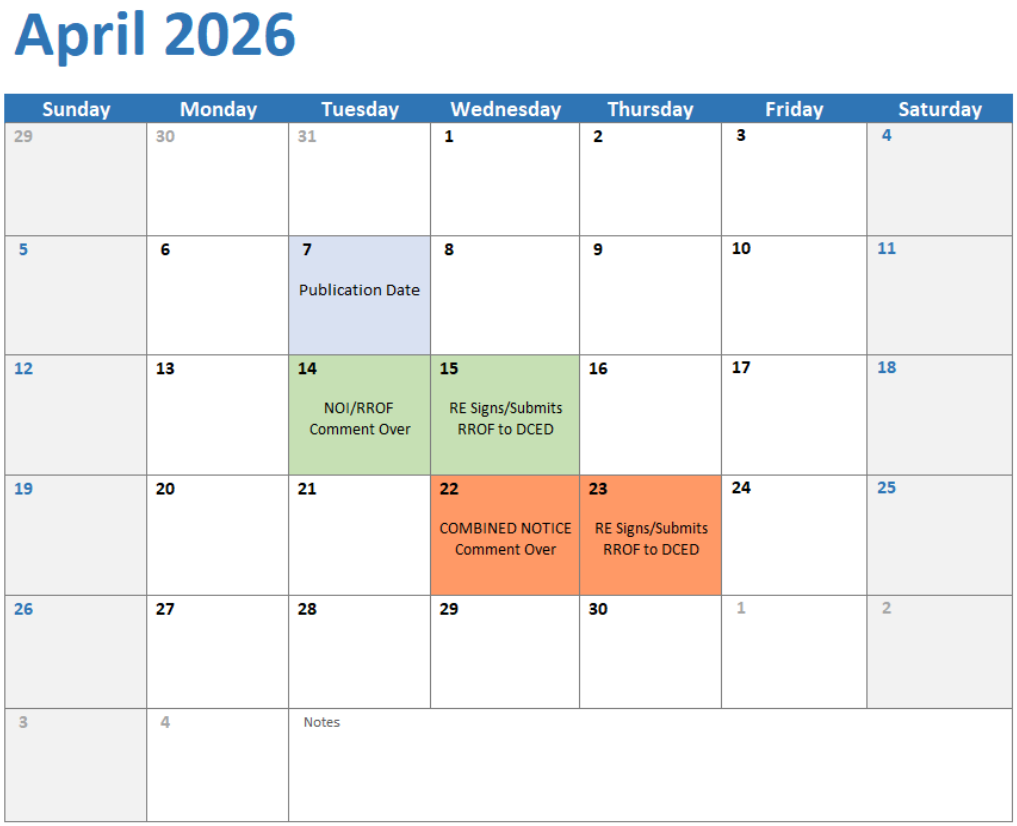
        ii. Be published at least once in a general circulation newspaper in the project area. If there is no newspaper, this notice must be prominently displayed at the local post office and also displayed in other public buildings.

        iii. Be distributed (as explained above) and open for public review/comment at least fifteen (15) days prior to the Grantee's proceeding to the certification process.

    b. Notice of Intent to Request a Release of Funds - This Notice is required to signify the Grantee's intent to request from the GOED release of its CDBG activity funds. A sample is provided as Form 2-5: Notice of Intent to Request Release of Funds. Grantees should follow this public notice format. The issuance of this notice should follow the same procedures as explained above (1). The minimum time required for a public review and comment on this Notice is only seven (7) days.

2. Combined Notice - Grantees are allowed to publish the above two required notices concurrently rather than separately. This is the simplest, fastest, and least costly method. Form 2-8: Combined Notice presents an example of this combined notice. The method for issuance of this combined notice is the same as explained above. The minimum time required for public review and comment on this combined notice is fifteen (15) days.

The public comment period begins the day after the notice appears in a newspaper of general circulation or is posted according to local public participation procedures. Below is a graphic example to assist Grantees in determining the appropriate public comment period.



