

Site Contamination Sample ERR Documentation

Documentation and Compliance

- For non-FHA-insured programs, the environmental review record should contain **one** of the following:
 - Evidence the site is **not** contaminated (for multifamily housing projects this includes on site and off site contamination and previous uses of the site); a Phase I **Environmental Site Assessment** is strongly encouraged for multifamily and non-residential projects
 - Evidence supporting a determination the hazard will **not** affect health and safety of the occupants or **conflict with the intended use of the site**, including any mitigation measures used
 - Documentation the site has been cleaned up according to EPA or state standards for residential properties, which requires a letter of "No Further Action" (NFA) required from the appropriate state department/agency, or a RAO letter from the LSRP

Site Contamination: NEPA Assist



WETLANDS



Wetlands and 24 CFR §55

- HUD Exchange: Does this project involve **new construction as defined in Executive Order 11990**, expansion of a building's footprint, or **ground disturbance**? The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of the Order.
- OUR PROJECTS ALMOST ALWAYS DO include Ground disturbance.
- **If so, will the new construction or other ground disturbance impact an on- or off-site wetland?**
- The 8 Step process will have to be followed and consultation with the USFWS and USACE IS VERY LIKELY.
- PRESENTATION BY THE USACE

Wetlands Continued from Worksheet:

Wetlands (CEST and EA)

General requirements	Legislation	Regulation
Executive Order 11990 discourages that direct or indirect support of new construction impacting wetlands wherever there is a practicable alternative. The Fish and Wildlife Service's National Wetlands Inventory can be used as a primary screening tool, but observed or known wetlands not indicated on NWI maps must also be processed. Off-site impacts that result in draining, impounding, or destroying wetlands must also be processed.	Executive Order 11990	24 CFR 55.20 can be used for general guidance regarding the 8 Step Process.

References
<https://www.hudexchange.info/environmental-review/wetlands-protection>

1. Does this project involve new construction as defined in Executive Order 11990, expansion of a building's footprint, or ground disturbance?
 The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of the Order.
 No → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.
 Yes → Continue to Question 2.

Wetlands Continued from Worksheet:

2. Will the new construction or other ground disturbance impact an on- or off-site wetland?
 The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds. Wetlands under E.O. 11990 include isolated and non-jurisdictional wetlands.

No, a wetland will not be impacted in terms of E.O. 11990's definition of new construction.
 → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map or any other relevant documentation to explain your determination.

Yes, there is a wetland that be impacted in terms of E.O. 11990's definition of new construction.
 → You must determine that there are no practicable alternatives to wetlands development by completing the 8-Step Process.
 Provide a completed 8-Step Process as well as all documents used to make your determination, including a map. Be sure to include the early public notice and the final notice with your documentation.
 Continue to Question 3.

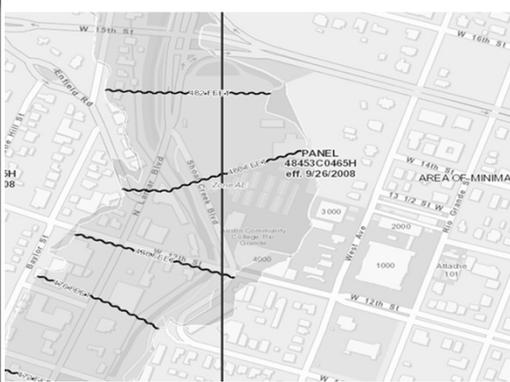
Wetlands: ERR Sample Documents

- PHOTOS!!!!!!
- MAPS MARK YOUR LOCATIONS!!!
- Permits
- Publications
- Letters to Agencies (They have to be specific)
- Response from agencies
- Worksheets
- Detailed Project Description

Floodplain Management 24 CFR §55



Floodplain Management



Floodplain Management

- **FLOODWAY vs. FLOODPLAIN:**
Floodway is where the water travels, Floodplain is where it sits.
- TDA cannot fund project activity in a floodway.



