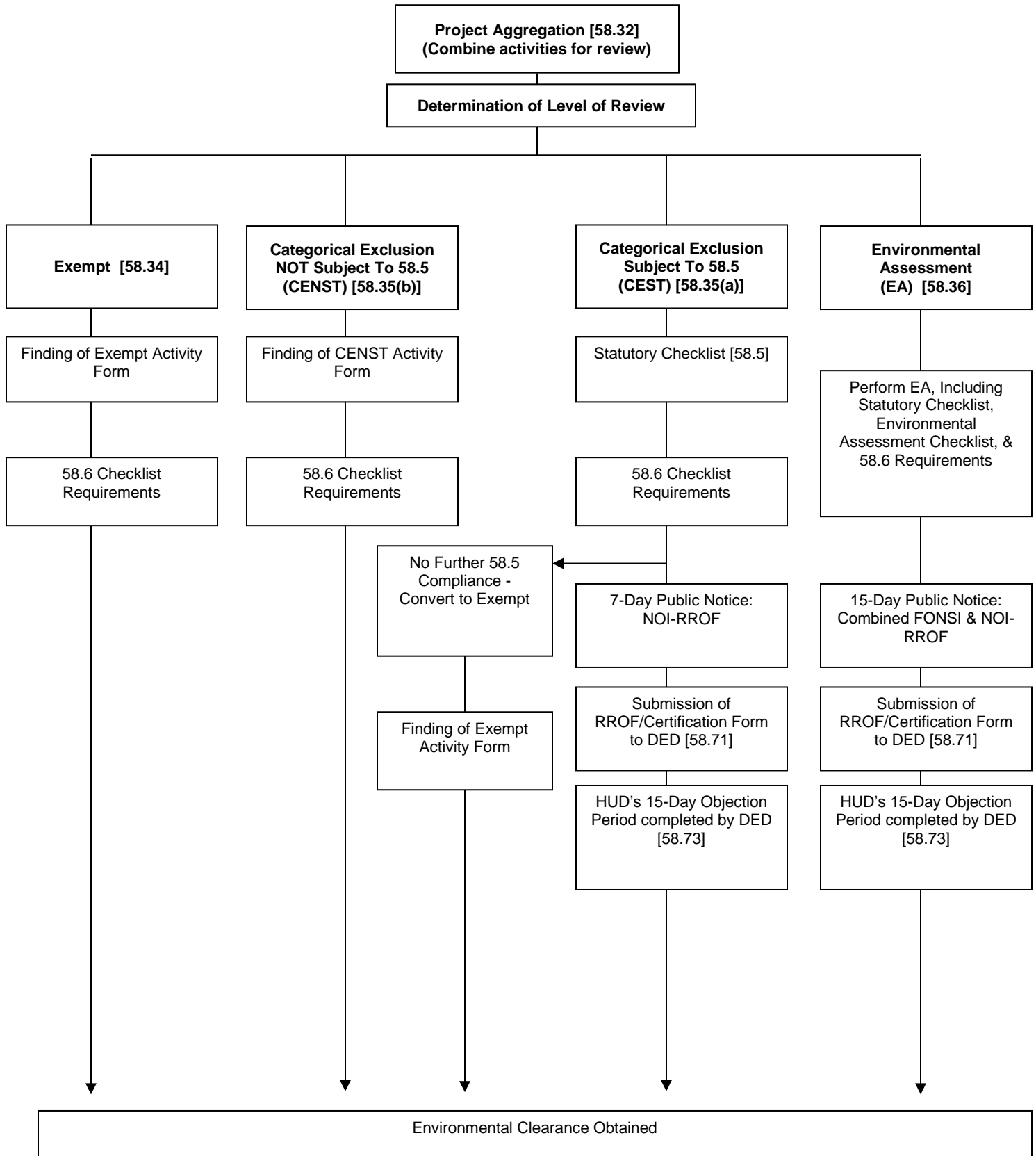


ENVIRONMENTAL REVIEW PROCESS CDBG PROJECTS



LEVEL OF ENVIRONMENTAL REVIEW			
24 CFR 58.34 Exempt	24 CFR 58.35(a) Categorically Excluded AND subject to 58.5 "No" checked for all on Statutory	24 CFR 58.35(a) Categorically Excluded AND subject to 58.5 "Yes" checked for one or more on Statutory Worksheet	24 CFR 58.36 NEPA Environmental Assessment
TYPE OF ACTIVITIES			
Environmental and other studies Resource Identification Development of plans and strategies Information and financial services Administrative and Management activities Public Services, i.e. employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation, welfare, recreational needs Inspections and testing Purchase insurance and tools Engineering or design costs Technical assistance and training Temporary or permanent improvements that do not alter environmental conditions and are limited to activities to protect, repair or arrest the effects of disasters, imminent threats, or physical deterioration Payments of principal and interest on loans or obligations guaranteed by HUD Combinations of the above activities	Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are already in place and will be retained in the same use without change in size or capacity of more than 20% <ul style="list-style-type: none"> • Replacement of water or sewer lines • Reconstruction of curbs & sidewalks • Repaving of streets Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped. Single Family Housing Rehab <ul style="list-style-type: none"> • Unit density is not increased beyond 4 units, • Project doesn't involve change in land use from residential to non-residential • The footprint of the building is not increased in a floodplain or a wetland. Multifamily Housing Rehab <ul style="list-style-type: none"> • Unit density change is not more than 20% • Project doesn't involve change in land use from residential to non-residential • Cost of rehabilitation is less than 75% of the estimated cost of replacement after rehab Non-Residential Structures <ul style="list-style-type: none"> • Facilities and improvements were in place and will not be changed in size or capacity by more than 20% • Activity does not involve change in land use from non-residential to residential, commercial to industrial, or one industrial use to another Individual action (e.g., disposition, new construction, demolition, acquisition) on a 1 to 4 family dwelling; or individual action on five or more units scattered on sites more than 2000 feet apart and no more than 4 units per site. 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 or disposed of will be retained for the same use. Combinations of the above activities	Activities not exempt or categorically excluded. Generally, any new construction activity and construction of 5 or more homes, and conversion from one type of land use to another. To be able to start work on the Exempt Activities associated with any project, the following documentation must be obtained prior to issuing a Notice to Proceed: <ul style="list-style-type: none"> • Finding of Exemption letter on the Grantee's letterhead listing which Activities are Exempt. • Other Requirements Checklist with source documentation. • Both documents shall be dated and signed by the Certifying Officer. 	
DOCUMENTATION REQUIRED IN ERR			
Written determination of exemption.* Other Requirements Checklist (Sec. 58.6) *Use: Environmental Review for Activity/Project that is Exempt or Cat Ex Not Subject to Section 58.5	Complete Statutory Worksheet, (Sec. 58.5) and indicate converts exempt .* Other Requirements Checklist (Sec. 58.6) *Use: Environmental Review for Activity/Project that is Cat Ex Subject to Section 58.5	Complete Statutory Worksheet (sec. 58.5)* NOI/RROF notification RROF & Certification (HUD form 7015.15) Authority to Use Grant Funds (HUD form 7015.16) Other Requirements Checklist (Sec. 58.6) When to Consult with Tribes under Section 106 Checklist *Use: Environmental Review for Activity/Project that is Cat Ex Subject to Section 58.5	Environmental Assessment (including Statutory Worksheet)* FONSI and NOI/RROF notification Form 7015.15 Form 7015.16 Other Req. Checklist (Sec. 58.6) When to Consult with Tribes under Section 106 Checklist *Use: Environmental Assessment Determinations and Compliance Findings

