Basics of a Part 58 Review

Office of Environment and Energy
Department of Housing and Urban Development

Webinar Format

- Presentation will last approximately 90 minutes.
- Recording of webinar will be posted on HUD's Office of Environment and Energy Website within a month.
- Audience members are muted due to the high number of participants.

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How to Submit Questions

Type your questions in the Q & A box that will appear on your screen during the presentation. Technical questions will be addressed right away; content questions will be answered after the presentation.

This webinar is intended for people who may encounter Part 58 environmental reviews in their work. This could mean new environmental staff or program staff in local, state, or tribal governments, consultants who prepare environmental reviews or offer technical assistance to local governments, public housing authorities, HUD program staff managing programs with Part 58 environmental review requirements, and staff who are already familiar with environmental reviews but want a refresher.

Why are you here and what can you get out of this? The objectives of today's webinar are to become oriented with Part 58 environmental reviews for HUD-assisted projects. This includes becoming familiar with the terms, requirements, application, and documentation of compliance.

If you are new environmental staff we hope that this webinar will get you comfortable with starting an environmental review for a project. This means knowing how to find out what you have to do to satisfy the environmental requirements of our programs. If you've trained in environmental reviews before or know more or less what they are, this webinar will be a good refresher to remind you of the different aspects and components of the review.

It's impossible to cover the entire environmental review process in an hour or even 90 minutes, but in this allotted time we will introduce you to the HUD resources available to help you work through and complete your environmental reviews. These include tools, further training opportunities, websites, publications, and field staff who can provide you with technical assistance.

What is an environmental review? It is the process of information gathering, analysis, and documentation to comply with the National Environmental Policy Act and related laws and authorities. When you have projects that involve a physical entity (and we'll talk more about these activities later), you are required to perform an environmental review to check for environmental impacts. This means both how the project can affect the environment and related conditions, and how the environment and related conditions nearby can affect the project site and end-users.

The Objective

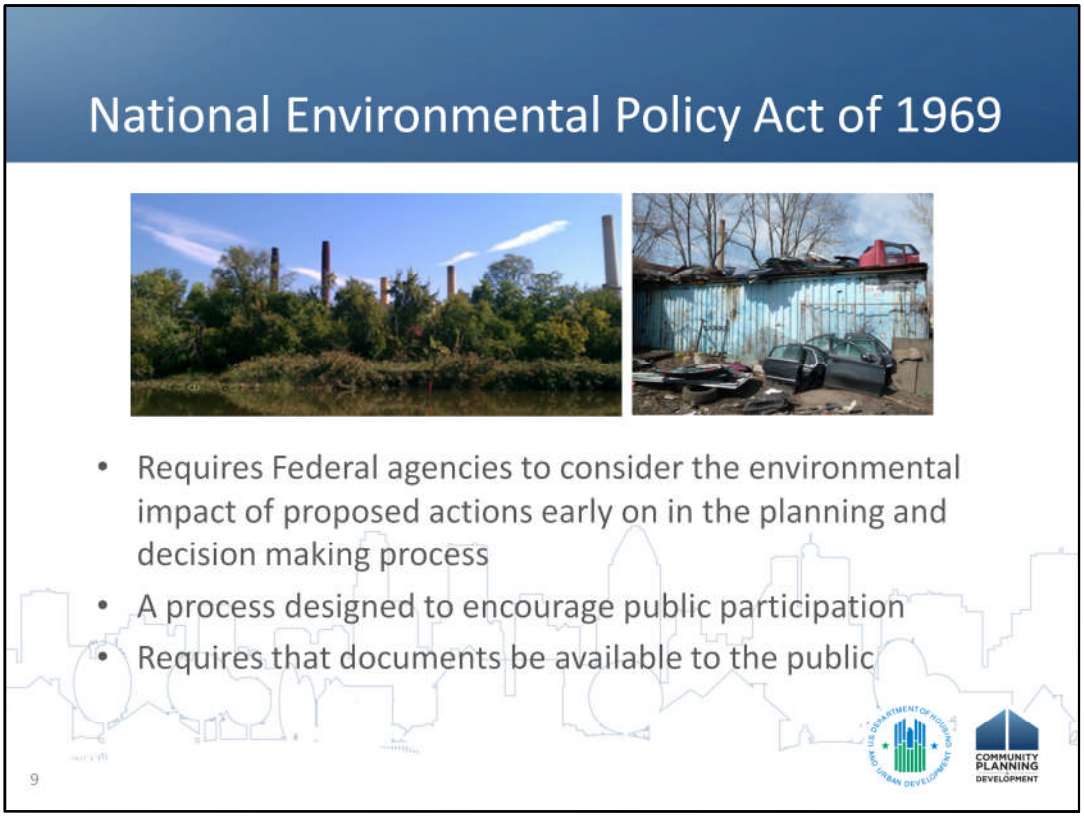
To document that our HUD funded projects are not harming the environment and that the environment is not impacting our projects

To provide decent, safe, and sanitary housing

(Don't commit funds before you do it.)

The objective of the environmental review is to document that HUD-assisted projects are not harming the environment and that the environment is not impacting our projects.

Performing the review may initially seem like a burdensome compliance step that's often one of the last requirements you fulfill before receiving the grant money or HUD assistance. However, as you and your local government's planning department become more familiar with environmental factors, we hope you'll be able to integrate these considerations into projects at the project planning phase.
Our regulations specify that an environmental review MUST be performed before any funds, regardless of source, are committed to a project. This is a point we'll return to later.



The National Environmental Policy Act or NEPA provides the framework for the environmental analysis required for projects with a Federal nexus, meaning projects that receive some form of federal funding or assistance.

Basically it requires Federal agencies to consider the environmental impact of proposed actions early on in the planning and decision making process. The NEPA process is designed to encourage public participation, partly by requiring that documents be available to the public. Bear this in mind as you perform your environmental review.

HUD's Environmental Regulations

24 CFR Part 50 -- HUD Review Requirements

- Environmental review requirements for HUD staff

24 CFR Part 51 -- Manmade Hazards

- Noise
- Explosives and Thermal
- Runway Clear Zones

24 CFR Part 55 -- Floodplains & Wetlands

24 CFR Part 58 -- Local Government Review

- Unit of Local Government accepts HUD responsibility

Take a look!

http://www.gpo.gov/fdsys/pkg/CFR-2004-title24-vol1/content-detail.html

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Part 58 and Part 50 are the sections of HUD regulations that implement the National Environmental Policy Act. Part 50 regulations apply to programs where HUD staff perform the environmental reviews. Part 58 regulations allow the assumption of authority to perform environmental reviews by Responsible Entities—which are units of local government

24 CFR Part 51 established environmental review procedures pertaining to potential impacts from manmade hazards, specifically noise, explosives, and airport runway clear zones. Part 51 is unique to HUD and is sometimes referred to as HUD standards. No other agency requires those factors in their environmental review, so if you want to use an environmental review you're performing for a different agency to fulfill HUD's requirements on the same project, just remember that there are additional considerations you'll have to look at for HUD. Finally, 24 CFR Part 55 established procedures for floodplain management and wetlands protection.

Part 58: Responsible Entities

Responsible Entity (RE) assumes federal responsibilities

- RE = a unit of general local government, tribe or State

Responsible Entity Certifying Officer

- Evaluates the environmental review
- Is responsible for scope and content
- Makes environmental finding
- Goes to court in a lawsuit

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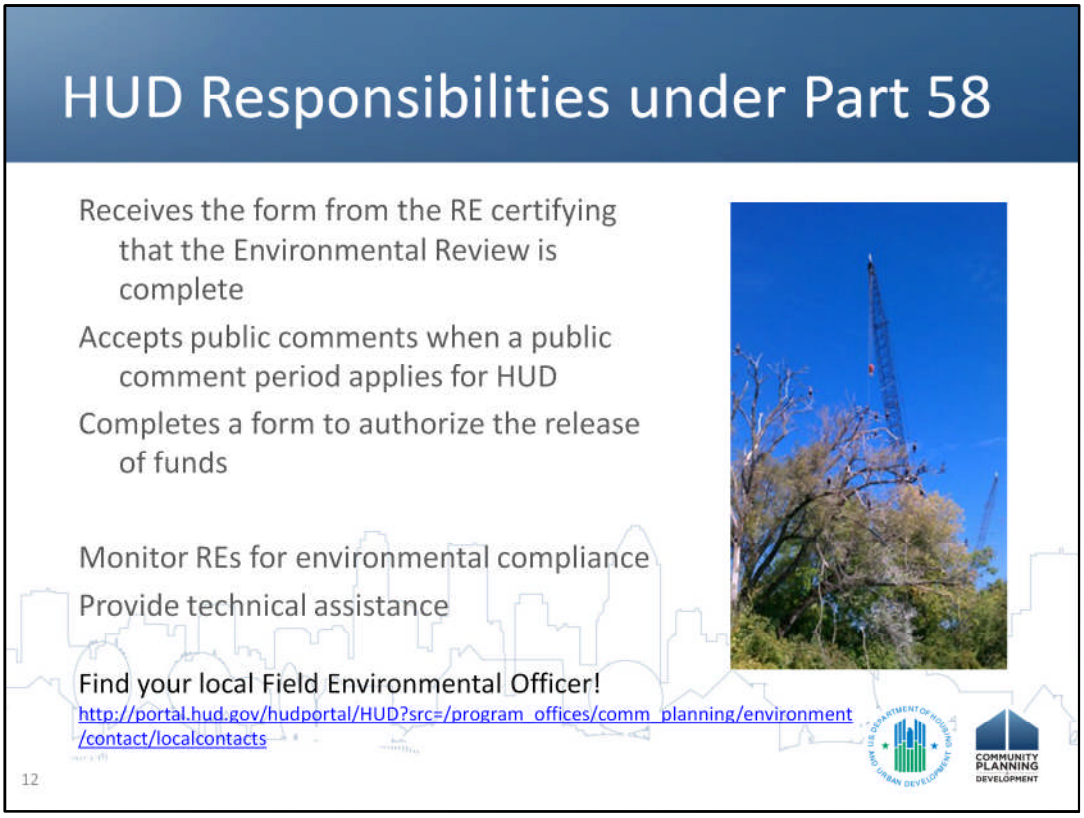
Under Part 58 Responsible Entities assume responsibility for performing and signing off on environmental reviews. Responsible Entities, or REs for short, are units of general local government, such as a town, city, or county, tribes, or States. The Certifying Officer, usually a mayor, will evaluate the review. This person, the RE Certifying Officer, is responsible for the scope and content of the review and makes the finding. This is also the person who will take legal responsibility for the review. This arrangement is very unusual in the context of environmental reviews and is unique to HUD.

