

Chapter 10: Environmental Review

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I. Introduction

All recipients of federal funds are required to comply with provisions of the National Environmental Policy Act of 1969 (NEPA). For entities receiving funds from HUD, those requirements are described at 24 CFR Part 58. This chapter is intended to provide guidance and instruction for carrying out an environmental review based on Part 58.

The environmental review process is intended to guide and inform the planning and development of projects. Thus, it should be completed as early in the development of a project as possible, no later than the determination of the projected use of HUD assistance (24 CFR 58.30(b)). To that end, no funds may be committed or expended prior to the completion of the environmental review and the subsequent release of funds by DHCD. In addition, no project activities, other than ones described below may be carried out prior to environmental certification by the Massachusetts Department of Housing and Urban Development.

Tools and instructions to assist the grantee in conducting the environmental review process are included throughout the chapter. In addition, the forms needed for the environmental review process are included in the Appendix to this chapter.

Note: Throughout this chapter reference will be made to both NEPA review and Statutory review. NEPA review refers to the NEPA Act at 24 CFR Parts 1500 to 1508. Statutory review refers to other federal laws and authorities the provisions of which recipients of federal funds must comply.

II. The Environmental Review Process and Required Documentation

This section contains six steps that will guide the grantee through the environmental review process. The first four steps must be completed by all grantees. Steps five and six are applicable dependent on the particular project.

A. Create and Maintain an Environmental Review Record (ERR) File (Sec. 58.38)

The file, which is open to public inspection, must contain full documentation of each step of the review process. This includes a description of the project and all activities that have been determined to be part of the project. If, during the course of grant implementation, the grantee requests an amendment which adds new activities or substantially changes the initial ones, the file must be updated and amended.

B. Designate an Environmental Certifying Officer (ECO)

The Grantee's Chief Executive Officer must designate either him/herself or a competent staff person to serve as the Environmental Certifying Officer (ECO). The ECO must be:

- designated in writing. See sample form in Appendix 2 Chapter 10. A copy of the designation must be kept in the ERR file.
- an employee of the municipality. The ECO may not be a person or entity with whom the municipality contracts to carry out project activities. *The ECO acts as the responsible Federal official under the provisions of NEPA and will be named as the responsible party in any legal action.*

Responsibilities of the ECO include making findings and signing all required certifications. The ECO does not need to be a technical expert on environmental activities but should be credible if it becomes necessary for the grantee to defend a finding or conclusion of the review.

C. Define the project

While the definition does not have to be lengthy, it should include enough information to provide the reader with a clear understanding of what is to take place. This should include all project activities, the location of the project and the anticipated cost of the project. The description should not be isolated in time and place and must consider future related actions, cumulative effects and activities associated with non-HUD funds.

D. Determine the Level of Environmental Review Required for Each Activity

Each program activity which is or will be funded by Mass. CDBG must be reviewed for its impact on the environment. In addition, all activities which are part of a federally funded project must be reviewed even if the particular activity receives no federal funds.

The levels of environmental review are as follows:

- Exempt activities (58.34)
- Categorically Excluded Activities Not Subject to Section 58.5
- Categorically Excluded Activities Subject to Section 58.5 [Statutory review, 58.35(b)]
- Full Environmental Assessment Required Activities [NEPA review, 58.35(a)]

Each review category is fully detailed below. Defining the correct level of review is a critical step. Grantees must be sure that they are categorizing a project correctly. An incorrect determination for the level of review can lead to delays or a discontinuation of project activities

down the road. If grantees have any doubts of which level to review their project, they should contact their DHCD representative.

1. Exempt activities

The following activities are considered exempt by HUD (24 CFR 58.34).

- Environmental and other studies, resource identification and the development of plans and strategies studies;
- Information and financial services;
- Administrative and management activities;
- 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 recreation needs;
- Inspections and testing of properties for hazards or defects;
- Purchase of insurance;
- Purchase of tools;
- Engineering or design costs;
- Technical assistance and training;
- 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, imminent threats or physical deterioration;
- Payment of principal and interest on loans made or obligations guaranteed by HUD;
- Any other categorical exclusions listed in section 58.35 (a), provided that there are no circumstances which require compliance with other laws and authorities listed in section 58.5.

If the project is determined to be exempt, go to page 8 to complete the environmental review process.