There are a number of key terms that a recipient must familiarize themselves with in order to understand environmental review and the Table 1 Environmental Review Process Flow Chart. A few main terms are noted below.

- **Project:** An activity or group of activities regardless of funding source.
- **Environmental Review:** NEPA Review of a project.
- **Recipient:** The entity receiving assistance from HUD. This includes an entity that receives CDBG, HOME and not directly from HUD.
- **Environmental Review Record (ERR):** A well-organized written record of review, decision making, and action as required by 24 CFR 58.38. This includes the Council required forms and other required documentation.
- **Responsible Entity (RE):** State, Indian Tribe, or Unit of General Local Government.
- **Certifying Officer:** The Responsible Entity (RE) Agency official responsible for completing the ERR
- **24 CFR 58:** The Code of Federal Regulations Section that details the HUD regulations for the environmental review process.
- **Exempt:** A project that is defined under 24 CFR 58.34
- **CENST:** Categorical Exclusion Not Subject to the requirements of 24 CFR 58.5 as defined under 24 CFR 58.35(b)
- **CEST:** Categorical Exclusion Subject to the requirements of 24 CFR 58.5 as defined under 24 CFR 58.35(a)
- **Statutory Checklist:** The Council's form and other necessary documentation that must be completed for a project that requires a CEST level of environmental review. This form includes an evaluation of 14 additional environmental review items.
- **Environmental Assessment:** The Council's form and other necessary documentation that must be completed for a project that is not considered Exempt, CENST, or CEST as noted on the Determination of Level of Review.
- **58.6 Checklist:** The Department's form that must be completed for all environmental review projects.
- **NOI-RROF:** Notice of Intent to Request Release of Funds—A public notice that is completed for projects that require a CEST or EA review.
- **FONSI:** Finding of No Significant Impact is a determination that must be made by the Responsible Entity for projects that require an EA review.
- **COMBINED NOTICE (FONSI/NOI-RROF):** a public notice used for an EA review that combines the Finding of No Significant Impact notice and the Notice of Intent to Request Release of Funds (NOI-RROF) notice. Both notices are generally combined into a single publication for EA projects.
- **RROF/Certification:** Request for Release of Funds/Certification Form that is completed for projects that require a CEST or EA review. Also referred to as HUD Form 7015.15.
- **8 Step Process:** A process that relates to projects within a floodplain.
- **Tribal Consultation:** Required when project may affect historic properties of religious or cultural significance.

THE ENVIRONMENTAL REVIEW PROCESS

The basic environmental review process is described below and is divided into steps. Follow the steps and refer to the Table 1 Environmental Review Process Flow Chart for further information.

▪ **Step 1—Project Aggregation**

The recipient should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective. This includes evaluating the entire project area, regardless of the funding source for any project activities.

Create a project description that includes the following information:

- Purpose and need for the project
 - Identify the CDBG National Objective
 - Exact geographic location of the project, include common address
 - The geographic foot print of the project
 - Estimated area of ground disturbance
 - General summary of the surrounding area where the project is proposed.
 - Include specific numbers
 - Example: include the number of dwelling units, linear feet of pipeline to be installed, number of new service connections to be installed, etc.
 - Include a brief description of the activities
 - Identify if Demolition, Acquisition, Construction, Relocation, Remodeling Interior will be involved.
 - Will these activities effect the general public, for example – road closures, noise, dust, cranes, change in traffic.
 - Include the total estimated project cost and total estimated CDBG funds, and non-CDBG amounts and their source (example LB840, bank financing, bond, TIF, grant).
 - Include the statement indicating that nobody (residents, businesses, or farms) will be displaced with this project.
 - If the sites have not been identified, the project description needs to include a statement that a Tier II environmental review will be conducted.
 - Identify the applicant and the owner or manager of the project.
- ### ▪ **Step 2—Identifying Environmental Review Responsibilities**

Entities eligible to receive CDBG funds from the State are local governments. These units of local government assume the role of Responsible Entity (RE) with respect to environmental reviews.

For CDBG awards, the chief elected official assumes the role of environmental “certifying officer” and accepts full responsibility for the completeness and accuracy of the reviews. The chief elected official must sign all certifications and findings. This environmental duty may not be delegated, although local staff, consultants, and/or State resources may provide technical assistance to support local efforts.

▪ **Step 3—Determination of Level of Review**

The recipient must determine which level of environmental review is appropriate for the project in order to correctly complete the necessary documentation for the project. The recipient must review the HUD regulations to determine which category of review the project should be classified under in order to determine which Environmental Review Packet must be completed.

