

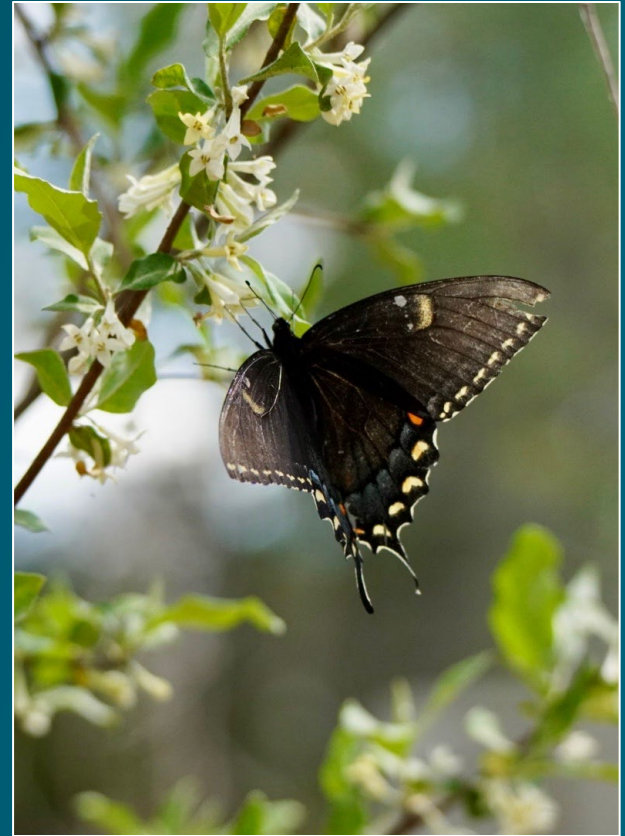
ENVIRONMENTAL REVIEW

Common Mistakes &
Maintaining Compliance

Kelly Charapich, Planning
Grant Specialist



VIRGINIA DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT
Partners for Better Communities



Housekeeping

Please hold questions until “question slide” at the end of every section.

An open Q & A will be available at the end of the presentation.

Environmental Review Background

- The process used to determine if an action created from the expenditure of federal funds will adversely affect the environment.
- Environmental reviews are required for any project receiving **federal funds** by the National Environmental Policy Act (NEPA) of 1969 and Related Acts
- Federally funded grants include all CDBG and ARC*
- Not just funds from HUD, but *any* federal funds - USDA, Bureau of Land Management, NHTSA, etc.
- The ER process that DHCD follows for CDBG is federally codified by HUD at 24 CFR Part 58 (HOME – 24 CFR Part 50)

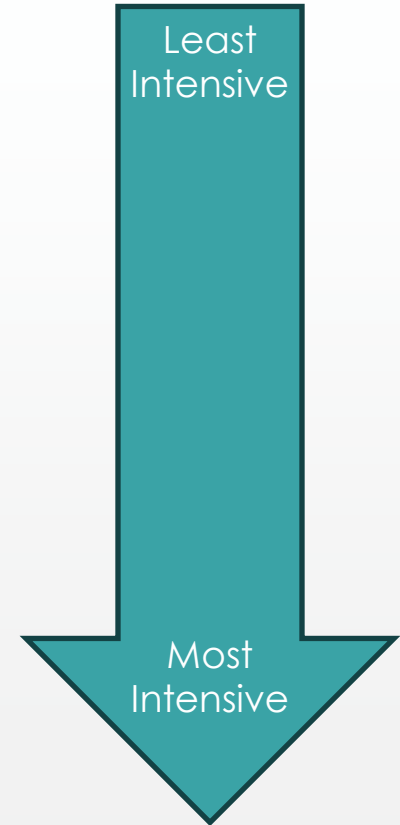


Determining Levels of Review

- Different project types require different levels of environmental review
- Not all projects' ERRs are completed the same way – it's all dependent on what level of review a project is



- **Exempt / Categorically Excluded NOT Subject to § 58. 5 (CENST)**
- **Categorically Excluded Subject to § 58.5 (CEST)**
- **Broad-Level Tiered Review (CEST)**
- **Environmental Assessment (EA)**
- **Environmental Impact Statement (EIS)**



Part 58 Flowchart

[Part 58 Flowchart](#)