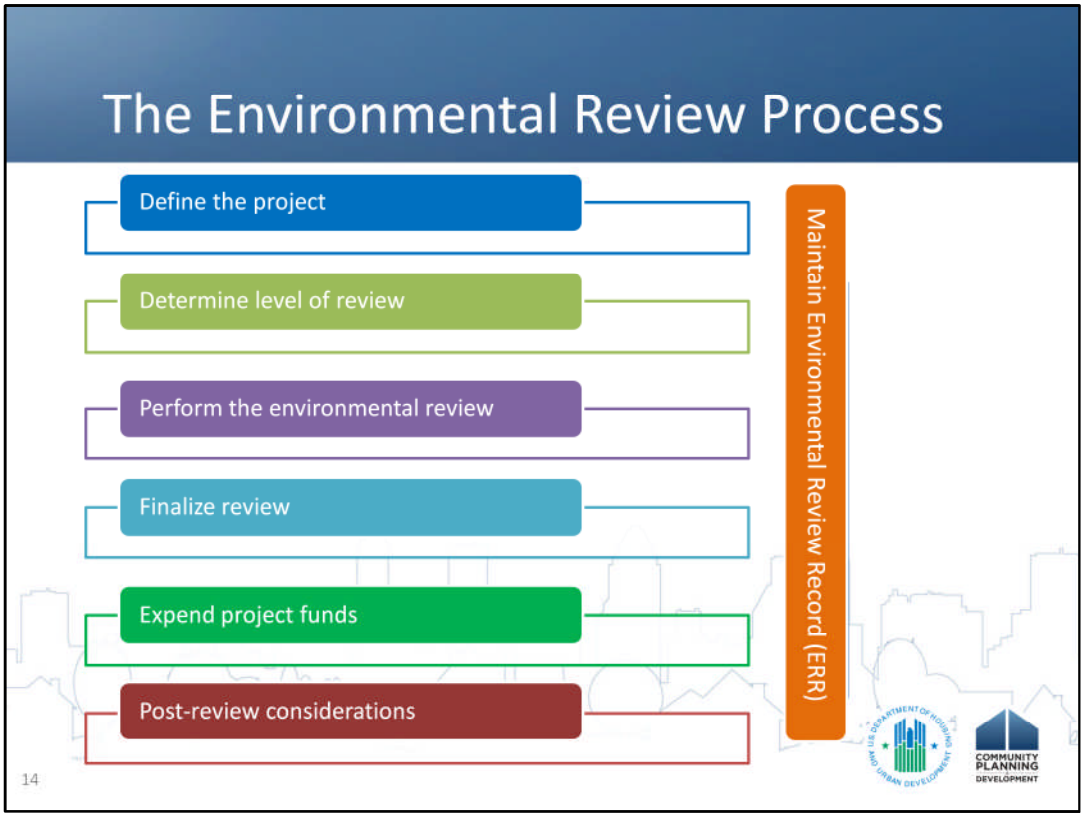


HUD responsibilities under part 58 are very limited. The HUD Program Offices are involved in the environmental review during the final steps of the process, when the environmental review is being finalized. Program staff receive the certification that the environmental review is complete from the Responsible Entity, accept public comments during the HUD public comment period, and process the removal of grant conditions.

HUD's field environmental staff perform compliance monitoring, and they are available as a resource for technical assistance when you have questions.

It applies when legislation for a program allows Local Governments to assume authority, which is to say most CPD programs and public housing programs. Exceptions include NSP2 grants to nonprofit organizations, neighborhood initiative grants, and rural housing grants. Local governments must assume responsibility for grants made directly to the local government when legislation permits. They are encouraged to be responsible for the environmental review in cases where grants are made to other entities such as non-profits and public housing authorities.

Part 50 applies when program legislation does not allow local governments to assume authority for the review, such as FHA Housing programs. Part 50 could also apply when the local government is not a direct recipient of the funds and refuses to accept responsibility, and when HUD determines the local government does not have capacity.



First you **define and describe the project**.
Based on the activities in your project, you **then determine the level of environmental review** required under the National Environmental Policy Act.
Once you know the level of review, you can **perform the environmental review** according to the requirements specified by that level of review.
Once you're done, you **finalize the review** to get the HUD funds released. Then you can **use the funds**.
There may also be some **follow-up** required after the environmental review is signed, and I'll go into that later.
All the while you should be maintaining the **environmental review record.**

Perform the environmental review

Environmental Review Record (ERR)

The ERR shall:

1. Describe all activities that are part of the project
2. Evaluate effects of project on human environment
3. Document compliance with applicable authorities, particularly 58.5 and 58.6.
4. Record determinations and findings.
5. Contain verifiable source documents and relevant base data.

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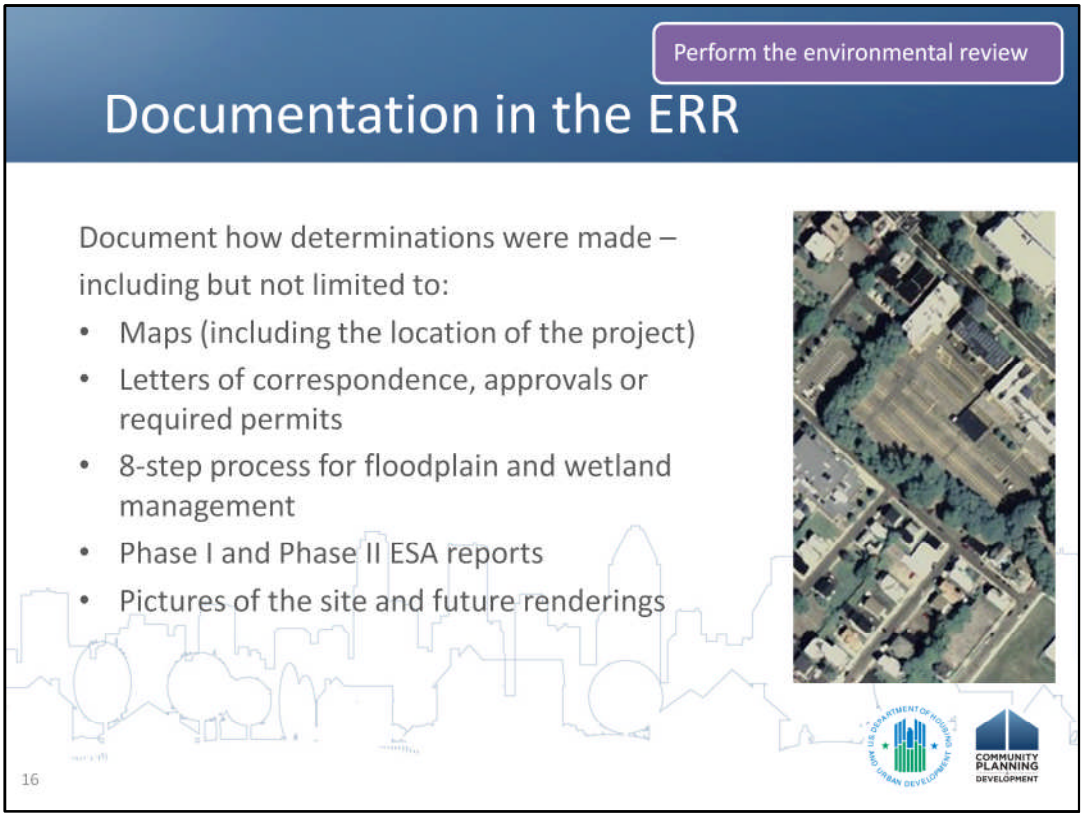
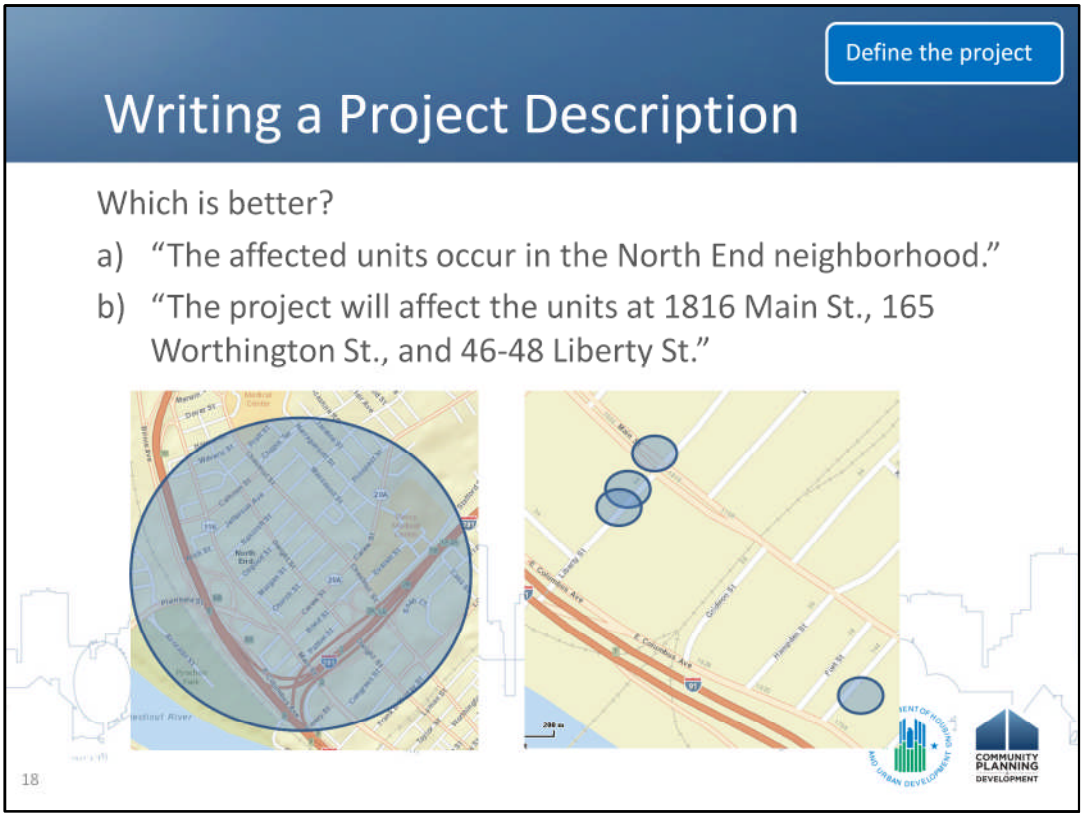


Be sure to keep all your supporting documentation in your Environmental Review Record. You want to make sure that anyone reading the Environmental Review Record will have a clear idea of how you arrived at each determination.