Each level of environmental review is defined within the HUD regulations found at 24 CFR 58. The four main levels of review that CDBG recipients will need to consider include:

- Exempt [Those projects classified under 24 CFR 58.34],
- CENST [Those projects classified under 24 CFR 58.35(b)],
- CEST [Those projects classified under 24 CFR 58.35(a)], or
- EA [All other projects that are not classified under 24 CFR 58.34, 58.35(b), or 58.35(a) and that do not require an Environmental Impact Statement (EIS)].

In addition to the four classifications, there is also an Environmental Impact Statement (EIS). This comprehensive review is for those projects that are larger in scope and will have a significant environmental impact. Consult with the Council if it is determined that an EIS is necessary.

Overall, review the HUD regulations to determine the most appropriate level of environmental review for a project. Every CDBG project will be classified under one of the four levels of review. If a project cannot be classified as Exempt, CENST, or CEST, then recipient will be required to complete an EA.

See the Code of Federal Regulations [24 CFR 58] to make this determination.

▪ **Step 4—Environmental Review Completion**

Once a recipient has determined the scope of a project through project aggregation and determined the appropriate level of review, the recipient must complete the appropriate Environmental Review for every project.

The four Environmental Review types include:

- **Exempt Project**—Projects that have been categorized under 24 CFR 58.34 must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Finding of Exempt Activity Form, and a 58.6 Checklist.
- **CENST Project**—Projects that have been categorized under 24 CFR 58.35(b) must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Finding of Categorical Exclusion Not Subject To Form, and a 58.6 Checklist.
- **CEST Project**—Projects that have been categorized under 24 CFR 58.35(a) must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, a Statutory Checklist Form, Tribal Consultation Checklist, Timing Summary Worksheet, and a 58.6 Checklist. In addition, appropriate source documentation must be included in the Packet which provides maps, shows that the appropriate websites have been reviewed, and that the appropriate agencies have been consulted including letters to and from agencies. If applicable, a CEST may convert to Exempt and a “Finding of Exempt Activity” form needs to be completed.
- **EA Project**—Projects that cannot be categorized as Exempt, CENST, or CEST must complete a packet that includes a Cover Sheet, a Determination of Level of Review Form, Tribal Consultation Checklist and an Environmental Assessment Form, and Timing Summary Worksheet. In addition,

appropriate source documentation must be included in the Packet which provides maps, shows that the appropriate websites have been reviewed, and that the appropriate agencies have been consulted including letters to and from agencies.

See also the Outline of the Environmental Review Record Items section for more information on the items needed for each Environmental Review Packet.

▪ ***Step 5—Publication/Posting***

Only those projects that require a CEST or EA review will be required to provide a NOI/RROF (CEST Projects) or Combined Notice for FONSI/NOI-RROF (EA Projects) public notice which needs to be completed through either publication or posting. Projects that are Exempt, CENST, or those CEST projects that convert to Exempt do not require any publication or posting.

Projects that require a CEST review will have a 7 (publish) or 10 (posting) day public comment period. Projects that require an EA review will have a 15 (publish) or 18 (posting) day public comment period.

NOTE: The Council has Timing Summary Worksheets available on the website. To ensure the responsible entity meets the timing requirements identified in the federal register. **Errors within the timing of the public notice may require republishing and potentially delay the project.**

- Obtain evidence of publication and include within the Environmental Review Record. See also section titled Publication, RROF/Certification Form, & HUD Objection Period for more information.

▪ ***Step 6 – Completion of RROF/Certification Form and Affidavit of Publication***

Only those projects that require a CEST or EA review will be required to complete a RROF/Certification Form. The most current HUD 7015.15 Form must be used. The form is available on the Council's website.

The RROF/Certification must be completed, an original affidavit of publication, and a copy of the publication must be sent to the Council after the ERR is completed and sent no earlier than the day after the publication period has ended.

A failure to complete RROF/Certification Form correctly will result in the Council requesting that the Form be revised and resubmitted. The HUD 15 day objection period will not begin until the RROF/Certification Form is accurate.

▪ ***Step 7—HUD 15 Day Objection Period***

Once the RROF/Certification Form, the affidavit of publication, and the copy of publication notice are received by the Council (no earlier than the day after the publication period has ended), the HUD 15 day objection period begins.

▪ ***Step 8—Obtaining Environmental Clearance***

After the end of the HUD 15 day objection period, the project will have environmental clearance. The Council will provide a Release of Funds/Environmental Clearance letter to the recipient

which will provide environmental clearance and approval to use grant funds after the Council receives all of the special conditions required by recipient's CDBG contract.

COMPREHENSIVE OVERVIEW OF ENVIRONMENTAL PROJECTS

Exempt Projects

A project that has been classified under 24 CFR 58.34 is considered Exempt and requires a limited environmental review.

An Exempt project is a project that can be classified under one of the following categories below. See 24 CFR 58 for the official and complete list of categories.

- 1) Environmental and other studies, resource identification and the development of plans and strategies;
- 2) Information and financial services;
- 3) Administrative and management activities;
- 4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- 5) Inspections and testing of properties for hazards or defects;
- 6) Purchase of insurance;
- 7) Purchase of tools;
- 8) Engineering or design costs;
- 9) Technical assistance and training;
- 10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
- 11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
- 12) Any of the categorical exclusions listed in §58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5.

The ERR for an Exempt project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Finding of Exempt Activity Form
- 58.6 Checklist

NOTE: *A Recipient does not have to publish a NOI/RROF, does not have to submit an RROF/Certification Form, and does not have to require a 15 day HUD objection period for Exempt Projects.*

CENST Projects

A project that has been classified under 24 CFR 58.35(b) is considered a Categorical Exclusion Not Subject To the requirements of 24 CFR 58.5 and requires a limited environmental review.

A CENST project is a project that can be classified under one of the following categories below. See 24 CFR 58 for the official and complete list of categories.

- 1) Tenant-based rental assistance;
- 2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;
- 3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
- 4) 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;
- 5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.
- 6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.
- 7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under §58.47.

If a project cannot be classified under any of the above mentioned categories, then the project is not CENST and a higher level of environmental review will need to be completed.