Floodplain Management 24CFR55

- FROM HUD EXCH: Does an exception apply? HUD's regulation on floodplains and wetlands was amended in November 2013 to include the following **exceptions** that would exclude a project from wetlands review: §55.12(a)(3), §55.12(a)(4), §55.12(c)(3), §55.12(c)(7), and **§55.12(c)(10)**.
- 24CFR55.12(c)(10) Special projects directed to the **removal of material and architectural barriers that restrict the mobility** of and accessibility to elderly and persons with disabilities;
- Work in a Floodplain requires a public notification process that includes public comment periods. The 8 step process.
- This process will take at least 24 days
 - ❖ There are 2 publications required.
 - ❖ They CANNOT BE POSTED.
 - ❖ Early Public Notice: Requires 15 Day Comment Period
 - ❖ Final Notice of Explanation and intention to proceed 7 day comment Period.
 - ❖ The Final Notice of Explanation Can be published at the same time as the Notice of Intent to Request a Release of Funds or Combined Notice
- 24CFR55.20: Decision Making Process: REQUIRED
- Workbook Has a great guide for this: Use it and document the work.
- Also provided are templates for the publications.
- NOT DOING THIS PROCESS IS AN UNRECOVERABLE VIOLATION

Floodplain - Definitions

- Coastal high hazard area means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. Zone VI-30, VE, or V.
- Critical action means any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that:
 - (A) Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;
 - (B) Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas); or
 - (C) Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action.
- (ii) Critical actions shall not be approved in floodways or coastal high hazard areas.

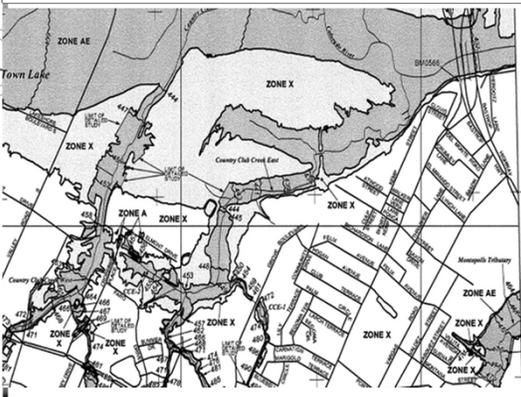
Floodplain - Definitions Cont.

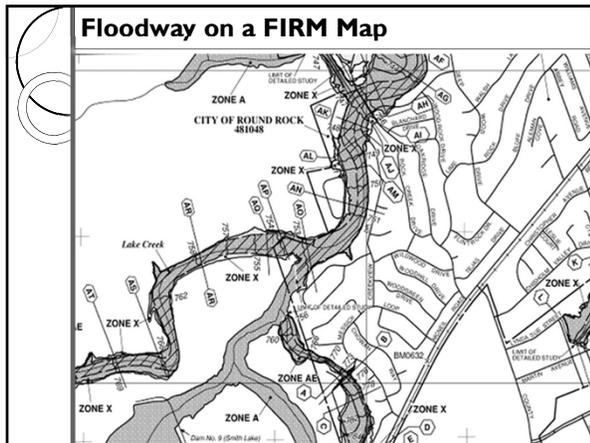
- **500-year floodplain** means the minimum floodplain of concern for Critical Actions and is the area subject to inundation from a flood having a 0.2 percent chance of occurring in any given year. (See §55.2(b)(1) for appropriate data sources.) Zone B or a shaded Zone X.
- **Floodway** means that portion of the floodplain which is effective in carrying flow, where the flood hazard is generally the greatest, and where water depths and velocities are the highest. The term "floodway" as used here is consistent with "regulatory floodways" as identified by FEMA. (See §55.2(b)(1) for appropriate data sources.) HASH MARKS
- **Functionally dependent use** means a land use that must necessarily be conducted in close proximity to water (e.g., a dam, marina, port facility, water-front park, and many types of bridges).
- **100-year floodplain** means the floodplain of concern for this part and is the area subject to inundation from a flood having a one percent or greater chance of being equaled or exceeded in any given year. (See §55.2(b)(1) for appropriate data sources.) Zone A1-30, AE, A, AH, AO, AR, or A99.