Your project includes everything that is interconnected. The project description should capture the maximum anticipated scope of the proposal, not just a single activity that the money is going toward. It should include ALL contemplated actions that are a composite part of the project. You should aggregate your activities according to our regulations at 58.32: a responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions. Again, your project description for the environmental review is NOT the same thing as the description of project and activities used by the funding program.

On another note, if your project or environmental review contains data that can be considered sensitive information—such as the location of a domestic violence shelter, sacred sites or burial grounds, or endangered species habitat, you should omit that information from the publicly reviewable environmental review record.



The first sentence is better because it spells out the locations.

The second sentence is useful only in providing context for your project. What are the socioeconomic or demographic trends? Is it a blighted community? Why is this project important to the community? These are things you may want to describe for more involved projects (that require an environmental assessment: see Levels of Review).

Define the project

Writing a Project Description

Which is better?

a) "This project will upgrade the HVAC systems and weatherize the windows for single family units."

b) "The project will modernize single family units."

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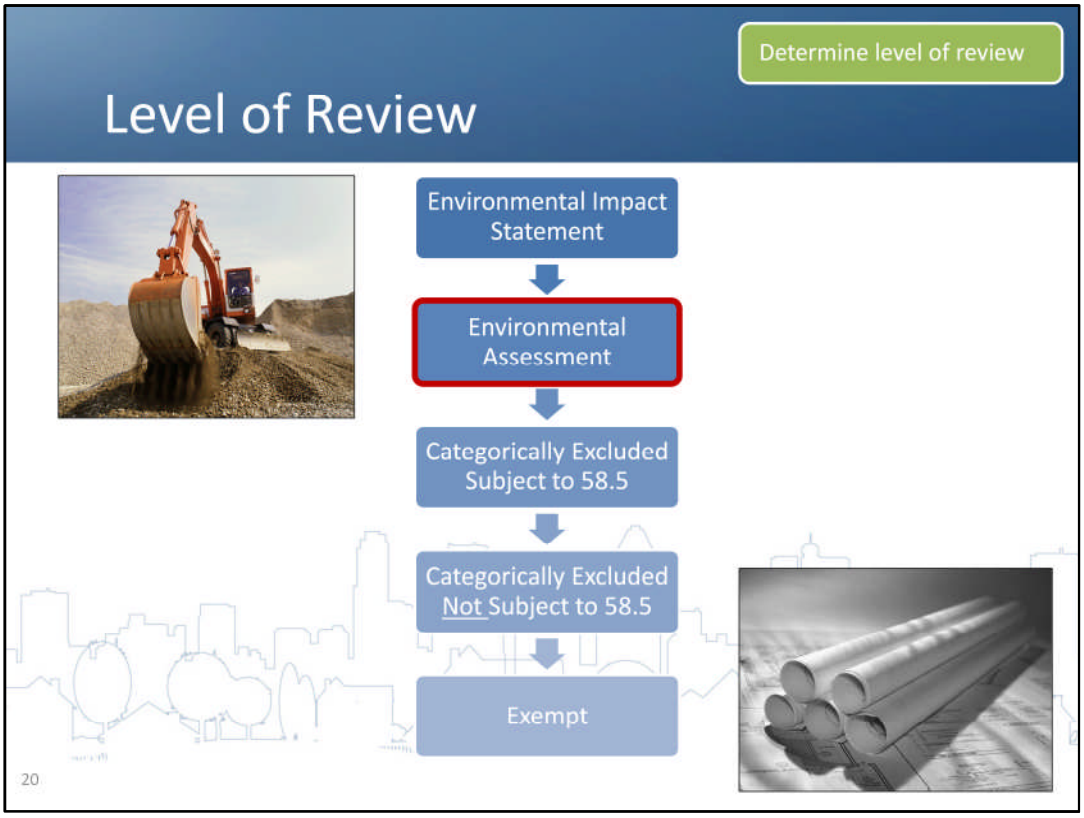
Don't get too caught up in the jargon. When you use terms like "modernize," people reviewing your environmental review record will have no idea what you're actually doing.



- After defining project description, next step is determining the level of review
  - Level of review is determined by the types of activities included in a project, so the project description feeds directly into this determination
- 5 different levels of review for HUD projects
  - Highest level of effort (EIS) to lowest (exempt)
  - Mandate how in-depth the environmental review is
    - (bulldozer = high; planning = low)
- EA highlighted because it is the default level of review
  - To be reviewed at a lower level of review, projects must fall into a categorical exclusion or exemption in our regulations

Starting with the lowest level of review – **Exempt** – going through activities at each level of review
•Activities that are categorized as exempt are listed in 24 CFR 58.34(a)
    •If your project consists only of activities found in that section, it is exempt
    •The list of activities on this slide is not exhaustive – it's just to give an idea of the kinds of activities that are exempt
        •Important to actually read the regulation to get the full list
•Projects that are exempt will generally have no physical effects
    •Can see from the list: generally planning activities and services
    •Exception: a very narrow exemption for projects giving **temporary assistance for a disaster or imminent threat to public safety** in 58.34(a)(10)
        •Projects must meet 3 conditions to qualify for this exemption:
            •First, the project must not alter environmental conditions
                •Making this determination almost requires a mini environmental review in itself
                •Especially important to know that you can't use this exemption to get around the section 106 analysis – projects cannot qualify for this exemption if they would affect properties that are listed on or eligible for listing on the National Register of Historic Places
            •Second, activities must be limited to efforts to protection, repair, or restoration activities necessary to control or arrest negative effects
                •This means that the project cannot include any new additions or changes to the primary use or density of a property
                    •Activities must be limited to basic, essential repairs or protective measures
            •Finally, the disaster or imminent threat must be immediate and severe
                •"Disaster" is defined as a state or federally declared disaster
                •An imminent threat to the public safety must be a threat to the general public outside as well as inside the affected building
                    •A condemned building is inadequate to demonstrate an imminent threat to public safety, because it does note demonstrate a harm to the general public outside the building

Option to get funds up-front
•For more complex projects, you may choose to receive planning funds in advance of a full environmental review.
    •If so, you should complete a separate exempt environmental review for planning costs that are needed up-front. After that, you have the option to complete a second more involved ER for the remaining project costs.
    •This is an exception to the usual requirement to aggregate
    •Exception to this rule for projects funded under the HOME program

Categorically Excluded Not Subject to 58.5 (CENST) Activities

Determine level of review

Listed in 24 CFR 58.35(b):

- Tenant-based rental assistance
- Supportive Services (healthcare, housing placement)
- Operating costs (utilities, supplies)
- Economic development costs (non-construction)
- Pre-development costs
- Maintenance
- Supplemental Assistance

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Next lowest level**: Categorically Excluded NOT subject to 58.5**

- **CENST** activities are similar to exempt: again, generally activities that will not have physical impacts
  - Also consists of a lot of services and financial activity (and, again, this list is incomplete)
  - A few activities to pull out and define at this level of review:
    - **Tenant-based rental assistance**: this is rental assistance that is attached to the *renter*, not the unit
      - Project-based rental assistance, where the funding is attached the property, is CEST – the next level of review
    - **Maintenance**: Unlike repairs and improvements, maintenance activities do not materially add to the value of a building, appreciably prolong its life, or adapt to new uses
      - Maintenance activities include:
        - Cleaning;
        - Measures to keep a building in working order; and
        - Replacement of appliances or objects that are <u>not</u> fixtures or part of the building.
          - To clarify: A fixture is an object that is physically attached to the building and cannot be removed without causing permanent damage to the building, including electrical systems, plumbing, kitchen cabinets, staircases
      - So if fixtures are replaced or any other activities that rises above the definition of maintenance are involved, the project is not CENST
    - **Supplemental assistance**
      - Where supplemental assistance is required for a project that has already been reviewed under part 58 by the same responsible entity, that review is CENST under 58.35(b)(7)
        - There is an exception if 58.47 requires reevaluation of the review, in which case a different level of review will be required
          - Lauren will go over reevaluation later on
      - If you require strictly more funding for the same project, under the same conditions, that is CENST

Middle Level of Review: Categorically Excluded *Subject* To 58.5 (or CEST)

•Activities that are categorized as CEST will usually have physical impacts

•They are also more specifically defined – regulations at 24CFR 58.35(a) outline very specific activities that fall into this category, and we'll go through those over the next few slides

- •First categorical exclusion, in 58.35(a)(1) and (a)(5), applies to acquisition and leasing of existing buildings, vacant land, and public facilities
  - •These activities are CEST as long as there is no change in land use, for example from nonresidential to residential, commercial to industrial, or one industrial use to another
- •58.35(a)(5) also excludes disposition of vacant land and existing buildings – again, as long as there is no change in land use
  - •For public facilities, like water/sewer lines, sidewalks, and streets, there is no exclusion for disposition – therefore, that would require an EA
- •Another CEST activity is removal of material and architectural barriers that restrict mobility of and accessibility to elderly and handicapped persons

Determine level of review

CEST Activities Continued

Rehabilitation, Repair, and Improvements

- Public facilities and non-residential buildings: no change in land use, change in size or capacity < 20%
- Multifamily residential: no change in land use, change in size or capacity < 20%, cost of rehab < 75% of cost of replacement after rehab
- Single family residential: no change in land use, density < 4 units, footprint not in floodplain or wetland

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This is where these CEs can get extremely technical… Rehabilitation, repair, and improvement activities

•Public facilities and non-residential buildings: CEST unless rehab activities lead to a change in land use or a change in size or capacity greater than 20%

•Acceptable rehab activity with a change in size or capacity less than 20 % would include replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets

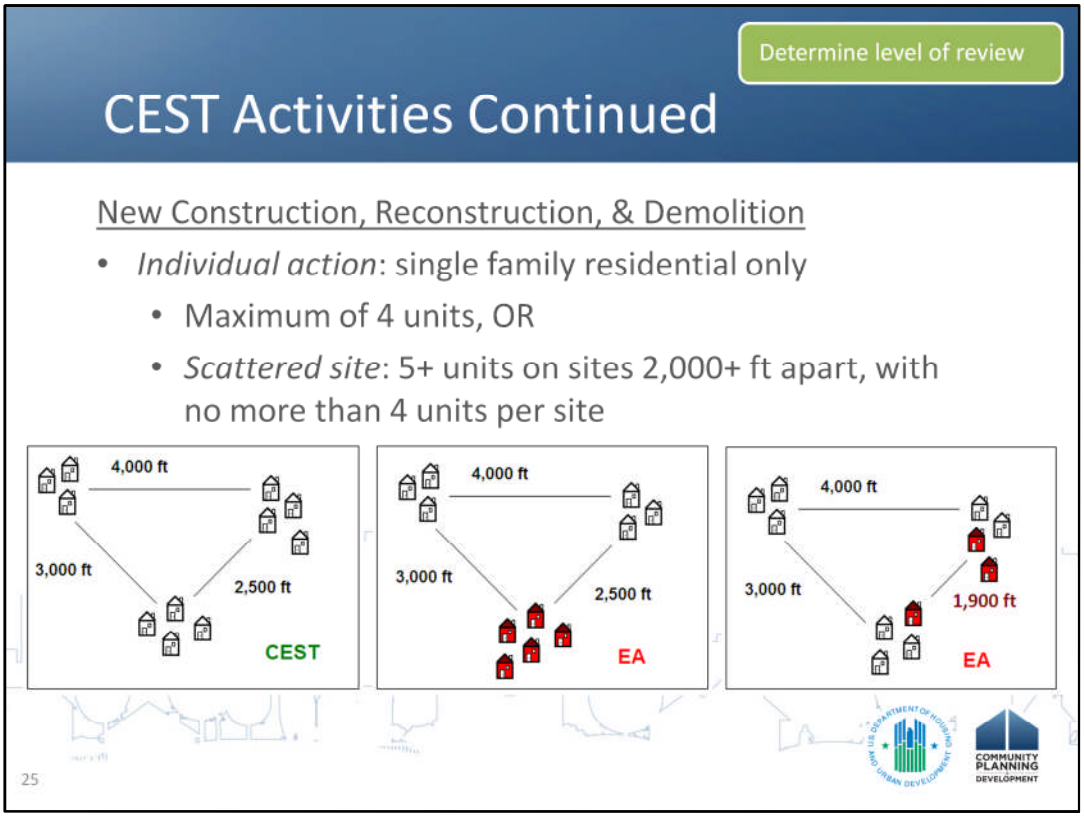
•Multifamily residential: same restrictions as above – CEST as long as there is no change in land use and any change in size or capacity is < 20%,

•But these projects have the added condition that the cost of rehab must be < 75% of cost of replacement after rehab to be CEST

•So for that analysis: need to compare the cost of the rehab project to the appraised market value of the property

•Finally, rehabilitation of Single family residential properties (which is defined for purposes of level of review as projects touching a maximum of four housing units) have the same condition against changes in land use and two new ones. First, density on site must not increase beyond four units; second, the footprint of the building may not be increased in a floodplain or wetland

Important to remember to read the regulations



Other tricky one: new construction, reconstruction, and demolition

•The regs contain CEs for these project only for single family residential projects, or projects with less than 4 units per site

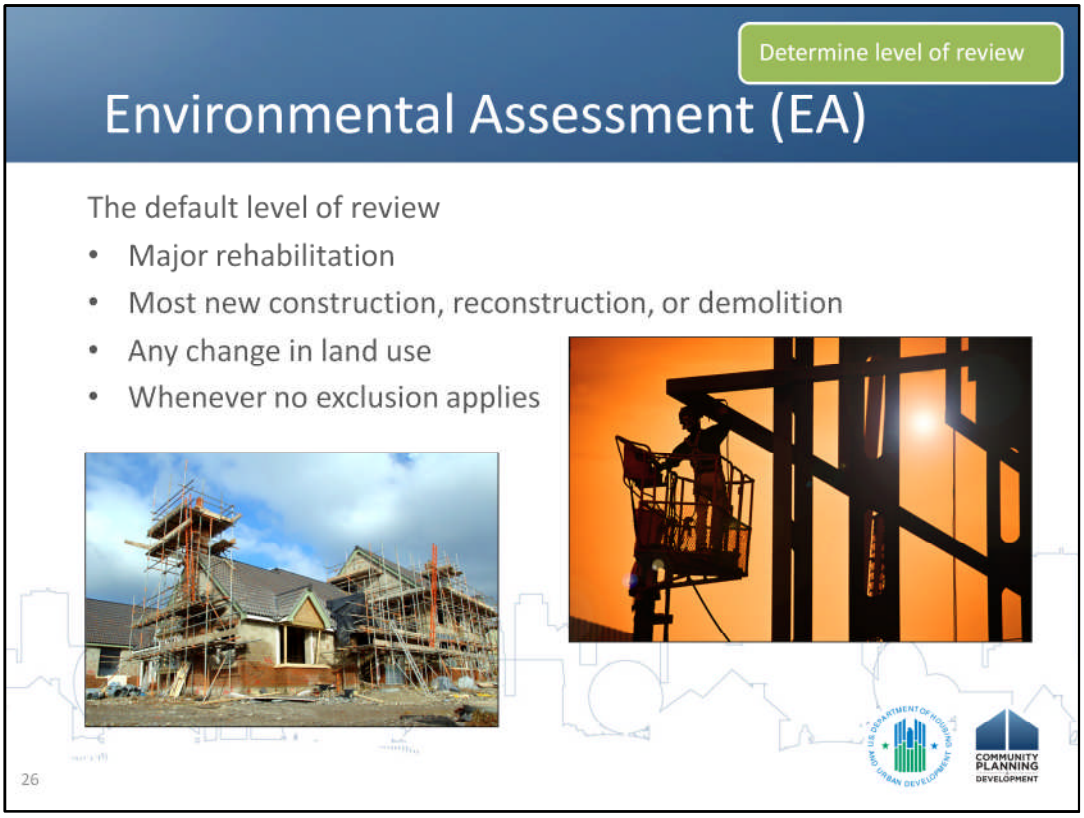
•These can be four one-unit buildings, one four-unit building or any combination in between

•Regs allow for CEST "Individual Actions," defined as new construction, demolition, and reconstruction (which is just the combination of the other two) in two situations:

•§58.35(a)(4)(i): individual action on up to four dwelling units where there is a max of 4 units on any one site.

•§58.35(a)(4)(ii): an individual action on a project of 5 or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site

•This one is tricky, so it's illustrated: go through the different scenarios



EA is the default: if no categorical exclusion applies and project isn't required to do an EIS, it is EA by default

•Generally:

- •New construction, reconstruction, demolition, major rehab, anything involving a change in land use

Determine level of review

Environmental Impact Statement (EIS)

Listed in 24 CFR 58.37:

- Finding of significant impacts (FOSI)
- Projects affecting 2,500+ units or beds

Recommended format: see CEQ regulations at 40 CFR 1502.10

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Finally, highest level of ER: Environmental Impact Statement (EIS)

•Required for major federal actions having a significant impact on the human environment

- •HUD regulations state in 24 CFR 58.37 that EISs are always required for projects that in any way affect 2,500 or more units or, the case of hospitals, beds

•Not going to spend a lot of time on EISs, b/c they're a very small part of what HUD does

- •Generally going to be very, very large projects
- •HUD grantees do a handful each year
  - •CEQ has guidelines on the process – refer to their regulations for format and requirements

Determine level of review

Quiz: Choose the Level of Review

1. Construction of a 4-unit apartment building

❖ Answer: CEST (24 CFR 58.35(a)(4)(i))

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- This is an individual action
  - 4 units = “single family”

Determine level of review

Quiz: Choose the Level of Review

2. Demolition and reconstruction of a 5-unit apartment building

- Answer: EA

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- This is NOT an individual action
  - 5 units = “multifamily”
  - Reconstruction = same as construction (NOT rehab)

Determine level of review

Quiz: Choose the Level of Review

3. Replacement of an office building's plumbing system

- Answer: CEST (58.35(a)(3)(iii))

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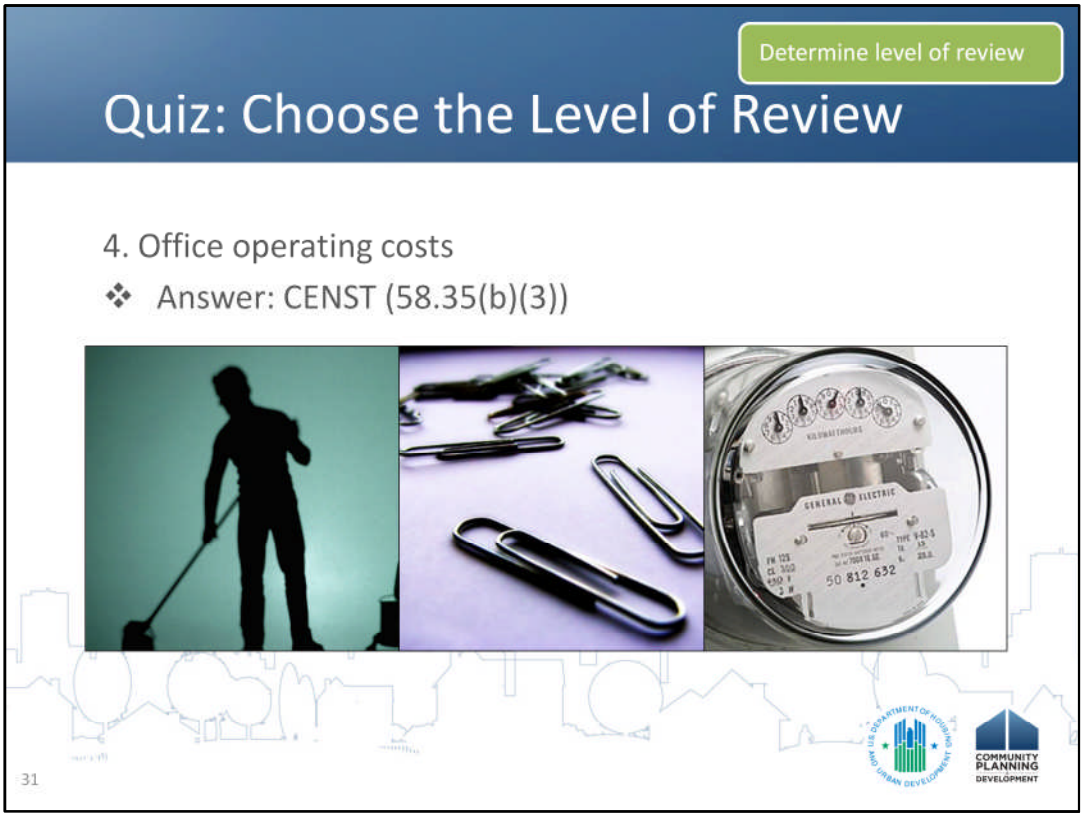
- This would be treated as a rehab project
  - NOT maintenance because plumbing is a fixture
    - Therefore not CENST
  - But b/c it's just replacement, looks like it fits into the definition in 58.35(a)(3)(iii):
    - Facilities and improvements are in place and will not be changed in size or capacity by more than 20%
    - Activity does not involve a change in land use