2. Categorically Excluded Activities Not Subject to Section 58.5

The following activities are categorically excluded from NEPA and are not subject to section 58.5 (other federal laws and authorities): 24 CFR Part 58.35(b):

It has been determined that the following activities would not alter any conditions that would require a review or compliance determination:

- Tenant-based rental assistance
- 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
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs
- 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
- Activities to assist homebuyers to purchase existing or dwelling units under construction, including closing costs and downpayment assistance, interest buydowns, and similar activities that result in the transfer of title
- 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
- 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 Sec. 58.47.

If the project has been determined to be categorically excluded and not subject to 58.5, go to page 8 to complete the environmental review process.

3. Categorically Excluded Activities Which May Be Subject to Other Review

The following activities are "Categorically Excluded" from the NEPA requirements, but may be subject to review under authorities listed in 24 CFR 58.5 (other federal laws and authorities): 24 CFR 58.35.

- 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 sidewalk, repaving of streets)
- Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons
- Rehabilitation of buildings and improvements when the following conditions are met:

for residential buildings with one to four units

- ◇ the density is not increased beyond four units
- ◇ the land use is not changed, and
- ◇ the footprint of the building is not increased in a floodplain or wetland

for multi-family residential buildings

- ◇ unit density is not changed more than 20 percent
- ◇ the project does not involve changes in land use from residential to non-residential, and
- ◇ the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

for non-residential structures, including commercial, industrial, and public buildings

- ◇ the facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
- ◇ 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.

- 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
- 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.
- 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.
- Combinations of above activities

If the project has been determined to be categorically excluded subject to 58.5, go to page 8 to complete the environmental review process.

4. Full Environmental Assessment Required Activities (NEPA Review)

- Projects which are not exempt at 58.34 or categorically excluded at 58.35 must undergo an Environmental Assessment (24 CFR 58.36).
- An Environmental Impact Statement is generally required when:
 - ◇ A project is so large that it may have a substantial environmental impact
 - ◇ As a result of the Environmental Assessment, the project is deemed to be an action that may significantly affect the quality of the human environment.
 - ◇ The project exceeds one of the following thresholds:
 - ❖ project would provide a site or sites for or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds
 - ❖ project would remove, demolish, convert, or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under Sec. 58.35) or would result in the construction or installation for 2,500 or more housing units, or would provide sites for 2,500 or more housing units
 - ❖ project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new

development, only that portion of the increased capacity which is intended to serve new development should be counted.

If the project requires an environmental assessment, go to page 9 to complete the environmental review process.

If the project requires an Environmental Impact Statement, contact CDBG staff at DHCD.

E. Environmental Review Procedures for the levels of review

1. Required Review & Documentation for exempt activities:

- NEPA review is not required for activities determined to be exempt
- Make a finding of exemption based on 24 CFR 58.34 (form in environmental forms section)
- Document compliance with provisions set forth in Section 58.6 (form in environmental forms section)
- File the form(s) in the ERR

Environmental review is complete.

2. Required Review & Documentation for categorically excluded activities not subject to 58.5

- NEPA review is not required for activities determined to be categorically excluded
- Make a finding of Categorical Exclusion based on 24 CFR 58.35(b) (form in environmental forms section).
- Document compliance with provisions set forth in Section 58.6 (form in environmental forms section).
- File the form(s) in the ERR

Environmental Review is complete.

3. Required Review & Documentation for categorically excluded activities which may be subject to review at 58.5 (statutory review)

- No NEPA review required but must comply with other federal laws listed on the statutory checklist (form in environmental forms section), if they apply.

- ◇ Complete the statutory checklist
- ◇ Make a finding of categorical exclusion based on 24 CFR 58.35(a) (form in environmental forms section).
- ◇ Document compliance with provisions set forth in Section 58.6
- ◇ File it in the ERR
- ◇ If there are no other laws that apply make an additional finding of exemption under 24 CFR 58.34(12) and stop here, the environmental review is complete
- ◇ If other federal laws do apply to the activity, the grantee must document its compliance with the relevant laws in the ERR
- ◇ Complete public noticing procedures as described below and include in ERR.

Request environmental certification and release of funds as described below. Place copy of request and release in ERR file.