Floodplain Management 24 CFR §55



Standard Firm Map





Types of Projects and Their Limits

Type of proposed action (new reviewable action or an amendment)	Type of proposed action		Wetlands or 100-year floodplain outside coastal high hazard area and floodways	Nonwetlands area outside of the 100-year and within the 500-year floodplain
	Floodways	Coastal high hazard areas		
Critical Actions as defined in §55.12(b)(2)	Critical actions not allowed.	Critical actions not allowed.	Allowed if the proposed critical action is processed under §55.20.2	Allowed if the proposed critical action is processed under §55.20.2
Noncritical actions not included under §55.12(b) or (c)	Allowed only if the proposed non-critical action is a functionally dependent use and processed under §55.20.2	Allowed only if the proposed noncritical action is processed under §55.20.2 and is (1) a functionally dependent use, (2) existing construction (including improvements), or (3) reconstruction following destruction caused by a disaster. If the action is not a functionally dependent use, the action must be designed for location in a Coastal High Hazard Area under §55.1(c)(3)	Allowed if proposed noncritical action is processed under §55.20.2	Any noncritical action is allowed without processing under this part.

- Flow for the 8 Step Process**
- **Step 1:** Determine whether the action is located in a 100-year floodplain (or a 500-year floodplain for critical actions) or wetland.
 - **Step 2:** Notify the public for early review of the proposal and involve the affected and interested public in the decision making process.
 - *Early Public Notice (Published article #15 days)*
 - **Step 3:** Identify and evaluate practicable alternatives.
 - **Step 4:** Identify Potential Direct and Indirect Impacts of Associated with Floodplain Development.
 - **Step 5:** Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the floodplain and to restore, and preserve the values of the floodplain.
 - **Step 6:** Reevaluate the Alternatives.
 - **Step 7:** Determination of No Practicable Alternative
 - *Final Public Notice*
 - **Step 8:** Implement the Proposed Action

Floodplain - Sample ERR Documentation

- FIRM Maps
- NEPA ASSIST maps
- Terrain Maps from Eng.
- Certifications From Eng.
- Publications
- Affidavits
- Letters of Map Revisions FEMA
- County Emergency Management Letters

SOLE SOURCE AQUIFERS (SSA)

Sole Source Aquifers (CEST and EA)

General requirements	Legislation	Regulation
The Safe Drinking Water Act of 1974 protects drinking water systems which are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.	Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300f et seq., and 21 U.S.C. 349)	40 CFR Part 149
Reference		
https://www.hudexchange.info/environmental-review/sole-source-aquifers		

1. Is the project located on a sole source aquifer (SSA)?

No → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination, such as a map of your project (or jurisdiction, if appropriate) in relation to the nearest SSA and its source area.

Yes → Continue to Question 2.

2. Does your project consist solely of acquisition, leasing, or rehabilitation of an existing building(s)?

Yes → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

No → Continue to Question 3.

SSA From ONE CPD

HUD Guidance

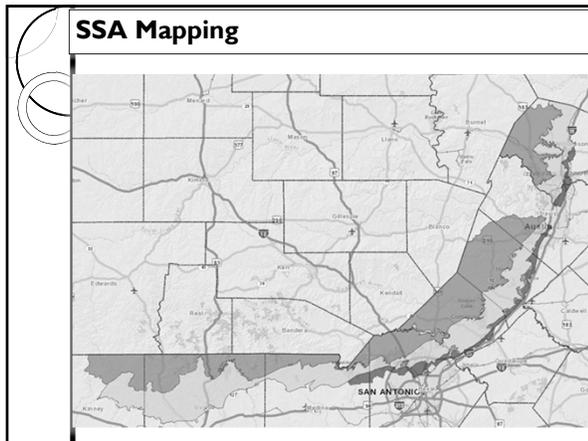
Is the project located on a sole source aquifer? Review the EPA regional Sole Source Aquifer (SSA) maps to determine whether the project is within the boundaries of a designated SSA.