The ERR for a CENST project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Finding of Categorical Exclusion Not Subject To Form
- 58.6 Checklist

NOTE: *A Recipient does not have to publish a NOI/RROF, does not have to submit an RROF/Certification Form, and does not have to require a 15 day HUD objection period for CENST Projects.*

CEST Projects

A project that has been classified under 24 CFR 58.35(a) is considered a Categorical Exclusion Subject To the requirements of 24 CFR 58.5 and requires the completion of a Statutory Checklist, and other evaluation, which evaluates 14 separate environmental laws.

A CEST project is a project that can be classified under one of the following categories below. See 24 CFR 58 for the official and complete list of categories.

- 1) Acquisition, repair, improvement, reconstruction, or rehabilitation 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 the following conditions are met:
 - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;
 - (ii) In the case of multifamily residential buildings:
 - A) Unit density is not changed more than 20 percent;
 - B) The project does not involve changes in land use from residential to non-residential; and
 - C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
 - A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- 4)
 - (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - (ii) An individual action on a project of five 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.
 - (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
- 5) 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.
- 6) Combinations of the above activities.

If a project cannot be classified under any of the above mentioned categories, then the project is not CEST and an EA will need to be completed.

The ERR for a CEST project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Statutory Checklist
- Tribal Consultation Checklist
- 58.6 Checklist
- Source Documentation [including, but not limited to, a FIRM Map, an aerial map, letters sent to any agencies, agency websites consulted, agency responses, and any other relevant information that provides support for your findings within the Statutory Checklist]
- NOI/RROF Publication
- Timing Summary Worksheet
- Affidavit of Publication or Proof of Posting
- RROF/Certification Form – Original must be submitted to Council

NOTE: *A Recipient does have to publish a NOI/RROF, does have to submit an RROF/Certification Form, and does have to require a 15 day HUD objection period for CEST Projects unless the project converts to Exempt.*

NOTE: While completing the Statutory Checklist, if it is determined that the project is within a floodplain, the recipient will need to conduct the 8 Step Process for Compliance with Floodplain Management unless there are specific exceptions to this requirement. For additional information, see also 24 CFR 55 and also consult with your CDBG Project Manager.

CEST Project Converting to Exempt

In some instances a CEST Project may convert to an Exempt Project. This may occur if the recipient has completed the Statutory Checklist and has marked all authorities as Status “A”.

If Box “A” has been selected within the Determination Section of the Statutory Checklist, the recipient would be confirming that the project does not require any further compliance measure (e.g. further consultation, mitigation, permit, approval, or any other additional measure) with respect to any law or authority cited at 24 CFR 58.5.

When a project converts to Exempt, it will be necessary for the recipient to have completed the Determination of Level of Review, the Statutory Checklist, and the 58.6 Checklist, and provide the necessary source documentation for the project. After this information has been included in the ERR, the recipient then must complete a Finding of Exempt Activity Form and note that the project is converting to Exempt according to 24 CFR 58.34(a)(12). The Finding of Exempt Activity Form should be incorporated into the ERR and sent to the Council.

NOTE: *A NOI/RROF Publication, RROF/Certification, and 15 day HUD Comment Period are not required for CEST projects that have converted to Exempt.*

EA Projects

A project that cannot be classified as Exempt, CENST, CEST, but is classified under 24 CFR 58.36, requires the completion of an Environmental Assessment (EA). An EA includes a FONSI Determination, a Statutory Checklist, an Environmental Assessment Checklist, a 58.6 Checklist, and all other required information as noted in the EA Project Packet.

The ERR for an EA project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Environmental Assessment (EA) Form
- Tribal Consultation Checklist
- Source Documentation [including, but not limited to, a FIRM Map, an aerial map, letters sent to any agencies, agency websites consulted, agency responses, and any other relevant information that provides support for your findings within the Statutory Checklist]
- Combined Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request a Release of Funds (NOI/RROF)
- Timing Summary Worksheet
- Affidavit of Publication or Proof of Posting
- RROF/Certification Form – Original must be submitted to Council

See also information below on how to complete these individual forms and the HUD website for further information.

NOTE: *A Recipient must publish a Combined Notice (FONSI/NOI-RROF), does have to submit an RROF/Certification Form, and does have to require a 15 day HUD objection period for EA Projects.*

NOTE: While completing the Environmental Assessment, Statutory Checklist, if it is determined that the project is within a floodplain, the recipient will need to conduct the 8 Step Process for Compliance with Floodplain Management unless there are specific exceptions to this requirement. For additional information, see also 24 CFR 55 and also consult with your CDBG Project Manager.

PUBLICATION, RROF/CERTIFICATION FORM, & HUD OBJECTION PERIOD

The HUD regulations at 24 CFR 58 define the publication requirements for CDBG projects and the process for receiving environmental clearance after the recipient's environmental review packet has been completed for CEST or EA Projects and has been signed by the RE Certifying Officer.

This process includes a public comment period publication:

- CEST Projects – uses the Notice of Intent to Request Release of Funds (NOI/RROF).
- EA Projects – uses the Combined Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request a Release of Funds (NOI/RROF)

The completion of the RROF/Certification Form occurs after the objection period. This process must be completed in the correct order or republishing may be necessary.

24 CFR 58.21 defines time periods in regard to determining when a publication or objection period begins. Time Periods are defined as:

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and

posting date of the notice which initiates the time period.

The RE must consider the comments and make modifications, if appropriate, in response to the comments from the publication before completing the RROF/Certification Form. This must be documented and submitted with the completed ERR.

Publication Requirements for CEST Projects

For CEST Projects the recipient is required to complete the following:

- Timing Summary Worksheet
- Publication of the NOI-RROF
- A public comment period
- RROF/Certification Form with documentation
- Timing Summary Worksheet
- The HUD 15 Day Objection Period.

The NOI-RROF cannot be published until after the RE Certifying Officer has signed the ERR. For CDBG projects, this means that the ERR must be prepared and signed by Certifying Officer at least one day before publication. During the public comment period, the ERR will be on display for public review. Once the RE Certifying Officer signs the ERR it is proper to publish/post the NOI-RROF. Publication cannot be completed until at least 1 day after the RE Certifying Officer signs the ERR.