•The kinds of activities involved in keeping a building running – building maintenance, supplies, utility costs – are CENST
•Reminder: still have to comply with 3 laws/authorities – Flood Insurance, CBRA, and Airport Runway Clear Zones – and keep an Environmental Review Record showing that compliance

Determine level of review

Quiz: Choose the Level of Review

5. Buying an apartment building with the intent to perform minor repairs and rent out individual apartments

❖ Answer: CEST (58.35(a)(3)(ii), 58.35(a)(5), 58.35(a)(6))

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- Have to aggregate these three activities
  - Even if not planning to rent immediately, it's part of one over-arching plan for the building
- Parsing through these 3 activities, we have
  - Buying a building: CEST under 58.35(a)(5)
  - Repairing a multifamily building: CEST under 58.35(a)(3)(ii), assuming that all conditions of that citation are met
    - (That one we don't quite have enough information, but since it's specified *minor* repairs, I'm going to treat it as CEST)
  - Renting a building: the same as buying a building – also CEST under 58.35(a)(5)
  - Finally, CEST under 58.35(a)(6) specifies that any combination of CEST activities is also CEST
- Therefore, although this is a complicated project, it is still CEST

Determine level of review

Quiz: Choose the Level of Review

6. Selling an office building to a developer who plans to demolish the building

- Answer: EA

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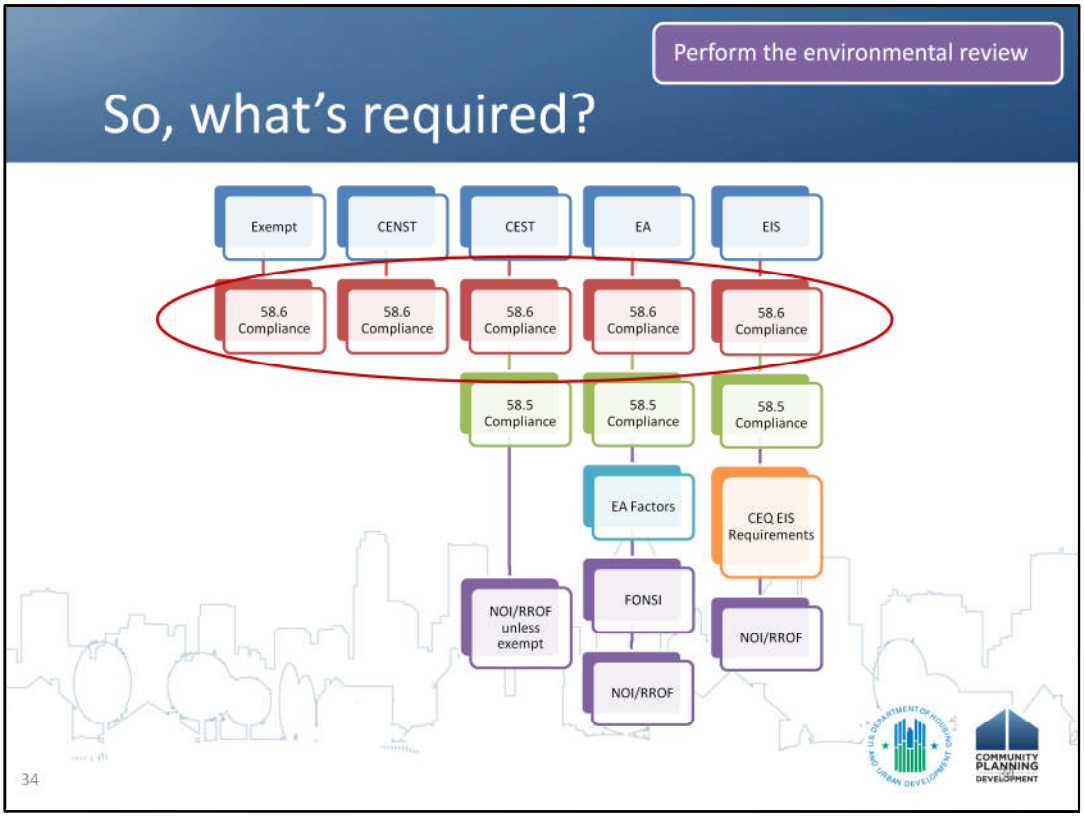
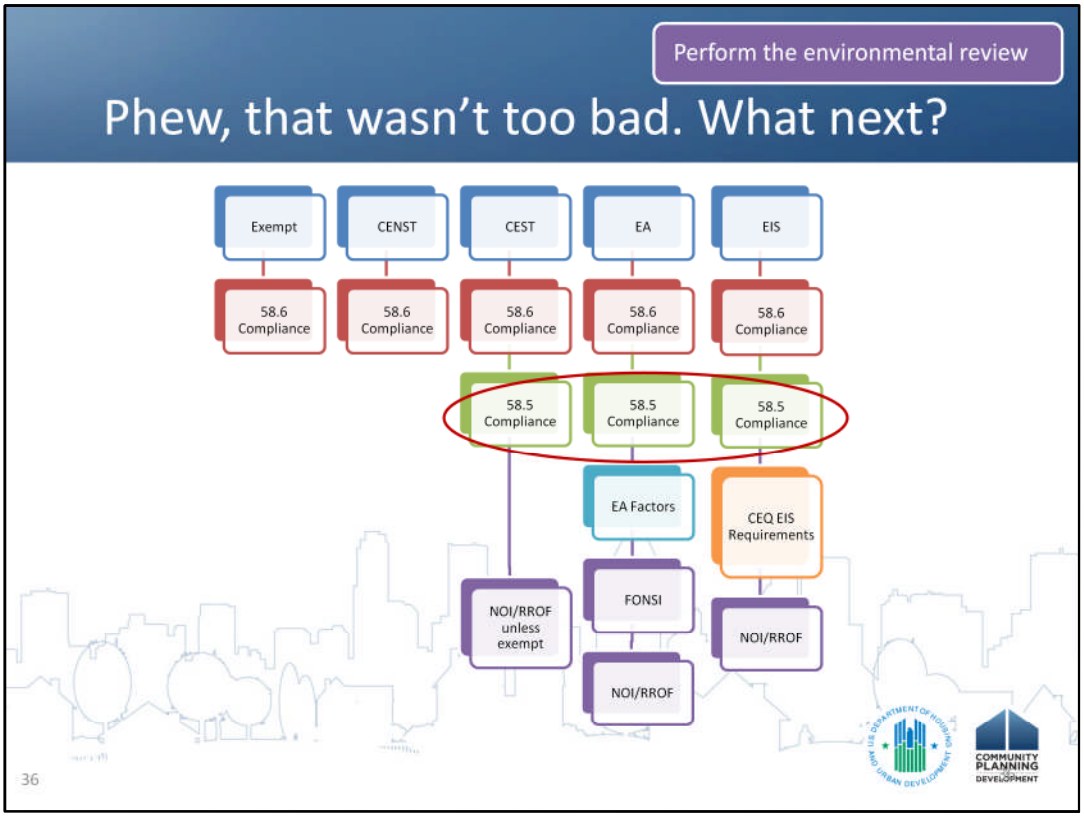
- Another complicated one, where we have to aggregate
  - First activity – selling a building land – is CEST under CEST under 58.35(a)(5)
  - The second – demolishing an office building – is an EA-level activity, because there is a categorical exclusion for demolition *only* for residential (as an individual action)
    - Even though you are not going to be the one to demolish the building, it is STILL part of the same project for purposes of aggregation



Now that you know your level of review, what next? You can now proceed with the environmental analysis. You may wonder, "What do I analyze?" Well, our regulations at 58.5 and 58.6 outline the laws and authorities you must consider and comply with. Let's start with 58.6. ALL projects regardless of level of review are required to analyze the project for compliance with 58.6.

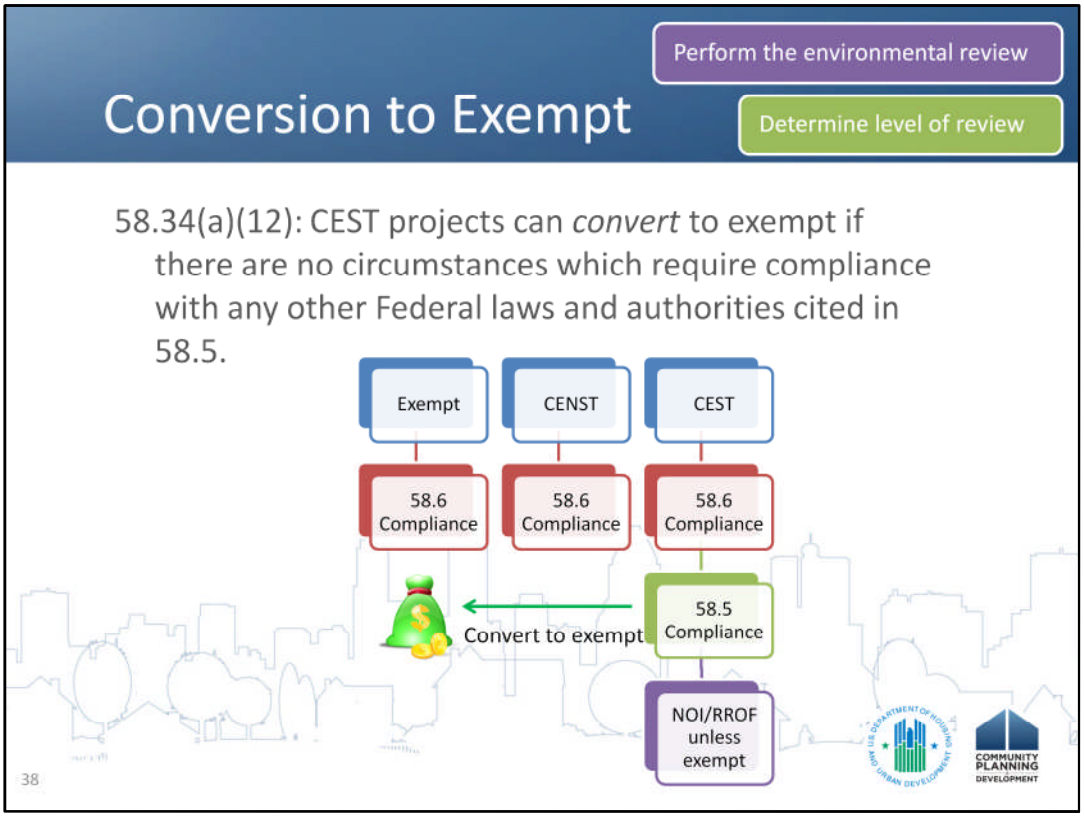
ER requirements for Exempt and CENST projects are relatively minor