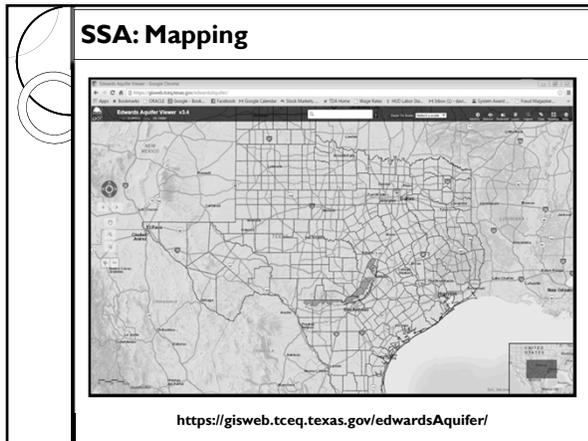
If so, does the project include any activities beyond acquisition, leasing, or rehabilitation of existing buildings?

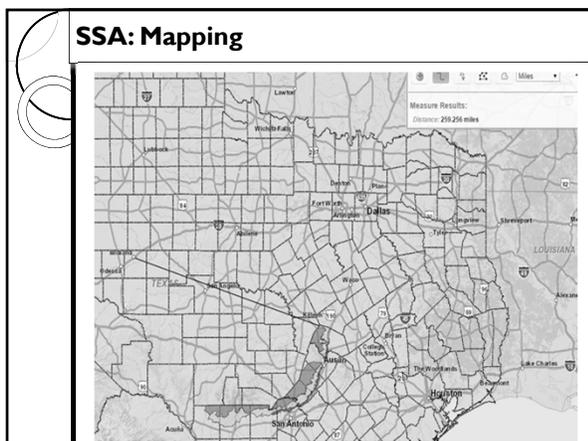
If so, do you have a memorandum of understanding (MOU) or working agreement with the EPA that excludes your project from further review?

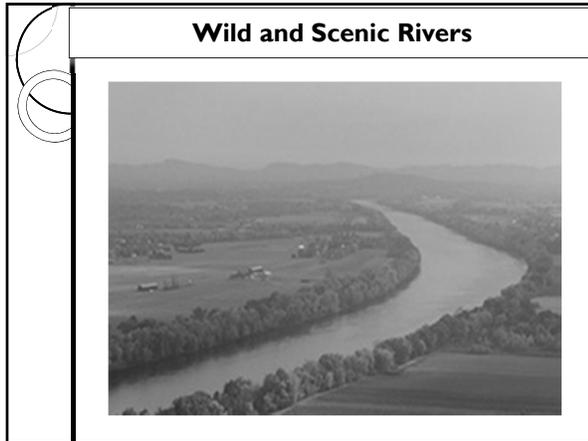
If not, will the proposed project contaminate the aquifer and create a significant hazard to public health? Consult with your Regional EPA Office. Your consultation request should include detailed information about your proposed project and its relationship to the aquifer and associated streamflow source area. EPA will also want to know about water, storm water and waste water at the proposed project. Follow your MOU or working agreement or contact your Regional EPA office for specific information you may need to provide. EPA may request additional information if impacts to the aquifer are questionable after this information is submitted for review.

If so, work with the EPA to develop mitigation measures.









Scenic Rivers: From the Guidebook

Wild and Scenic Rivers (CEST and EA)

General requirements	Legislation	Regulation
The Wild and Scenic Rivers Act provides federal protection for certain free-flowing, wild, scenic and recreational rivers designated as components or potential components of the National Wild and Scenic Rivers System (NWSRS) from the effects of construction or development.	The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287), particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c))	36 CFR Part 297

References

<https://www.hudexchange.info/environmental-review/wild-and-scenic-rivers>

1. Is your project within proximity of a NWSRS river as defined below?

Wild & Scenic Rivers: These rivers or river segments have been designated by Congress or by states (with the concurrence of the Secretary of the Interior) as wild, scenic, or recreational

Study Rivers: These rivers or river segments are being studied as a potential component of the Wild & Scenic River system.

Nationwide Rivers Inventory (NRI): The National Park Service has compiled and maintains the NRI, a register of river segments that potentially qualify as national wild, scenic, or recreational river areas

No

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide documentation used to make your determination, such as a map identifying the project site and its surrounding area or a list of rivers in your region in the Screen Summary at the conclusion of this screen.*

Wild and Scenic Rivers / From HUD Exch

HUD Guidance

Is your project within proximity of a NWSRS river as defined below?