The NOI-RROF Notice is published or posted for a period of time defined at 24 CFR 58.45 [7 days when published or, if no publication, 10 days when mailing and posting].

No earlier than the day after the public comment period has ended, the recipient completes the RROF/Certification Form and sends the original to the Council along with the appropriate documentation. This documentation includes an affidavit of publication (or posting) and a copy of the publication notice.

NOTE: To begin the 15-day objection period, it is acceptable practice to send an electronic version of the completed NOI-RROF Notice to the Council. However, the original form must be provided to the Council prior to the Council issuing Notice of Release of Funds/Environmental Clearance. A copy of the NOI-RROF Notice must be retained with the Responsible Entity Environmental Review Record.

Publication Requirements for EA Projects

For EA Projects the recipient is required to complete the following:

- Timing Summary Worksheet
- Publication of the Combined Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request a Release of Funds (NOI/RROF)
- Public Comment Period
- RROF/Certification Form with documentation
- The HUD Objection Period.

The FONSI notice and NOI-RROF publication process can be completed concurrently using a Combined Notice (FONSI/NOI-RROF) Publication. See Sample Combined FONSI/NOI-RROF Publication for the language that must be provided in the notice.

The Combined FONSI/NOI-RROF cannot be published until at least a day after the RE Certifying Officer has

signed the ERR. For CDBG projects, this means that the ERR must be prepared and then signed by the RE Certifying Officer before publication.

The Combined Notice is published or posted for a period of time defined at 24 CFR 58.45 [15 days when published or, if no publication, 18 days when mailing and posting].

If publishing the FONSI Notice and NOI-RROF separately, then two separate 15 day public comment periods must be provided when publishing and 2 separate 18 day public comment periods must be provided when posting. These notices could not run concurrently. No earlier than the day after the public comment period has ended, the recipient completes the RROF/Certification Form and sends it to the Council, along with the appropriate documentation. Appropriate documentation includes:

- An affidavit of publication (or posting), and
- A copy of the publication notice.

NOTE: To begin the 15-day objection period, it is acceptable practice to send an electronic version of the completed NOI-RROF Notice to the Council. However, the original form must be provided to the Council prior to the Council issuing Notice of Release of Funds/Environmental Clearance. A copy of the NOI-RROF Notice must be retained with the Responsible Entity Environmental Review Record.

SOURCE DOCUMENTATION

Source Documentation is used to supplement the ERR and provide justification for the information that has been detailed in the Compliance Documentation Section of the Statutory Checklist, the Environmental Assessment Checklist, and any other section of the ERR. The ERR must be a standalone document that will provide a complete picture of the environmental impacts of the project for a reviewer.

Some examples of Source Documentation that must be included in CEST and EA Project reviews include:

- Aerial map of site (identifying the project area(s))
- FIRM map (identifying the project area(s) and clearly noting the project location on the map)
- Agency websites reviewed (including a copy of the agency website information)
- Letters to Agencies
- Responses from Agencies

In addition, any Engineering Reports, Phase I ESA Reports, Phase II ESA Reports, and any other relevant information should be included in the ERR. Consult with the Council for additional guidance.

Completing the Statutory Checklist or Environmental Assessment Checklist

The Statutory Checklist evaluates 14 separate environmental issues and impacts. Each of these 14 items must be evaluated for every project. Within the Statutory Checklist, the recipient must follow instructions detailed in the Checklist and select either Status A or Status B for each and every of the 14 items. These regulations include:

1. Air Quality
2. Airport Hazards
3. Coastal Zone Management
4. Contamination and Toxic Substances
5. Endangered Species
6. Environmental Justice
7. Explosive and Flammable Operations
8. Farmlands Protection
9. Floodplain Management (includes Flood Insurance)
10. Historic Preservation
11. Noise Control
12. Water Quality (Sole Source Aquifers)
13. Wetlands Protection
14. Wild and Scenic Rivers

By selecting Status A, the recipient is documenting that the project is in compliance either because 1) the nature of the project does not implicate the authority under consideration or 2) supporting information documents that the project compliance has been achieved. If Status A is marked, the recipient is noting that no further compliance is needed, and no further consultation, permitting, or additional evaluation are needed in regard to the Item evaluated.

By selecting Status B, the recipient is documenting that the project requires additional compliance. This includes an additional compliance step or action, including but not limited to, additional consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measures, obtaining a license or permit, or the specific project site has not been identified.

NOTE: All of the 14 environmental regulations must be evaluated for the project. Unacceptable responses include leaving anything blank or providing a “not applicable” response. A failure to review all 14 items will result in the recipient having to correct the Statutory Checklist and resubmit the information to the Council.

Statutory Checklist or Environmental Assessment Checklist Process

A recipient should consult the appropriate statutes, authorities, executive orders, regulations, or policies as noted in each of the 14 items. 24 CFR 58.5 provides more information on the Related Federal laws and authorities that must be reviewed.

In addition, utilizing the HUD Guide to Environmental Compliance (HUD Guide), as well as environmental information on the HUD Exchange, can also be used as a tool to assist the recipient with the completion of the Statutory Checklist. If used correctly the HUD Guide can provide guidance on how to appropriately provide compliance documentation. Review the Applicable Activities, Threshold for Action, Source Documentation, and Action Required Sections as a whole in order to assist the recipient.

For example, in providing a proper evaluation for Item 3 Coastal Zone Management, the recipient could

note within the Compliance Documentation Section of the Statutory Checklist, that a project in Wyoming is not located in a state having a Coastal Zone Management (CZM) Program as provided by the National Oceanic & Atmospheric Administration at web site: <https://coast.noaa.gov/czm/mystate/>. Providing this information, along with a copy of the website, would provide sufficient source documentation for this item.

The goal of the evaluation is to obtain environmental compliance with each of the 14 items. Compliance can be obtained in some instances by the Recipient providing an appropriate narrative and source documentation within the Compliance Documentation section of the Statutory Checklist. In other instances it is necessary to provide additional source documentation, including referencing agency website information, providing letters sent to agencies, agency responses, and any other relevant information.

The RE must retain all documentation (letters, maps, notes on comments of authorities contacted, etc.) to support the Compliance Documentation in the ERR. The recipient should use the best available information in order to achieve compliance.