Exempt and CENST projects must comply with 3 laws:
•Flood Disaster Protection Act (or National Flood Insurance Program). Basically, does your project require flood insurance? If it does, get it!
•Coastal Barrier Resources Act. Is your project located on a coastal barrier island? In 99.9% of cases, you are not allowed to do anything on a coastal barrier island, so you'd have to cancel the project if so. (The exception being nature trails.)
•Airport Runway Clear Zone regulations. Is your project located in an airport runway clear zone? If so, you just have to provide written notice to prospective buyers.

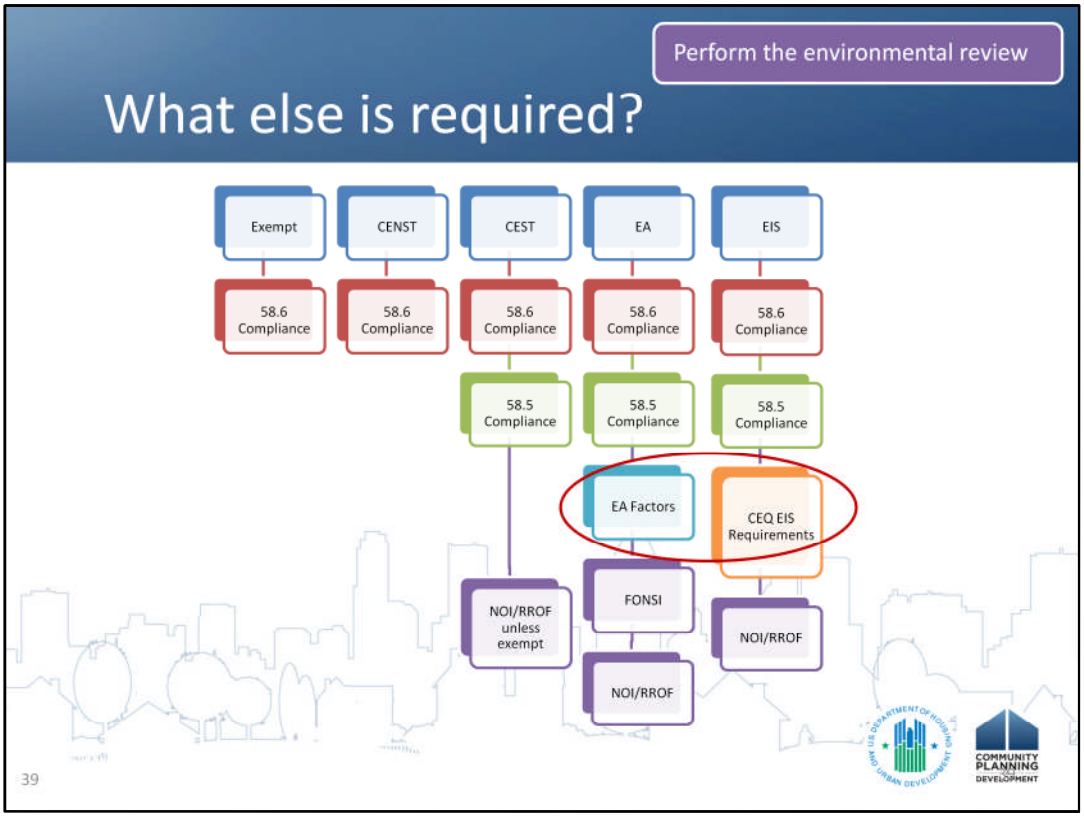


After you've complied with 58.6, you are done for exempt and CENST projects. Just record your findings and proceed with the project. For the other levels of review, a whole set of related Federal laws and authorities apply. They are listed under our regulations at 58.5.

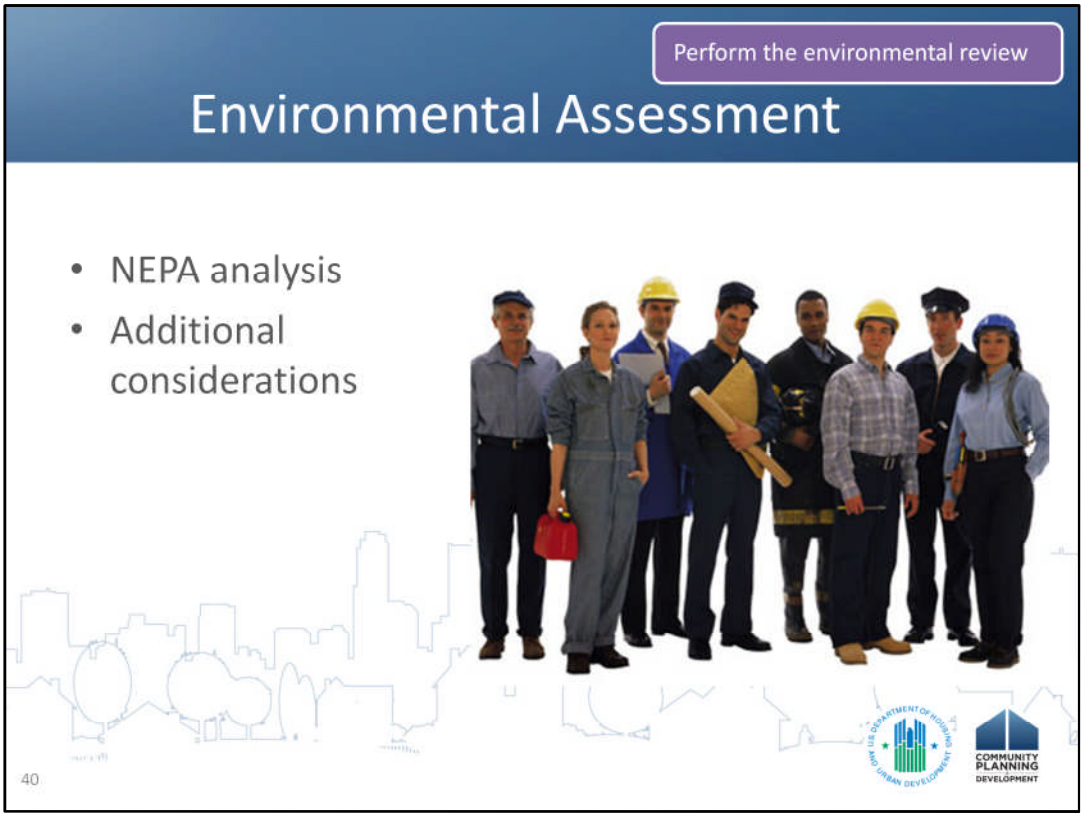
58.5 is the fun stuff, and in times it can also mean a big headache. It includes complying with [name just a few]. Most of these topics have been covered in our webinars, and you can use the Assessment Tools for Environmental Compliance (or ATEC) on our website for more information on each of the compliance factors.



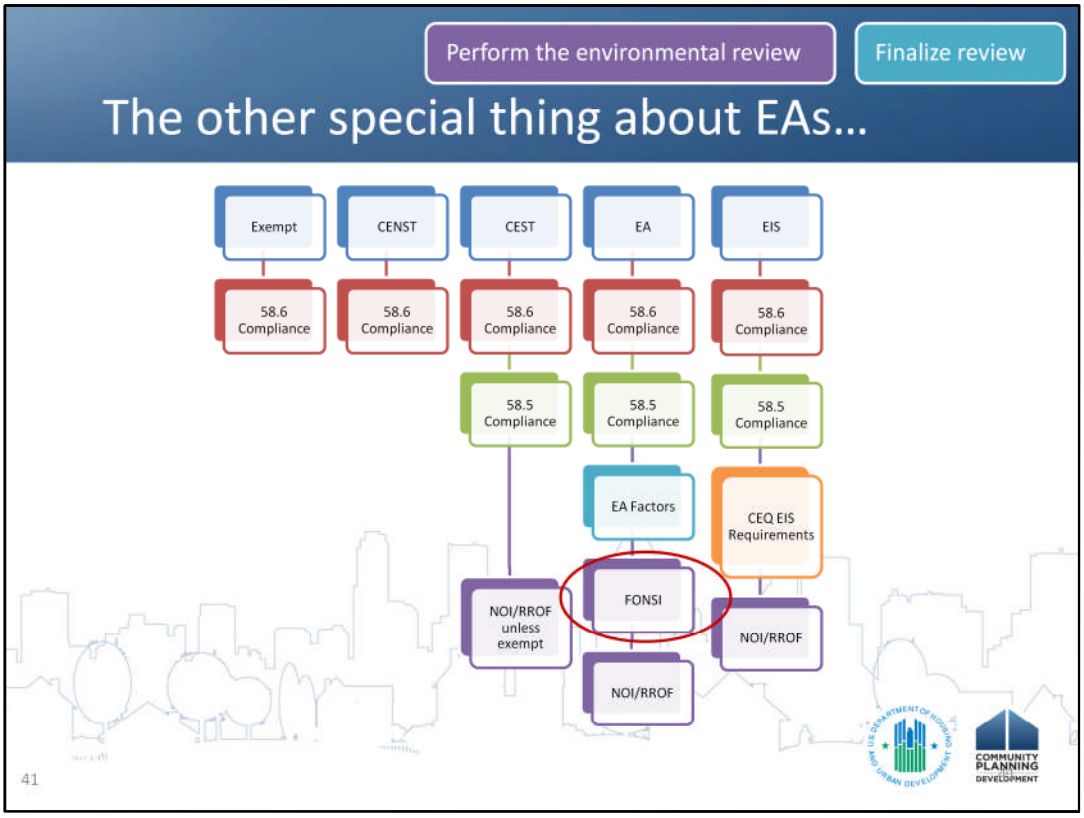
For CEST projects only, if after evaluating the factors in 58.5 and 58.6 you find that there were no circumstances that triggered compliance measures, you are allowed to change the level of review by converting to exempt. This allows you to greatly simplify the final steps of the review. Instead of proceeding with a public notice (the step in purple which we'll talk about later), you can simply record your determination that the project is converting to exempt and then start your project.