Wild and Scenic Rivers. These rivers or river segments have been designated by Congress or by states (with the concurrence of the Secretary of the Interior) as wild, scenic or recreational.

Study Rivers. These rivers or river segments are being studied as a potential component of the Wild & Scenic River system.

Nationwide Rivers Inventory (NRI). The National Park Service has compiled and maintains the NRI, a register of river segments that potentially qualify as national wild, scenic or recreational river areas.

If so, is your project a water resources project? A water resources project is a federally assisted project that could affect the free-flowing condition of a wild and scenic river. Examples include dams, water diversion projects, bridges, roadway construction or reconstruction, boat ramps, and activities that require a Section 404 permit from the Army Corps of Engineers.

If so, could the project do any of the following?

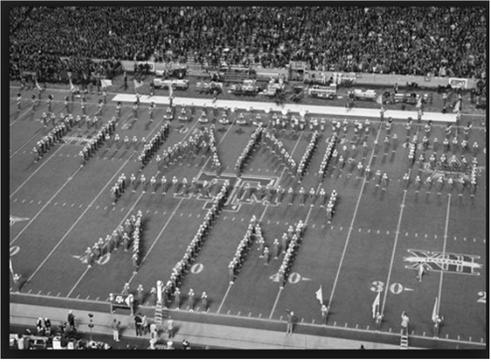
- Have a direct and adverse effect within wild and scenic river boundaries
- Invade the area or unreasonably diminish the river outside wild and scenic river boundaries
- Have an adverse effect on the natural, cultural, and/or recreational values of an NRI segment

Consultation with the appropriate federal, state, local, and/or tribal Managing Agency is required, pursuant to Section 7 of the Act, to determine if the proposed project may have an adverse effect on a wild and scenic river or a study river and, if so, to determine the appropriate avoidance or mitigation measures. The Managing Agency for a particular river segment generally is the National Park Service, the Bureau of Land Management, U.S. Forest Service, or U.S. Fish and Wildlife Service; for some river segments, a state agency, tribe, or a local government may also be a Managing Agency. For rivers listed in the NRI, the National Park Service (NPS) is the point of contact. Under Section 5 of the Act, the NPS can provide recommendations that the Responsible Entity must take into account in protecting the listed river segment.

**Scenic Rivers:
Sample ERR Documentation**

- Evidence the proposed action is not within proximity to a designated Wild, Scenic, or Recreational River
- Documentation that contact was made with the Federal (or state) agency that has administrative responsibility for management of the river and that the proposed action will not affect river designation or is not inconsistent with the management and land use plan for the designated river area
- Maps showing the distance between the project and the closest river.
- Reference to project description
- Proximity = Nearness in space, time or relationship

Noise Abatement



Noise Abatement: From Worksheet

Noise (EA Level Reviews)

General requirements	Legislation	Regulation
HUD's noise regulations protect residential properties from excessive noise exposure. HUD encourages mitigation as appropriate.	Noise Control Act of 1972 General Services Administration Federal Management Circular 75-2: "Compatible Land Uses at Federal Airfields"	Title 24 CFR 51 Subpart B
References		
https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-societal		

1. What activities does your project involve? Check all that apply:

- New construction for residential use
NOTE: HUD assistance to new construction projects is generally prohibited if they are located in an Unacceptable zone, and HUD discourages assistance for new construction projects in Normally Unacceptable zones. See 24 CFR 51.101(a)(3) for further details.
→ Continue to Question 2.
- Rehabilitation of an existing residential property
NOTE: For major or substantial rehabilitation in Normally Unacceptable zones, HUD encourages mitigation to reduce levels to acceptable compliance standards. For major rehabilitation in Unacceptable zones, HUD strongly encourages mitigation to reduce levels to acceptable compliance standards. See 24 CFR 51 Subpart B for further details.
→ Continue to Question 2.
- A research demonstration project which does not result in new construction or reconstruction, interstate, land sales registration, or any timely emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster
→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.
- None of the above
→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.