Federal or State Agency consultation may be necessary to provide a proper environmental evaluation. Agency responses may concur with a recipient's findings and result in no need for further action, may place conditions on the project prior to environmental clearance, or may halt the project until mitigating measures are identified and steps have been taken to achieve compliance.

If permits are required, a listing of the specific permits needed and the procedures by which they will be obtained should be attached to the ERR. If mitigating actions are required, the RE should fully describe the actions the recipient will take to assure compliance.

The Statutory Checklist must be prepared and signed by the Preparer prior to being signed by the RE Certifying Officer. A failure to have the Preparer sign the Statutory Checklist before the RE Certifying Officer will result in the recipient having to correct the Statutory Checklist and resubmit the information to the Council.

Completing the 24 CFR §58.6 – Other Requirements (58.6 Checklist) Form

The 58.6 Checklist must be completed for every project. For Exempt, CENST, or CEST projects the 58.6 Checklist is a separate form that must be completed. For EA projects the 58.6 Checklist is incorporated into the Environmental Assessment and must be completed.

There are three main sections of the 58.6 Checklist that have to be reviewed. These include:

- **Airport Runway Clear Zones and Clear Zone Notification** [24 CFR Part 51.303(a)(3)]
- **Coastal Barrier Resources Act** [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]
- **Flood Disaster Protection Act** [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]

The 58.6 Checklist provides a set of “yes” or “no” questions that have to be answered and must be supplemented with proper source documentation. Source documentation may include an aerial map, FIRM map, Agency website information, and any other relevant information that would substantiate the information provided in the 58.6 Checklist.

For the Flood Disaster Section, if “No” is answered for the first question, then it is not appropriate to

answer the remaining questions. The responsible entity must provide an applicable FIRM Map when it is necessary to provide evidence that a project is not being located within a Special Flood Hazard Area (SFHA). If a FIRM map is attached then it would be necessary to cite the appropriate year and panel number of the FIRM map.

If “Yes”, the responsible entity must provide an applicable FIRM Map when it is necessary to provide evidence that a project is being located within a Special Flood Hazard Area (SFHA). If a FIRM map is attached then it would be necessary to cite the appropriate year and panel number of the FIRM map. Flood Insurance is required in order to receive HUD Funds and use those funds within the Special Flood Hazard Area. A copy of the flood insurance policy declaration must be kept on file in the ERR.

NOTE: *If a project site is not mapped, then the best available information should be used to ascertain whether or not a project is located within a SFHA. In this instance, it may be necessary to contact the Department of Natural Resources for this information. Consult with your project manager for additional alternatives.*

Timing

For projects that require publication notices (CEST projects that do not convert to Exempt and EA projects) it is critical to ensure the public received the proper time period in which to comment and review the environmental record that was prepared by the grantee. After the public comment period, information is sent to the Council and the public has an additional period of time in which to object to environmental review process. This is referred to as the HUD 15 Day objection period.

Below is additional information on drafting the public notices for projects and in ensuring the proper timing requirements are met for each project.

Drafting the NOI-RROF for CEST projects

Once the RE Certifying Officer signs the environmental record, the Notice of Intent to Request Release of Funds (NOI-RROF) can be published in the newspaper or posted, but no earlier than the day after the RE Certifying Officer signs the environmental record. The specific Council approved NOI-RROF notice language must be used for the publication. (See the Sample Notice language at the end of this Manual). The Timing Summary Worksheet can assist in ensuring that the language of the Notice is properly written in order to ensure the grantee provides the proper comment period for the public to review the environmental record.

It is important to know the exact date that the newspaper will publish the NOI-RROF public notice as this will determine the date of the last day of the public comment period and the earliest date in which the RE Certifying Officer can sign the RROF/Certification Form. It is recommended to add a day or two to the end of the comment period in order to ensure that the appropriate HUD public comment period has been met.

The first paragraph of the NOI-RROF notice notes “On or about” the RE will undertake a specific project. This “On or after” language is referencing the earliest date that the RE can sign the RROF/Certification Form. The RROF/Certification Form cannot be signed until the day after the end of the public comment period. Use the Timing Summary Worksheet to ensure proper timing.

For example, if the RE signs the environmental record (all CEST required items) on July 10, 2015 then the earliest date that the NOI-RROF could be published would be on July 11, 2015.

Timing Worksheet for NOI-RROF Publication Notice

Date(s) RE signs: DLR, Stat. Checklist, and 58.6 Checklist. 7/10/2015	Date Publish NOI- RROF (no earlier than day after RE signs) [DATE of NOTICE] 7/11/2015	Begin Counting (Enter Date) 1 7/12/2015	2 7/13	3 7/14
4 7/15	5 7/16	6 7/17	Last Day of Comment Period [Identified in the NOTICE] 7 7/18/2015	Earliest Date can sign RROF/Cert Form (day after comment period ends) ["On or about" date] 7/19/2015

If the Notice is published on July 11th, then the grantee would begin counting for the 7 day public comment period on the next day (July 12th). The last day of the public comment period as identified within the public notice within the “All comments received by” section would be July 18, 2015 (as this includes 7 complete days for the public to comment).

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days will be considered by the name of RE prior to authorizing submission of a request for release of funds.

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Notice

Name of Responsible Entity [RE]

Address (e.g., Street No. or P.O. Box)

City, State, Zip Code

Telephone Number of RE

On or about at least one day after the end of the comment period the name of RE will if the RE is not also the grant recipient, insert the following language here: “authorize the [name of grant recipient] to” submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [] of the name of the Act of [year], as amended, to undertake a project known as project title for the purpose of nature/scope of project, estimated funding (include non-HUD funding sources if applicable) and project location if applicable.

Because the last day of the public comment period is July 18th, the earliest date that the RE can sign the RROF/Certification Form would be July 19, 2015 and this is the date that is added to the “On or about” portion of the Notice.

