

The steps below are required, in order to comply with the requirements of the National Environmental Policy Act of 1969, as amended.

HUD's environmental regulations can be found online at:

<https://www.hudexchange.info/programs/environmental-review/hud-environmental-regulations/#hud-environmental-regulations>

Ability to Commit Funds

All NSP Subrecipients must conduct an environmental review before Minnesota Housing can release funds for the project or activity.

NSP Subrecipients cannot commit NSP or non-NSP funds, by way of contract or other agreement, or take any other action for NSP-funded activities until an environmental determination has been made and, if applicable, a release of funds is granted by Minnesota Housing.

Where NSP funds will be used for the acquisition of a property, the NSP Subrecipient may make an option agreement on a proposed property under the following conditions:

- The cost of the option is a small portion of the entire purchase price;
- The option agreement contains language stating that the purchase of the property is subject to completion of the environmental review by the NSP Subrecipient; and
- The option agreement contains language stating that the environmental review must end in a determination indicating the property is in compliance with NEPA before the property is purchased.

Environmental Certifying Officer

Each NSP Subrecipient must have identified an Environmental Certifying Officer who is responsible for signing legal documents and notices for the environmental review. The Environmental Certifying Officer must be the person legally responsible for the conduct of government for the NSP Subrecipient and the unit of local government. In a city, this is generally the mayor, unless the responsibility and associated liability has been passed on to another staff by council resolution. The same applies to the chair of the county board of commissioners for a county, or the chair of a township board.

Environmental Review Records (ERR)

NSP Subrecipients must maintain a written record of the environmental review undertaken for each project and activity, which will be available for public review.

Level of Review

Exempt

Exempt Activities do not have a physical impact on the environment and only have to comply with 24 CFR Part 58.6.

Exempt Activities include:

- Environmental and other studies;
- Resource identification;
- Development of plans and strategies;
- Information and financial services;
- Administrative and management activities;
- Inspections and testing for hazards or defects;
- Purchase of insurance;
- Engineering or design costs;
- Technical assistance and training;
- Temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities to control or arrest the effects from disasters or imminent threats to public safety, including those resulting from physical deterioration; and
- Payments of principal and interest on loans or obligations guaranteed by HUD.

Comment Period Requirements:

None.

ERR Requirements:

- Description of the activity;
- A written determination of exemption; and
- Determination of compliance with 58.6:
 - National Flood Insurance Program
 - Coastal Barrier Resource Act
 - Runway Clear Zones.

Categorically Excluded NOT Subject to 58.5

Activities that are Categorically Excluded NOT Subject to 58.5 do not alter environmental conditions that would require a review or compliance determination under the Federal laws and authorities of 24 CFR Part 58.5. Thus, these activities only have to comply with 24 CFR Part 58.6.

These activities include:

- Activities to assist homeownership of existing dwelling units or units under construction, including closing costs and down payment assistance to homebuyers, interest buy downs or other actions resulting in transfer of title;
- Affordable housing pre-development costs including legal consulting, developer and other site-option costs, project financing, administrative costs for loan commitments, zoning approvals, and other activities which don't have a physical impact; and
- Operating costs including maintenance, furnishings, security, equipment, operation, supplies, utilities, staff training and recruitment.

Comment Period Requirements:

None.

ERR Requirements:

- Description of the activity;
- A written determination of exemption; and
- Determination of compliance with 58.6:
 - National Flood Insurance Program
 - Coastal Barrier Resource Act
 - Runway Clear Zones.

Categorically Excluded Subject to 58.5

Activities that are Categorically Excluded Subject to 58.5 have the potential to have a more of an impact on environmental conditions, but such impacts do not rise to the level of having a significant impact. These activities require a review and compliance determination under the Federal laws and authorities of 24 CFR Part 58.5, as well as having to comply with 24 CFR Part 58.6.

These activities include:

- Rehabilitation of single family housing (1-4 units) so long as the:
 - Unit density is not increased beyond 4 units;
 - Land use doesn't change from residential to non-residential;
 - Footprint of the building is not increased in a floodplain or a wetland;
- Rehabilitation of multifamily housing so long as the:
 - Unit density change is not more than 20%;
 - Land use doesn't change from residential to non-residential;
 - Cost of rehabilitation is less than 75% of the estimated cost of replacement after rehabilitation;
- Individual action (e.g., disposition, new construction, demolition, acquisition) on a 1 to 4 family dwelling;
- Individual action on five or more units scattered on sites more than 2,000 feet apart with 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.
- Rehabilitation of non-residential structures so long as the:
 - Facilities and improvements were in place and will not be changed in size or capacity by more than 20%;
 - Land use doesn't change from non-residential to residential, commercial to industrial, or one industrial use to another;
- 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%;
- Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped; and
- Combinations of the above activities.

Comment Period Requirements:

For activities triggering compliance with any of the Federal laws and authorities, a public notification in the form of a Notice to Request of Release of Funds is required. There are two methods of public notification each of which has different public notice periods:

- Publishing in a public newspaper with distribution to affected areas has a minimum of a 7 calendar day notice period;
- Posting or a mailing has a minimum of a 10 calendar day notice period.