Exempt / Categorically Excluded Not Subject To (CENST)

Activities deemed not to affect the human and/or physical environment

Lunchbox276 Expansion

- CDBG Public Service Project
- Equipment/Supplies, Personnel
- **No construction**

No Construction Involved

Down Payment and Closing Cost Assistance Program (DPA)

- HOME Program
- Downpayment Assistance
- **No construction**

Categorically Excluded Subject To (CEST)

Activities are the replacement/renovation of existing facilities, **not to exceed 20% expansion**

Lee County St. Charles Monarch Waterline Replacement

- CDBG Public Infrastructure Project/ARC Area Development Construction Project
- Replacement of 9,970 LF of already installed waterline
- No **additional extensions** of waterline

One-For-One Replacement

Town of Lebanon Russell Theater Restoration Project

- ARC Area Development Construction
- Renovation of an existing historic theater
- No **additional extensions** to a building

Environmental Assessment (EA)

A project that will involve new construction or significant expansion of existing facilities in which existing facilities or structures will be altered or the cultural environment will be disturbed.

Town of Goshen Community Service Facility

- CDBG Community Service Facility Project
- Addition to an existing building to provide for new/expanded services
- **New addition exceeding 20%**

New Construction

Albemarle County Southwood Sanitary Service Project

- CDBG Public Infrastructure Project
- Construction of 3000 LF of **new** public sewer line

The Town of Possumville was awarded CDBG money to **rehabilitate** an **existing** disused school building to begin providing new and expanded public services. They will have to **add** an expansion wing to the building to provide some of the services, which will be 1/3 of the existing building.



QUESTION:

What is the level of review for the above project?

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Projects that Convert to Exempt

- CEST Level Projects can convert to exempt if no additional mitigation measures/consultation is required
- EA Projects can **never** convert to exempt
- All boxes checked are “No Formal Compliance Steps or Mitigation Needed”

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards	Yes No	
24 CFR Part 51 Subpart D	<input type="checkbox"/> <input type="checkbox"/>	
Coastal Barrier Resources	Yes No	
Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	<input type="checkbox"/> <input type="checkbox"/>	
Flood Insurance	Yes No	
Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	<input type="checkbox"/> <input type="checkbox"/>	
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air	Yes No	
Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	<input type="checkbox"/> <input type="checkbox"/>	
Coastal Zone Management	Yes No	
Coastal Zone Management Act, sections 307(c) & (d)	<input type="checkbox"/> <input type="checkbox"/>	
Contamination and Toxic Substances	Yes No	
	<input type="checkbox"/> <input type="checkbox"/>	



Projects that Convert to Exempt – cont.

Determination:

- This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR

- Follow the same rules as Exempt/CENST Level projects, which means
- **NO** Publications/Postings
- Project is complete after Statutory Checklist is complete and Exemption Certification is complete

The Town of Possumville was awarded CDBG money to **replace** sanitary sewer line to service the Lucky Lemur neighborhood. There will be no additional line added, but rather a **one-for-one replacement**.

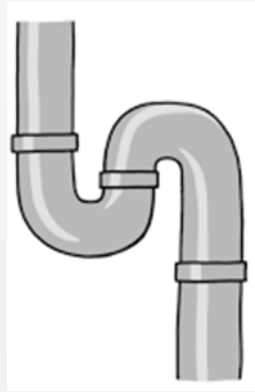
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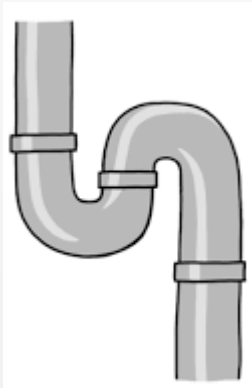
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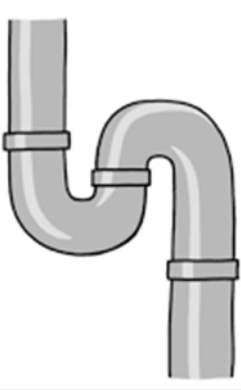
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QUESTION:

Can this project convert to Exempt?