Drafting the Combined Notice (FONSI/NOI-RROF) for EA projects

Once the RE Certifying Officer signs the environmental record, the Combined Notice (FONSI/NOI-RROF) Finding of No Significant Impact and Notice of Intent to Request Release of Funds can be published in the Newspaper or posted, but no earlier than the day after the RE Certifying Officer signs the environmental record. The specific required Combined Notice language must be used for the publication. (See the Sample Notice language at the end of this Manual). Using the Timing Summary Worksheet will ensure that the language of the Notice is properly written in order to ensure the grantee provides the proper comment period for the public to review the environmental record.

It is important to know the exact date that the newspaper will publish the Combined Notice as this will determine the date of the last day of the public comment period and the earliest date in which the RE Certifying Officer can sign the RROF/Certification Form. It is recommended to add a day or two to the end of the comment period in order to ensure that the appropriate HUD public comment period has been met.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: publication date plus fifteen days; if notice is mailed and posted: mailing and posting date plus eighteen days will be considered by the name of RE prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

The first paragraph of the Combined Notice notes “On or about” the RE will undertake a specific project (see page 6-20). This “On or about” language is referencing the earliest date that the RE can sign the RROF/Certification Form. The RROF/Certification Form cannot be signed until the day after the end of the public comment period. Using the Timing Summary Worksheet will assist the grantee in ensuring proper timing.

For example, if the RE signs the environmental record (all EA required items) on July 10, 2015 then the earliest date that the Combined Notice could be published would be on July 11, 2015. You will notice that counting for the 15 day public comment period does not begin until the day after the Combined Notice is published.

Timing Worksheet for Combined Notice

Date(s) RE signs: DLR, EA	Date Publish Combined Notice (no earlier than day after RE signs) [DATE of NOTICE]	Begin Counting (Enter Date)		
1	2	3		
<u>7/10/2015</u>	<u>7/11/2015</u>	<u>7/12</u>	<u>7/13</u>	<u>7/14</u>
4	5	6	7	8
<u>7/15</u>	<u>7/16</u>	<u>7/17</u>	<u>7/18</u>	<u>7/19</u>

9 <u>7/20</u>	10 <u>7/21</u>	11 <u>7/22</u>	12 <u>7/23</u>	13 <u>7/24</u>
14 <u>7/25</u>	15 <u>7/26</u>	Earliest Date RE can sign RROF/Cert Form (day after comment period ends) ["On or about" date] <u>7/27/2015</u>		

If the Notice is published on July 11th, then the grantee would begin counting for the 15 day public comment period on the next day (July 12th). The last day of the public comment period as identified within the public notice within the "All comments received by" section would be July 26, 2015 (as this includes 15 complete days for the public to comment).

**NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND
NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS**

Date of Notice

Name of Responsible Entity [RE]

Address (e.g., Street No. or P.O. Box)

City, State, Zip Code

Telephone Number of RE

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the name of RE or grant recipient.

REQUEST FOR RELEASE OF FUNDS

On or about at least one day after the end of the comment period the name of RE will if the RE is not also the grant recipient, insert the following language here: "authorize the [name of grant recipient] to" **submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [] of the name of the Act of [year], as amended, to undertake a project known as project title for the purpose of nature/scope of project, estimated funding (include non-HUD funding sources if applicable) and project location if applicable.**

Because the last day of the public comment period is July 26th, the earliest date that the RE can sign the RROF/Certification Form would be July 27, 2015 and this is the date that is added to the "On or about" portion of the Notice.

Completing the RROF/Certification Form

As noted above the RE Certifying Officer cannot sign the RROF/Certification Form until after the end of the public comment period and this is why it is important to use the Timing Summary Worksheet as it helps to ensure that proper timing was provided within the public notice and to ensure that the RE does not sign the RROF/Certification Form too early.

Once the public comment period has ended, the RE can sign the RROF/Certification Form. This informs the public that the grantee has completed the environmental review public comment period; that they are preparing to begin the HUD 15 Day objection period; and are ultimately requesting environmental clearance for the project.

HUD 15 Day Objection Period and Obtaining Environmental Clearance

Using the Timing Summary Worksheet will help determine the earliest date that the RE can sign the RROF/Certification Form for CEST and EA projects. It also assists in identifying when the HUD 15 Day Objection Period will begin and note that the Objection Period cannot begin until after the Council receives the signed RROF/Certification Form, an Affidavit of Publication (or Posting) and a copy of the publication notice.

For example, if the earliest date that the RE could sign the RROF/Certification Form was on July 27, 2015 (and did sign the Form on that date) then the grantee would have to send the signed RROF/Cert Form, the affidavit of publication, and a copy of the publication notice to the Council. If this information was faxed or emailed on the same day that the Form was signed then the Council would note that the proper documentation was received on July 27th. Based on this information, counting for the HUD 15 Day Objection Period would begin on the next day (July 28th) and would run through August 11th. From the table below you will see that the earliest date that environmental clearance could be obtained for the project would be on August 12th.

Earliest Date RE can sign RROF/Cert Form (day after comment period ends) ["On or about" date] <u>7/27/2015</u>	Date RE signs the RROF/Cert Form <u>7/27</u>	Date the Department receives the RROF/Cert, the affidavit of publication, and a copy of the publication notice <u>7/27/2015</u>	Begin Counting For HUD 15 Day Objection Period (Enter Date) 1 <u>7/28/2015</u>	2 <u>7/29</u>
3 <u>7/30</u>	4 <u>7/31</u>	5 <u>8/1</u>	6 <u>8/2</u>	7 <u>8/3</u>
8 <u>8/4</u>	9 <u>8/5</u>	10 <u>8/6</u>	11 <u>8/7</u>	12 <u>8/8</u>
13 <u>8/9</u>	14 <u>8/10</u>	Last Day of HUD Objection Period 15 <u>8/11/2015</u>	Earliest Date to obtain environmental clearance <u>8/12/2015</u>	

NOTE: A failure to provide an appropriate public comment period and a failure to sign the RROF/Certification Form on the correct date will result in the grantee having to republish, which could result in delays to the project.

8 Step Process for Compliance with Floodplain Management

If a project has been determined to be located within a Special Flood Hazard Area (SFHA) as indicated on a Flood Insurance Rate Map (FIRM) or located in a wetland as determined by consultation with the Natural Resources Conservation Service and/or U. S. Army Corps of Engineers, then it may be necessary for the recipient to complete the 8 Step Process as required by 24 CFR 55.20. This process must be completed prior to finalizing the Statutory Checklist or Environmental Assessment Checklist.