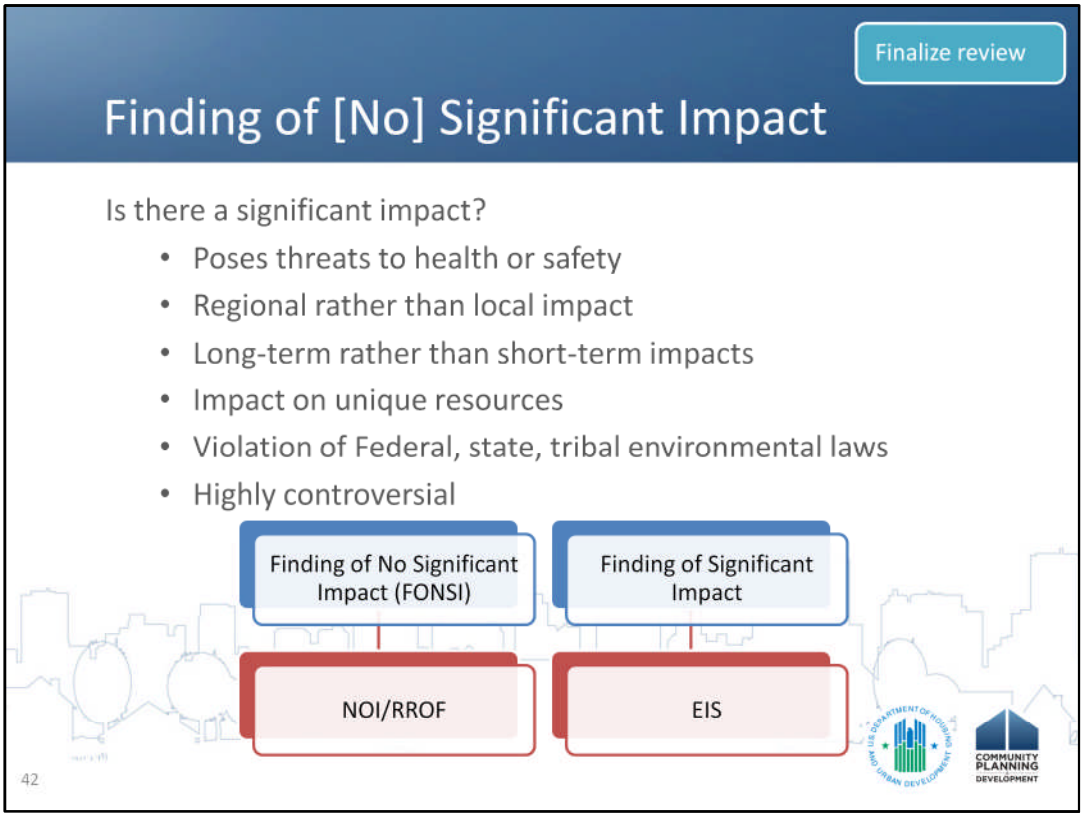
For EA and EIS there are additional requirements beyond 58.5 and 58.6. We won't really talk about EIS factors in this webinar, but I'll go over the Environmental Assessment factors.



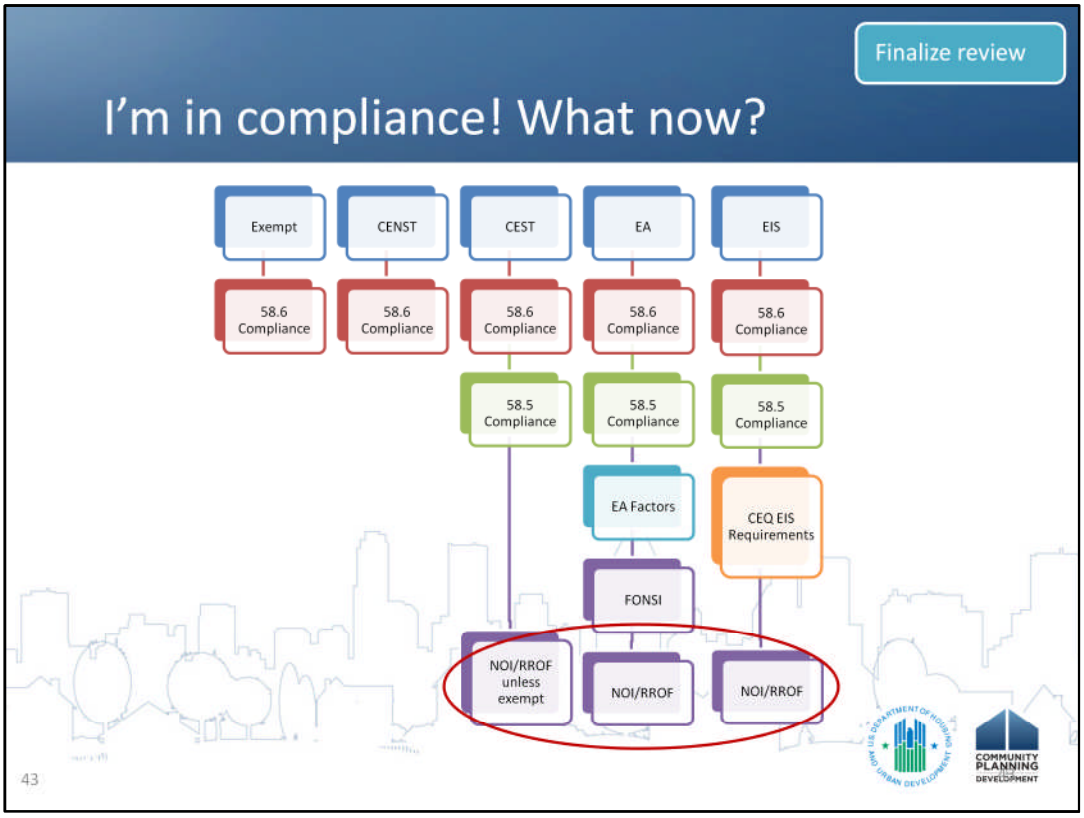
On top of 58.5. and 58.6 the Environmental Assessment includes additional analysis into the project. It includes environmental analysis under the National Environmental Policy Act, such as Cumulative Impact Analysis and evaluation of alternatives. You also consider how the project fits in with the surrounding area and think about factors such as Land Development, Community Facilities and Services, Natural Features, and Socioeconomic Conditions.



While we're on the topic of Environmental Assessments, I'll draw your attention to the finding you have to make for EAs.



There are two possible findings for an EA. You either make a Finding of No Significant Impact, known as FONSI for short, or a Finding of Significant Impact. After all your environmental analysis and evaluation, does the Certifying Officer (again, this is usually the major) conclude that there is a significant impact? Significant impacts can arise if the project poses threats to health or safety, has a regional rather than local impact, has long- rather than short-term impacts, impacts unique resources, violates environmental laws, or is otherwise just highly controversial. If there is a Finding of Significant Impact signed off by the Certifying Officer, then an Environmental Impact Statement must be performed. At that stage you should just work with your local HUD field environmental officer. If the Certifying Officer determines that there is a Finding of No Significant Impact, then you must disseminate or publish a public notice to that effect. We'll talk about public comment periods in more detail in just a little bit.



Once you have documented your compliance with all of the required environmental factors, you can proceed with the final steps of the environmental review. CEST, EA, and EIS projects require a Notice of Intent and Request of Release of Funds, which I will go over next.

Finalize review

Notice of Intent to Request Release of Funds

Inform the public of your intent to submit a Request of Release of Funds (HUD form 7015.15) for this project.

Do so by publishing or posting.

Type of Notice	Length of Comment Period
Notice of FONSI	15 days when published Or 18 days when mailing and posting
Notice of Intent to Request for Release of Funds (NOI-RROF)	7 days when published Or 10 days when only mailing and posting
Concurrent or combined notices	15 days when published Or 18 days when mailing and posting

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Now that you've made your environmental determinations and have a signature from your Certifying Officer, let the public know that you intend to submit a Request of Release of Funds, also known as form 7015.15), for this project. You can do so by posting or publishing in a manner where the public can easily find it. This could mean publishing in a local newspaper or posting in a public building such as in public libraries or the city hall. Include in the notice a brief project description, any findings, and the address of your office where the public can submit comments regarding the project. So as a recap, there are two public notices. All CEST, EAs, and EISs require a NOI-RROF. All EAs also require a Notice of FONSI. You have the option of combining the two notices so that you're only posting or publishing once, and you can refer to the chart on this slide for the length of the comment period. Just as a rule of thumb, the comment period begins the day AFTER posting or publishing, and not the day of.

Finalize review

Request for Release of Funds (RROF, 7015.15)

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB No. 2506-0087 (exp. 10/31/2014)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request	7. Name and address of recipient (if different than responsible entity)	

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)

11. Program Activity/Project Description

COMMUNITY PLANNING AND DEVELOPMENT

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After the comment period for the Notice of Intent is over, you can submit the actual Request for Release of Funds, or form 7015.15, to HUD. Here you can see what the first page looks like.

[whatever you were saying about the latest RROF version]

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify th

Finalize review

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaini to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did ☐ did not ☐ require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity	Title of Certifying Officer
X	Date signed
Address of Certifying Officer	

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient	Title of Authorized Officer

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COMMUNITY PLANNING DEVELOPMENT

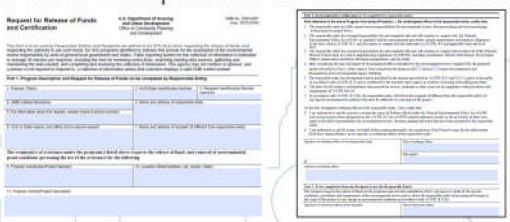
[whatever you wanted to say]

Finalize review

Now that the RROF's at HUD…

The RROF may be disapproved (58.75) if any of the following conditions apply:

- HUD has knowledge that the RE did not properly conduct the environmental review.
- HUD finds inaccuracies in the Certification or RROF.
- HUD receives valid public objections attesting to the inaccuracy or non-compliance of the environmental review.