Environmental review is complete

4. Required Review & Documentation for activities that are subject to full NEPA review

Complete Statutory Checklist (must be signed by ECO)

- Complete Environmental Assessment Checklist (must be signed by ECO)
- Make a finding of no significant impact (FONSI) or a finding that the project may have a significant impact on the human environment and that an Environmental Impact Statement (EIS) is required.
- If it is determined that an EIS is required contact CDBG staff at DHCD.
- If a FONSI can be made, follow the noticing and request for release of funds procedures described below (page 11)

Be sure to include copies of all review documents in the ERR

- Receive environmental certification and release of funds and include in ERR

Environmental Review is complete

F. Public Notices and Request for Release of Funds (RROF)

Projects that are Categorically Excluded, subject to 58.5 or that require full NEPA review (environmental assessment) must carry out public noticing and request for release of funds procedures. The public must be:

- Informed that an environmental review has taken place
- Informed of the determination resulting from the review
- Informed that the Responsible Entity intends to request release of funds for the project from DHCD
- Given an opportunity to comment on any determinations and the review process itself

Following is a description of the process to be followed and the forms to be used for the previously identified levels of review.

- If a project is determined to be either exempt or categorically excluded and not subject to 58.5, or if it converts to exempt as a result of statutory review, there is no public notice requirement nor is it necessary to request release of funds.
- If a project is categorically excluded, subject to 58.5 and does not convert to exempt, the responsible entity must:
 - ◇ Publish or post a Notice of Intent to Request Release of Funds (NOI/RROF) which states intent to request release of funds from DHCD at the end of the notice period (form is in the environmental forms section)
 - ◇ The notice must state that the RE will consider comments for 7 days if the notice is published or 10 days if the notice is posted; prior to submitting the request for release of funds (RROF)
 - ◇ The notice must also state that DHCD will consider objections to the release of funds and environmental certification, based on certain criteria that are specified in the notice, for 15 days after the request for release of funds is received.
 - ◇ The notice must be distributed to interested parties. At a minimum, those on the list in the forms appendix should receive a copy of the notice.
 - ◇ Place a copy of the newspaper notice and distribution list in the ERR file.

- If a project is subject to full NEPA review (EA) and the determination of the review is that there will be no significant impact on the environment, a Finding of No Significant Impact (FONSI) must be published and/or posted, in addition to the NOI/RROF. The comment period for the FONSI is 15 days. The FONSI and the NOI/RROF may be published at the same time as concurrent but separate notices or as a combined notice (See form in environmental forms section)
- If combined, the notice must indicate that it is intended to meet separate procedural requirements and ask that comments be specific as to which they are addressing
- Combined Notices must be published 15 days before request for release of funds can take place.

The following chart compares the comment period for a combined notice with the time period if the notices are published separately.

Note: Be aware that the required time periods for comment start the day after publication of the notice and the day after receipt of the RROF by the State.

Day	Sequential Notices	Combined Notice
1	FONSI published in local paper	Notice printed in local paper
2	First day of FONSI comment period	First day of comment period
16	Last day of FONSI 15 day period	Last day of combined 15 day period
17	NOIRROF published in local paper	Mail NOIRROF to Mass. CDBG
18		State receives RROF; begins first day of State/HUD 15-day comment period
24	Mail FONSI/NOIRROF to Mass. CDBG	
25	State receives RROF; begins first day of State/HUD 15-day comment period	
32		Final day of State/HUD 15 day comment period
33		Mass. CDBG approves RROF and issues Environmental Clearance letter
40	Final day of State/HUD 15 day comment period	
41	Mass. CDBG approves RROF and issues Environmental Clearance letter	

When requesting environmental certification and release of funds from the state, grantees must provide the following documents:

- A completed and signed HUD Form 7015.15
- Project description
- A determination of the environmental review level
- A copy of any required checklists (Statutory and Environmental Assessment)

- A readable copy of the NOI, FONSI, RROF, as applicable, along with a copy of the newspaper notice that shows the date of publication and newspaper published in. If the notice is posted, indicate the places that the notice has been posted and the posting date.

III. Guidance to completing Statutory and Environmental Assessment checklists:

A. Statutory Worksheet

The statutory worksheet is used to determine if there are compliance issues related to the laws and authorities identified at 24 CFR 58.5 for respective projects. The checklist must be completed for activities that are categorically excluded subject to 58.5 and activities that require an environmental assessment.