Upon completion of public comment period and after received comments have been responded to, NSP Subrecipients must make a Request of Release of Funds to Minnesota Housing. After a 15 day objection period following receipt of the Request of Release of Funds, Minnesota Housing will authorize the release of funds via an Authority to Use Grant Funds, which will be sent to the NSP Subrecipient.

Activities triggering compliance due to being in a floodplain or wetland and are not classified as exempt (exempt activities include purchasing, mortgaging or refinancing of and minor rehabilitation on 1-4 unit properties) must also follow the public notification requirements of 24 CFR Part 55.20.

ERR Requirements:

- Description of the activity;
- Amount of NSP Funding for the activity;
- Completion of Statutory Worksheet;
- Written environmental determination;
- Determination of compliance with 58.6:
 - National Flood Insurance Program
 - Coastal Barrier Resource Act
 - Runway Clear Zones;
- Published Notice of Intent to Request Release of Funds (if necessary);
- Request for Release of Funds and Certification Form (if necessary); and
- Authority to Use Grant Funds Form (if necessary).

Environmental Assessment

Activities that require an Environmental Assessment have the potential to have a significant impact on environmental conditions. In addition to the requirements for a review and compliance determination under the Federal laws and authorities of 24 CFR Part 58.5 and compliance with 24 CFR Part 58.6, Environmental Assessment requires:

- A determination of existing conditions and potential impacts of the activity relating to land development; social and economic factors; community facilities and services; and natural features;
- Analysis and recommendations related to any mitigation requirements;
- Analysis of alternative actions; and
- Determination of Finding of Significant Impact (FOSI) or Finding of No Significant Impact (FONSI).

These activities include those not reviewed at the Exempt or Categorically Excluded level and generally refer to new construction activities of 5 or more units and change in land use.

Under NSP, if individual activities are part of a larger program that is clearly designed and intended to develop a specific block, neighborhood or other limited geographic area, then an Environmental Assessment for the program or area is required.

Comment Period Requirements:

Activities triggering compliance due to being in a floodplain or wetland and are not classified as exempt (exempt activities include purchasing, mortgaging or refinancing of and minor rehabilitation on 1-4 unit properties) must follow the public notification requirements of 24 CFR Part 55.20 before an environmental finding can be made. The steps outlined in 24 CFR Part 55.20 must be taken before an environmental finding can be made.

After a Finding of No Significant Impact (FONSI) has been made, a public notification in the form of a combined Notice of FONSI/Notice to Request of Release of Funds is required. There are two methods of public notification each of which has different public notice periods:

- Publishing in a public newspaper with distribution to affected areas has a minimum of a 15 calendar day notice period;
- Posting or a mailing has a minimum of an 18 calendar day notice period.

Upon completion of public comment period and after received comments have been responded to, NSP Subrecipients must make a Request of Release of Funds to Minnesota Housing. After a 15 day objection period following receipt of the Request of Release of Funds, Minnesota Housing will authorize the release of funds via an Authority to Use Grant Funds, which will be sent to the NSP Subrecipient.

ERR Requirements:

- Description of the activity;
- Amount of NSP Funding for the activity;
- Completion of Environmental Assessment;
- Determination of compliance with 58.6:
 - National Flood Insurance Program
 - Coastal Barrier Resource Act
 - Runway Clear Zones.
- Published Notice of Finding of No Significant Impact (FONSI);
- Published Notice of Intent to Request Release of Funds (RROF);
- Request for Release of Funds and Certification Form; and
- Authority to Use Grant Funds Form.

Minnesota Housing will allow for tiered environmental reviews for functionally related activities that are either Categorically Excluded Subject to 58.5 or require an Environmental Assessment.

In a tiered review, NSP Subrecipients are allowed designate a Tier I level of review, which must:

- Identify the target area;
- Identify the functionally related activity being undertaken in the target area;
- The amount of NSP funding, and if applicable, the other funding sources and amounts that are subject to environmental review requirements;
- Identify the components of the environmental review that can be addressed for all properties within the targeted area (i.e., all properties in target area are not subject to a floodplain); and
- Identify the components of the environmental review that can only be addressed at the tier two level for specific properties, which must also include strategies for those addressing those components (i.e., the southwest quadrant of the target area is subject to a floodplain, so a property acquired will require flood insurance upon sale).

At the completion of the Tier I review, the NSP Subrecipient may publish a notice and make a request of release of funds for the whole functionally related action in the target area. Upon selection of specific properties, a Tier II review will be required for the identified Tier II components.

Environmental Impact Statement

Activities that require an Environmental Impact Statement have the potential to have the greatest potential to have a significant impact on environmental conditions. Such activities are those that triggered a Finding of Significant Impact (FOSI) as part of Environmental Assessment or are extremely large in scope. It is highly unlikely an NSP activity will trigger the need for an Environmental Impact Statement. If it does, contact your Minnesota Housing NSP Representative.