See the form here!
http://portal.hud.gov/huddoc/7015.15.pdf

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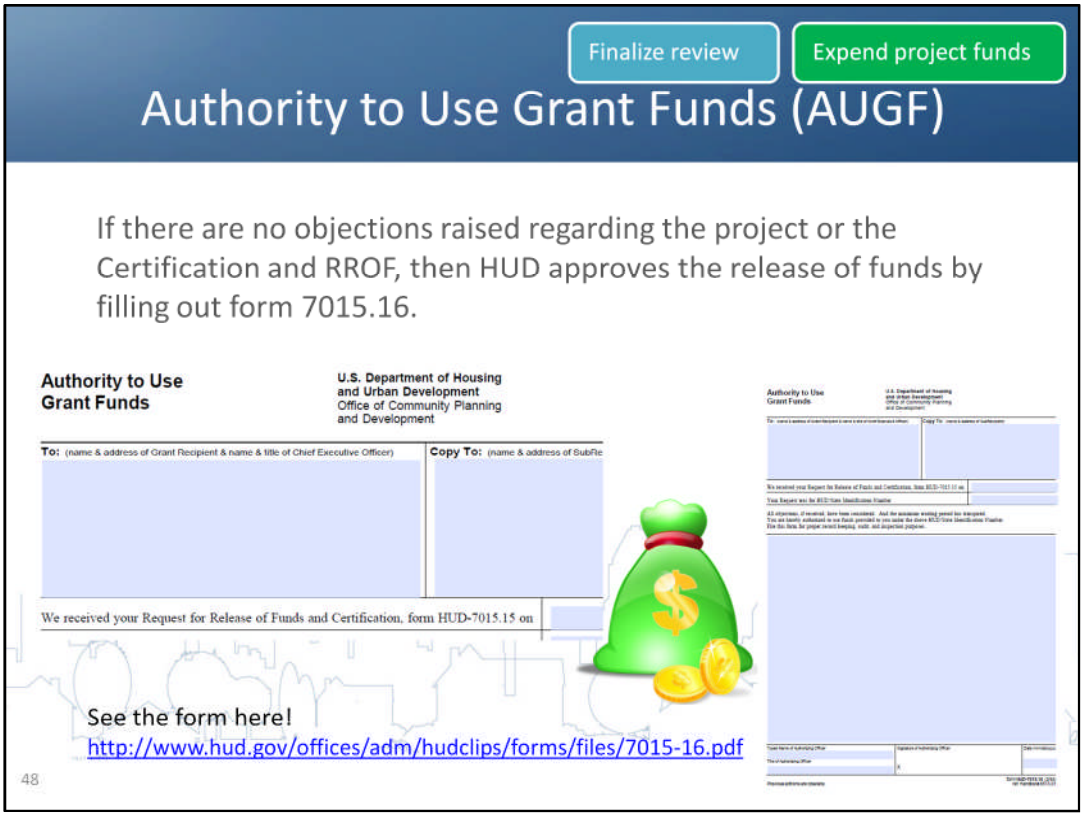
You're almost there. Once HUD receives the RROF the 15-day HUD public comment period begins. The public may submit objections to the approval of the RROF directly to HUD during this stage. After the public comment period, HUD decides whether or not to approve the RROF. It can be rejected if any of the following conditions apply: 1) HUD has knowledge that the RE did not properly conduct the environmental review; 2) HUD finds inaccuracies in the Certification or RROF; 3) HUD receives valid public objections attesting to the inaccuracy or non-compliance of the Environmental Review. You can learn more about the specifics by reading our regulation at 58.75.



If all is well and there is no reason to reject the request for release of funds, then HUD approves the release of funds by filling out the Authority to Use Grant Funds, or form 7015.16. After that, the project may proceed and you can commit and expend project funds.

Here's a recap of what we just covered. When can the project proceed? For exempt and CENST projects, it's after you've complied with 58.6, which had to do with flood insurance, airport clear zones, and coastal barrier resources. For all other projects, it's after a number of other environmental factors have been analyzed, such as the statutory checklist, and the Request of Release of Funds has been approved by HUD. Remember, before you proceed with the project you should record the final determination in the Environmental Review Record.

So now you're done, right? Not quite. If mitigation measures were required for any of the compliance factors, you have to follow through with them. Make sure you monitor your subgrantees as well. Every few years, HUD field staff may come along and monitor Responsible Entities to check the quality of your environmental reviews and to check on mitigation measures. That means that you can't just throw out your environmental review records once the projects are done. It's a living document!

Expend project funds | Post-review

Re-evaluation of Project Changes (58.47)

RE must re-evaluate environmental findings when:

- Change in nature or extent of project,
- New environmental circumstances or conditions
- Selection of alternative not in original finding

If FONSI is reaffirmed, no new FONSI is required – MUST UPDATE ERR

If original findings no longer valid, prepare a new review at a higher level of review.

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In some instances, the ERR must be updated with a re-evaluation of project changes when the any of the following apply: there is a change in the nature or extent of the project, there are new environmental circumstances or conditions, or you decide to select a different alternative that was not in the original course of action. If the original findings are still valid, document your determination with a memo in your review. However, if the original findings are no longer valid, you'll have to prepare a new review at a high level of review. So a CEST project would then need an EA, or an EA would be elevated to an EIS.

Take-Away Messages

An Environmental Review (ER) is an analysis of the impacts of both the project on the environment and the environment on the project.

Under Part 58 the Responsible Entity Certifying Officer becomes the "responsible Federal Official" for NEPA responsibilities.

Funds cannot be committed, obligated, or expended prior to the completion of the environmental review.

The RE must create an environmental review record with verifiable resources and documented findings for each project.

The goal of the process is to improve projects or ensure that projects do not adversely affect human health and safety or the environment.

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Each finding and determination of the environmental process must be documented.

- Evidence of Due Diligence
- No Arbitrary and Capricious Decisions

Common Deficiencies

- Failure to aggregate interdependent activities in single ERR
- ERR lacks traceable source documentation
- Project funds are committed before submitting RROF or obtaining AUGF
- Failure to address HUD environmental standards – noise, airports, explosives, toxics
- Failure to consult with appropriate agencies

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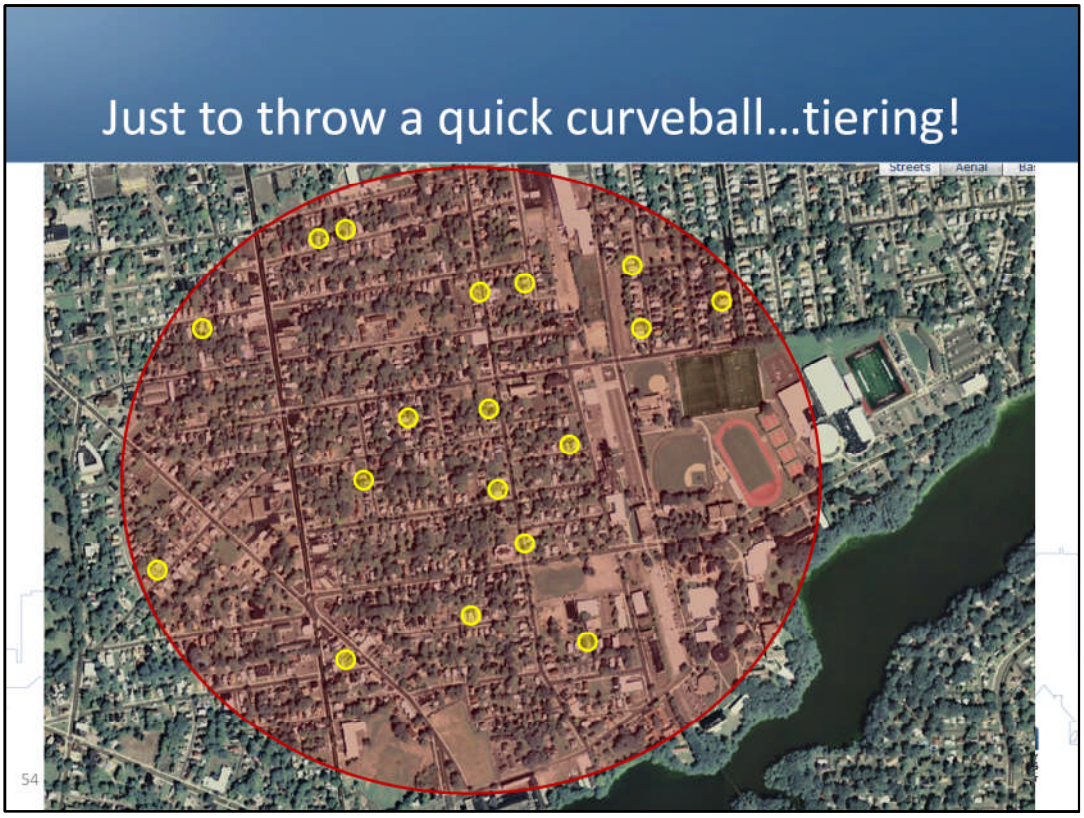

NEPA allows projects to be “tiered” into two levels of analysis. The broad-level review can occur before you know the exact locations of the projects. If you know the geographic area that the project will occur in, you can already start to perform many of the analyses, complete the broad-level review, and publish a Notice of Intent to Request a Release of Funds. Then, when you know the actual address of the projects, you perform site-specific environmental reviews that address all the concerns you weren’t able to go over in the broad-level review.

Resources

- 24 CFR Part 58 – http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title24/24cfr58_main_02.tpl
- HUD's Environmental Website – http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/
- Local Environmental Field Officer Contacts – http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/contact/localcontacts
- Past Environmental Webinars – http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/training

Resources

- HUD's Assessment Tools for Environmental Compliance – http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/atec
- HUD's resources library – http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/library

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Paul is the Regional Environmental Officer for Regions 7 and 8 (Great Plains and Rocky Mountain states).
Debbie is the Regional Environmental Officer for Region 10 (Pacific Northwest).

If you are located elsewhere, contact your local REO or Field Environmental Officer for technical assistance.