In completing the checklist, Responsible Entities must review each law and authority listed at section 58.5 and make findings (more than one finding may apply to each law or authority) based on the following:

- *Not Applicable to this Project* – When it is known that the environmental condition or resource is nonexistent
- *Consultation Required* – Conditions require consultation and coordination with appropriate agencies
- *Review Procedures Required* – Must comply with procedures identified by respective laws and authorities
- *Permits, Procedures Required* – Indicate necessary permits or required procedures that must be secured or followed
- *Determination of Consistency, Approvals and Permits Obtained* – When consistency, federal permits, licenses or other forms of approval are required, they should be recorded as having been met
- *Conditions or Mitigation Action Required* – As a result of the review, conditions upon or mitigations to the project may be required.

The statutory checklist also incorporates review for the items at 24 CFR 58.6 which all projects regardless of the level of review (including projects that are exempt or not subject to review at 58.5) must document compliance with.

Note: The last column of the checklist is for compliance documentation. All determinations or findings must be supported by evidence. If a law or authority is not applicable to a

project or activity, explain why not. Supporting evidence should be provided and included in the ERR.

Compliance thresholds for each law and authority listed at 58.5 are located in the forms appendix. These should assist the reviewer in determining compliance with the respective law or authority.

B. Environmental Assessment:

The EA checklist is intended to provide a thorough assessment of environmental issues and determine if they have the potential to have a significant impact on the human environment. The checklist contains thirty-six categories of impacts and each must be addressed. Some of these are also reviewed on the Statutory checklist. They must be assessed again. It is possible to be in compliance with the provisions of a particular law etc. and still have an impact. The checklist is intended to provide a relatively quick assessment of the potential for impacts. More study or in-depth analysis may be required dependent upon the determinations made concerning the potential for impacts. All determinations must cite a source. The determinations for each impact category are as follows:

- *No Impact Anticipated* – Means that no more analysis etc. is needed. There must be documentation to support the finding
- *Potentially Beneficial* – Impacts can be beneficial. No further analysis is necessary
- *Potentially Adverse/Requires Documentation Only* – Impacts may be small enough that no further study is required or may have been previously analyzed in another situation. Documentation is essential.
- *Potentially Adverse/Requires More Study* – The impact category needs more study to determine the significance of the potential impact.
- *Needs Mitigation* – As a result of the previous two determinations. Mitigations to reduce adverse impacts may be known or may be developed through further analysis etc. All mitigation measures must be listed.
- *Requires Project Modification* – Changes to the project may be necessary to eliminate the source of the problem.

Note: In the last column of the checklist, the source or documentation that supports the determination must be cited. Unsupported conclusions are not sufficient.

IV. Things to Remember

- Neither a recipient nor any participant in the development process, ... may commit HUD assistance...on an activity or project until... the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project...if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives (Section 58.22(a)).
- If a project or activity is exempt under section 58.34, or is categorically excluded under Sec. 58.35 (b), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination as required in Sec. 58.34 (b) and Sec. 58.35 (d), but the recipient must comply with the applicable requirements of Sec. 58.6 (Section 58.22(b)).
- Responsibility for environmental review may involve both legal and financial ramifications for the municipality. The assurance signed by each grantee includes an agreement that the Environmental Certifying Officer (ECO) is the "responsible Federal Official" under the provisions of NEPA. If someone brings suit against the local program in federal court on environmental grounds, the ECO will be named as the responsible party (Section 58.13).
- Committing and expending funds on activities which are non-exempt or which are not covered as categorical exclusions not subject to other review per 58.35(b) prior to environmental clearance will be a finding which may result in the disallowance of costs. The community may be required to pay disallowed costs or if expended, reimburse the grant, from non-federal sources.
- The FONSI must be re-evaluated whenever any of the following situations occur and the ERR must be updated to include the changes and the new decision, even if the new decision is another FONSI.
- There is substantial change in the magnitude or extent of the project
- There are new circumstances and environmental conditions which may affect the project
- An alternative approach not considered in the original assessment is selected.
- **The environmental review record will be monitored during an on site compliance review.**

V. Suggestions for the Person Performing the Environmental Review

- The purpose of environmental review is to ensure that projects do not adversely affect the environment. Evaluate environmental issues early in the CDBG application process.
- Include the results of preliminary investigations in the application if they are available prior to submittal of the application. If they are not available, indicate that the information has been requested. Completion of the environmental review will strengthen an application.
- Assemble related projects for environmental review so that cumulative impact can be considered. Submitting all the projects in one request will avoid repetitious paperwork associated with multiple requests.
- Make use of all the resources available. In every municipality there are groups or individuals whose job it is to assess the impacts of specific projects. They may include local employees or boards and commissions such as the Planning Board, Conservation Commission, Building Inspector, Board of Health, Historic Commission, Historic District Commission, agents of the planning board, conservation commission, or board of health, etc.
- Regional employees, regional planning agencies, and special interest groups may already have evaluated the property or project under consideration. Consider using the reports and findings of other groups to document the case.