April 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
29	30	31	1	2	3	4
5	6	7 Publication Date	8	9	10	11
12	13	14 NOI/RROF Comment Over	15 RE Signs/Submits RROF to DCED	16	17	18
19	20	21	22 COMBINED NOTICE Comment Over	23 RE Signs/Submits RROF to DCED	24	25
26	27	28	29	30	1	2
3	4	Notes				

NOTE 1: **Grantees must consider all comments received based on the public notice process. These comments must be made a part of the ERR. If any comments require the grantee to revise its EA Checklist/FONSI, the grantee is responsible for all those revisions.**

NOTE 2: **Failure by the Grantee to follow all the public notice procedures above will cause GOED to withhold the release of CDBG funds until the notice has been re-published, and all procedures were properly satisfied.**

NEED FOR RE-ASSESSMENTS

There are several situations that will require the Grantee to re-evaluate and possibly amend or resubmit its Environmental Assessment. The purpose of a reassessment is to determine whether the Grantee's FONSI is still valid and to update or correct its ERR. The situations that will require reassessments are as follows:

1. The Grantee substantially changes its project in nature, magnitude, or extent, including new activities not anticipated in the original project scope and/or cost estimates.

2. There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered before or during project implementation.

3. The Grantee selects an alternative not considered in the original EA.

If one of these situations does arise, the Grantee will be required to do a reassessment following the procedures below.

A. If the Grantee has already certified its original EA with GOED, then the Grantee must inform the Department of the need for a reassessment. The Grantee should utilize Form 2-12: Re-evaluation of Environmental Review for the re-evaluation. GOED will be required to withhold the release of further CDBG activity funds until this reassessment is completed and recertified to the GOED.

B. If the Grantee's FONSI is found to be still valid after the reassessment but the data or conditions upon which it was based have changed, the Grantee must amend its original EA and update its ERR.

C. If the Grantee finds that its original FONSI is no longer valid, it will be necessary to prepare a new EA or EIS, whichever is appropriate.

D. Where an original FONSI is found to be valid or a new ERR is prepared which results in another FONSI, the Grantee must once again follow the procedures explained above for public notices, as well as those certification procedures to be explained below.

NOTE: The failure to properly comply with those steps above will constitute the grounds for GOED to withhold or recapture CDBG activity funds.

TIERED REVIEWS

Due to the nature of some rehabilitation programs, grantees will not know the specific structures to be reviewed until the program has been publicized and applications received. In such instances, grantees are allowed to complete an up-front programmatic Broad Level Tier Review for CEST Activities (Form 2-17) that identifies potential applicable compliance areas. For many rehabilitation programs, applicable Broad Level Review compliance will be limited to historic preservation, floodplain protection, and wetlands protection. Using this process, grantees can publish a public notice and receive a Release of Funds based on the programmatic information. The Release of Funds for such situations will be conditional on the grantee completing an individual review for each specific rehabilitation project.

This site-specific review for each individual rehabilitation project must then be completed prior to incurring hard costs for that project. More information about tiered reviews can be found on the HUD Tiered Environmental Reviews webpage.

COMMON PROBLEMS WITH ENVIRONMENTAL REVIEWS

The following are some common problems identified in the environmental review conducted by the Grantee:

1. Getting a late start with the environmental review;

2. Failure to consult all affected agencies;

3. Failure to complete and submit HUD Environmental Review Forms **(**Form 2-2, Form 2-4, or Form 2-7);
4. Incorrect date included in the newspaper notice;
5. Failure to submit a copy of the newspaper clipping of the Notice of Intent to Request Release of Funds (or Combined Notice) with Request for Release of Funds;
6. Statement of FONSI not sent to the Environmental Protection Agency or other agencies that were consulted;
7. Failure to address noise, prime agricultural land, or citing near hazardous operation in the review;
8. Failure to properly authorize an Environmental Certifying Officer (Form 2-1);
9. Failure to sign environmental documents such as RROF (Form 2-6), before submitting to GOED; or
10. Failure to make statement of categorical exclusion before declaring exempt status for projects that are categorically excluded and exempt.

REVISION HISTORY

Revision	Date	Description of changes	Approved By
1.0	8/21/24	• Initial Release	S Deyo
2.0	5/22/26	• Added Form 2-17: Tiered Review Format • Updated "Projects in Floodplains" due to elimination of federal FFRMS tools/maps • Updated hyperlinks • Updated publication calendar graphic	S Deyo