Projects, including aggregating all CDBG and non-CDBG funded activities, that meet an exception under 24 CFR 55 would not have to complete the 8 Step Process, or may be able to complete the 5 Step Process. All other projects would need to complete the 8 Step Process if they are located within a SFHA (i.e. 100 year floodplain) or even those considered to be a 'critical action' in which case those projects located within a 500 year floodplain.

In some situations, a modified "5 step" process is allowed, consult the regulations for details.

Complete the 8 Step Process Form and instructions. Complete the required publications including the Notice for Early Public Review and the Notice and Public Explanation.

TIERED ENVIRONMENTAL REVIEW (24 CFR 58.15)-Please Consult with Council Staff prior to tiering

A tiered environmental review is a process in which a grantee completes a CEST or EA Project review, but has not identified any or all the sites where the project activities will be completed.

In order to properly complete a tiered environmental review, the grantee must complete a 2 step process. The first step is to complete the CEST or EA Environmental Review Record by identifying and evaluating those issues that can be reviewed without having sites identified.

The issues that cannot be evaluated without having specific sites identified would be reviewed once sites have been selected and noted within the Tier II evaluation. Language within the Compliance Documentation section of the Statutory Checklist would note "A Tier II evaluation will be conducted as sites are identified" and additional compliance documentation language would be provided.

In addition, the Statutory Checklist should include a Tier II Environmental Review Template which will identify all the topics that will be reviewed within the Site Specific Review for the project and also identify the methods that will be used to obtain the information.

Once a potential site has been identified, the grantee completes a Tier II Environmental Review for that site. The grantee would identify and evaluate those issues that were noted in the Statutory Checklist (CEST Projects) or the Environmental Assessment Checklist (for EA projects) that required further evaluation once sites had been identified.

- For housing projects, this may include, but would not be limited to Contamination and Toxic Substances, Floodplain Management, Historic Preservation, Noise Control, Environmental Justice, and Flood Disaster Protection.

- For downtown revitalization projects that include façade improvements this may include, but would not be limited to, Contamination and Toxic Substances, Floodplain Management, Historic Preservation, and Flood Disaster Protection.

The Tier II Environmental Review should follow the template provided by the Council and will be part of the ERR that is retained in the grantee's project files at the grantee's office. This Tier II Environmental Review must reference the CEST or EA Environmental Review Record that was completed previously, and had received environmental clearance. This should be retained in a separate, master file, for the project.

The Tier II Environmental Review should supplement the previous review. The Tier II Environmental Review must be included within the project description and found within the Determination of Level of Review Form, the Statutory Checklist, the Environmental Assessment Checklist, and 58.6 Checklist.

An additional public comment period or HUD Objection Period is not required for a Tier II Environmental Review after the recipient has already received environmental clearance.

CERTIFICATION OF CONTINUED ENVIRONMENTAL COMPLIANCE (24 CFR 58.47)

In some instances the recipient may make changes to the activities in a project, change the project area, or receive additional funds for a project that has previously received environmental clearance.

In these instances it is necessary for the RE to re-evaluate its environmental findings. The RE should re-evaluate its environmental findings when:

- The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project; or,
- There are new circumstances and environmental conditions that may affect the project or the environment, such as concealed or unexpected conditions discovered during implementation.

The purpose of the re-evaluation is to determine if the new circumstances still justify and support the environmental finding originally issued. If the original finding is still valid, the RE must affirm the original findings by completing the Certification of Continued Environmental Compliance Form and update the ERR. Under these circumstances, if a FONSI notice has already been published, no additional FONSI notice is required.

However, if the re-evaluation is the result of a change in the scope, scale, nature, magnitude and/or location of a project, or additional funds are being added to a project with previous environmental clearance, then the RE must submit a Certification of Continued Environmental Compliance form with its request to the Council for amendment approval.

If the RE determines that the original finding is no longer valid, it must re-initiate an additional CEST or EA review process if its evaluation indicates potentially significant impacts.

Provide a description of all project activities including those activities funded by all sources. In addition, if additional funds are being received for a project that has previously received environmental clearance describe why the project can be classified as supplemental assistance as defined at 24 CFR 58.35(b)(7). In this instance, the recipient would complete an environmental review packet for CENST projects and include a Certification of Continued Environmental Compliance.

When a recipient is only completing an Agreement amendment in which no new activities are anticipated or no additional funds are being added to total amount of grant funds received, it is not necessary to complete the Certification of Continued Environmental Compliance.

The template for the Council of Continued Environmental Compliance Form is available on the Council's website.

OUTLINE OF ENVIRONMENTAL REVIEW RECORD (ERR) ITEMS

The following items will be needed in a recipient's ERR depending on the type of project the recipient is completing.

Exempt Activities [24 CFR 58.34]

- Cover Sheet
- Determination of Level of Review
- Finding of Exempt Activity
- 58.6 Checklist

Categorical Exclusion Not Subject To (CENST) Activities [24 CFR 58.35(b)]

- Cover Sheet
- Determination of Level of Review
- Finding of CENST Activity
- 58.6 Checklist
- Supporting Documentation (if necessary)

Categorical Exclusion Subject To (CEST) Activities [24 CFR 58.35(a)]

- Cover Sheet
- Determination of Level of Review
- Statutory Checklist
- Tribal Consultation Checklist
- 58.6 Checklist
- Supporting Documentation
- Timing Summary Worksheet
- 7-Day Public Notice NOI/RROF Publication
- RROF/Certification
- 8 Step Process (if necessary)
- Tier II Environmental Review Project Format (if necessary)

Environmental Assessment [24 CFR 58.36]

- Cover Sheet
- Determination of Level of Review
- Tribal Consultation Checklist
- HUD Environmental Assessment
- Supporting Documentation
- Timing Summary Worksheet
- 15-Day Public Notice FONSI & NOI/RROF Publication
- RROF/Certification
- Supporting Documentation
- 8 Step Process (if necessary)
- Tier II Environmental Review Project Format (if necessary)