VI. Floodplains/Wetlands and Historic Preservation

Floodplains/Wetlands and historic preservation are two areas that frequently require attention for projects that are funded through the Massachusetts CDBG program. Both have explicit processes that must be followed to assess and address potential impacts. Because they occur so frequently during environmental review, the processes are described below.

A. Executive Order 11988 (Floodplains) and Executive Order 11990 (Wetlands)

- Both executive orders require that federal agencies and recipients of federal funds avoid development in floodplains/wetlands as well as development that can impact floodplains/wetlands. Agencies are required to consider alternatives to a project and if no alternatives exist to minimize any impacts that may occur. HUD has published floodplain regulations at 24 CFR Part 55. Wetlands regulations are similar and follow similar processes.
- The first step a grantee must take is to determine if a project will take place in or have an effect in a floodplain or wetland.

- To determine floodplain status, grantees must consult FEMA's floodplain maps which can be accessed on-line at www.fema.gov/nfip.
- To determine wetland status consult the National Wetlands Inventory of the Fish and Wildlife Service which can be accessed on-line at www.nwi.fws.gov/.

If it is determined that an action will take place in or impact a floodplain or wetland, the grantee must undertake the 8-step decision making process described at 24 CFR 55.20:

- Step 1 – Determine if action will take place in or effect floodplain or wetland
- Step 2 – Provide early public notice: Public must be notified of proposed action and given an opportunity to comment. Allow fifteen day comment period.
- Step 3 – Identify and evaluate alternatives
- Step 4 – Identify potential direct and indirect impacts of the proposed action
- Step 5 – Identify mitigation measures to minimize impact
- Step 6 – Reevaluate proposed action and alternatives in light of information gained in Steps 4 and 5
- Step 7 – If no alternative, publish decision of “no practicable alternative”. Allow 7 day comment period.
- Step 8 – After comment period, proceed.

Note: Review the regulations at Part 55 for a more thorough description of the process and considerations to be made.

Note: The 8-Step process must be completed prior to publishing a FONSI.

B. Section 106 National Historic Preservation Act of 1966 as amended

- Projects that require funding, licenses or permits from federal agencies must comply with Section 106 of the National Historic Preservation Act of 1966. The regulations for Section 106 review are at 36 CFR 800. Similarly, projects that require funding, licenses or permits from any state agency must comply with Massachusetts General Laws, Chapter 9, Section 26-27C. The state process mirrors the “Section 106” process and both federal and state requirements can be satisfied at the same time.
- Recipients must allow the State Historic Preservation Office (SHPO) to review any new construction project or renovations to existing buildings for impact to historic and

archaeological projects. The Massachusetts Historical Commission (MHC) is the office of the SHPO.

- Recipients can meet the review requirements by submitting a project notification form (PNF) to the MHC. Copies of the PNF and instructions for completing it are included in the forms appendix to this chapter, or they can be found at the following links.

www.sec.state.ma.us/mhc/mhcpdf/pnf.pdf

www.sec.state.ma.us/mhc/mhcpdf/pnfguide.pdf

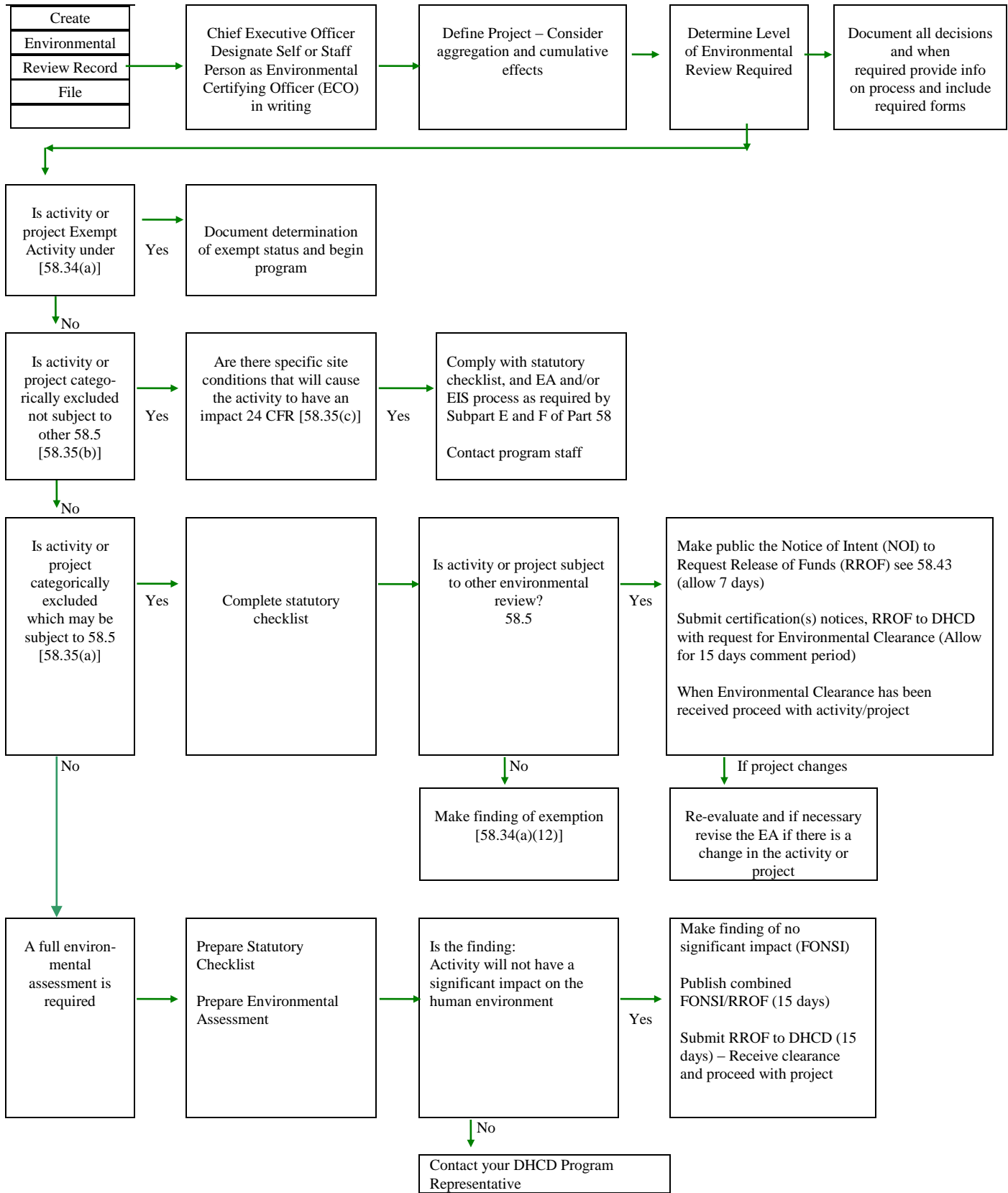
- After receipt of the PNF, the MHC/SHPO has thirty days to respond. If no response is received after 30 days (allow for mail time on both ends of the 30 days), the Section 106 process has been completed for that project.
- The correspondence must be filed in the ERR
- Mass. CDBG encourages grantees to enter into a programmatic agreement with Massachusetts Historical Commission to comply with Section 106 Requirements. This can help to expedite the review process.

The State Historic Preservation Officer can be reached at:

Massachusetts Historical Commission
220 Morrissey Boulevard
Boston, MA 02125
(617) 727-8470

On the next two pages there is a flow chart showing the revised environmental review process and an environmental review chart to be used as an overview of the environmental review process.

VII. Diagram Environmental Review Process



VIII. Environmental Review Chart

Create the Environmental Review Record File; Designate the Environmental Certifying Officer; Determine Scope of Environmental Review Required Based on Activity

PROGRAM ACTIVITIES - REVIEW REQUIRED	GRANTEE ACTION STEPS	GRANTEE REPORT REQUIREMENTS
<p><u>Exempt (24 CFR 58.34(a))</u></p> <ul style="list-style-type: none"> • Environmental and other studies • Information and financial services • Administrative and management activities • Public/Social services • Inspections and testing of properties • Purchase of insurance • Purchase of tools • Engineering or design costs • Technical assistance and training • Assistance for temporary or permanent improvements that do not alter environmental conditions • Payment of principal and interest of loans • Any categorical exclusions listed in section 58.35(a) that do not require compliance 	<ul style="list-style-type: none"> • Make Finding of Exemption under 58.34 	<ul style="list-style-type: none"> • Place copy in file • No further environmental requirements • Proceed with project
<p><u>Categorically Excluded (24 CFR 58.35(b)) Not Subject to other 58.5</u></p> <ul style="list-style-type: none"> • Tenant-based rental assistance • Supportive services • Operating costs • Economic development activities, such as equipment purchase, inventory financing • Activities to assist homebuyers to purchase • Affordable housing pre-development costs • Approval of supplemental assistance to a project previously approved 	<ul style="list-style-type: none"> • Make a finding of categorical exclusion under 58.35(b) 	<ul style="list-style-type: none"> • Place copy in file • No further environmental requirements • Proceed with drawdown
<p><u>Categorically Excluded (24 CFR 58.35(a)) May be Subject to 58.5</u></p> <ul style="list-style-type: none"> • Activities upon public facilities or improvements (not buildings) if retained for same use and capacity increase < 20% • Removal of material and architectural barriers that restrict mobility and accessibility to elderly or handicapped • Rehabilitation of buildings and improvements when certain conditions are met – See regulation for conditions • An individual action on up to four dwelling units when there is a maximum of four units on any one site • An individual action on five or more units when sites are more than 2,000 feet apart and no more than four units on one site • Acquisition or deposition of an existing structure or vacant land provided that use will not be changed 	<ul style="list-style-type: none"> • Make finding of categorical exclusion • Complete Statutory checklist • <u>If</u> checklist shows activity or project is <u>not subject</u> to other environmental review, activities become exempt at 58.34(a)(12) follow requirement for exempt activities above • If subject to other review, document compliance in ERR 	<p>Projects subject to other environmental review:</p> <ul style="list-style-type: none"> • Publish NOI / RROF (58.70) - allow 7 days • Submit RROF & Certification to Mass. CDBG (58.71) - allow 15 days • Commit funds and proceed with project AFTER Mass. CDBG letter releases funds

Chapter 10 - Environmental Review

<p><u>Environmental Assessment Required (24 CFR 58.40)</u></p> <ul style="list-style-type: none"> • Activities are NOT exempt or do not meet thresholds for categorical exclusion 	<ul style="list-style-type: none"> • Complete Statutory Checklist • Complete Environmental Assessment Checklist (58.40) • Make finding 	<ul style="list-style-type: none"> • If finding is no significant impact, publish combined FONSI & NOI / RROF (58.43 / 45) - allow 15 days • Submit RROF & Certification to Mass. CDBG (58.71) - allow 15 days • Proceed with implementation of project after Mass. CDBG letter releases funds • If finding is significant impact will result, consult your Mass. CDBG Program Representative before preparing EIS
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IX. Monitoring Review

The Massachusetts CDBG staff monitors the Environmental Review Record of the grantee to verify that the grantee has met all environmental obligations and fully discharged its responsibilities under NEPA and other provisions of law as provided in Sec. 104(F)(4) of Title I and conforms with environmental regulations at 24 CFR Part 58. The grantee must fully document compliance before submitting drawdown requests or submitting the required certifications and notices to Mass. CDBG. The ERR will be reviewed to ensure that all documents are included and that all determinations and findings are supported.

The following points may be covered during monitoring:

- Are the ERR files complete with required updates or changes reflected in the files?
- All individual housing rehabilitation cases, including home ownership assistance, must complete environmental review. Are the files complete for each housing rehabilitation case?
- Are all findings documented, including findings of exemption?
- During review, the dates the RROF certification was submitted to Mass. CDBG, the date of Mass. CDBG's clearance letter, and the date of the first release of program funds on activities which are not exempt 58.34 or categorically excluded at 58.35(b) will be compared.
- Is there documentation of compliance with the provisions at 24 CFR 58.6?
- Have any mitigations or project modifications, identified during the review process, been carried out and documented in the ERR?

X. Common Problems

- No ERR on file
- Documents are not signed
- Major changes in activities were undertaken during the course of program implementation and no further review was performed to document the change
- Physical developments were undertaken before receipt of environmental clearance letter from Mass. CDBG
- Incorrect public notification procedure undertaken i.e. publishing a FONSI when the level of environmental review does not require it.

- Determination of environmental review level is incorrect.
- Sources that support findings are not documented on checklists.