- A. Yes**
- B. No**
- C. A Third Option**



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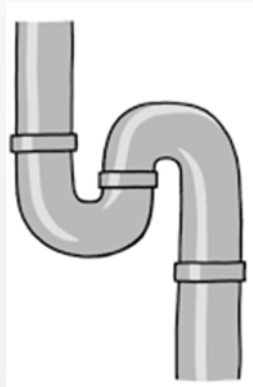
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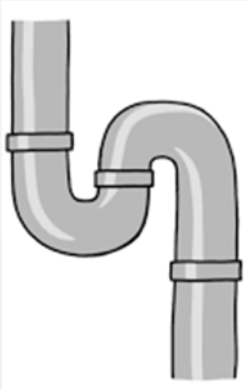
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QUESTION:

Since this CEST project converts to Exempt, what is the posting/publication period for the Notice of Intent to Request Release of Funds? (NOI-RROF)?

- A. No posting
- B. 15 days published/18 days posted
- C. 7 days published/10 days posted



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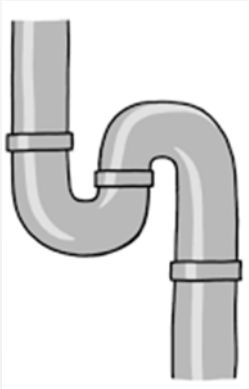
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The Town of Possumville was awarded CDBG money to **rehabilitate** an **existing** disused school building to begin providing new and expanded public services. They will have to **add** an expansion wing to the building to provide some of the services, which will be 1/3 of the existing building.

It is an **Environmental Assessment** level of determination, due to the expansion exceeding more than **20%**. In completing the Statutory Checklist, the prepared concluded there are no formal mitigation steps required.

QUESTION:

Can this project EVER convert to exempt?

- A. No**
- B. Yes**
- C. It depends**





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It is an **Environmental Assessment** level of determination, due to the expansion exceeding more than **20%**. There are also no formal mitigation steps required.

QUESTION:

Can this project EVER convert to exempt?

A. No

B. Yes

C. It depends







New(ish) Rule!



- 2024: HUD implements Federal Flood Risk Management Standards (FFRMS) stemming from Executive Order 13690
- The **500 Year Floodplain (also called the 0.2% chance floodplain)** is the new standard when determining if a project is in the floodplain (NEPA Assist)

Additional Publications – Projects in Floodplains

- Projects in the 500-year floodplain **MUST** complete:
- Early Floodplain Notice (**15 days published**)
- Final Floodplain Notice (**7 days**)
- Completed **AFTER** the 8-Step Decision Making Process has been completed



Length of Publication/Posting

- Exempt/CENST/Converts to Exempt – **NO** Publication Required
- CEST – **7** days published / **10** days posted **ONLY NOI-RROFC (Notice of Intent to Request Release of Funds)** needs posting
- EA – **15** days published / **18** days posted **Combined Notice (Finding of No Significant Impact – FONSI – and NOI/RROFC)** needs posting





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In preparing the **Environmental Assessment** Statutory Checklist, it was determined that this project is in the **500 Year (0.2% chance) Floodplain**.

QUESTION:

What is the first step to maintain compliance in the floodplain when completing the publication/posting portion of the Environmental Review?

- A. 8 Step Decision Making Process**
- B. Early Floodplain Notice (15 days)**
- C. Final Floodplain Notice (7 days)**





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In preparing the **Environmental Assessment** Statutory Checklist, it was determined that this project is in the **500 Year (0.2% chance) Floodplain**.

QUESTION:

How long is the Combined Notice (FONSI/NOI-RROFC) posted or published for this project AFTER the Early and Final Floodplain Notices (15 and 7 days, respectively)?

- A. 7 days published/10 days posted**
- B. 15 days published/18 days posted**
- C. No Posting Required**





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- A. 7 days published/10 days posted
- B. **15 days published/18 days posted**
- C. No Posting Required



What

When

?

?

Who

ANY QUESTIONS?

How

?

?

Where

Why

When to Consult Tribal Nations

[When to Consult Tribes Under Section 106 Checklist](#)



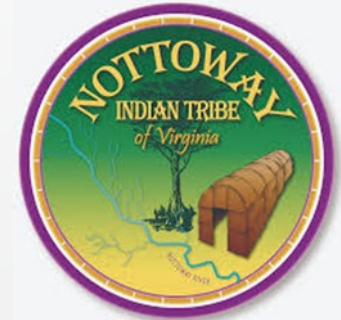
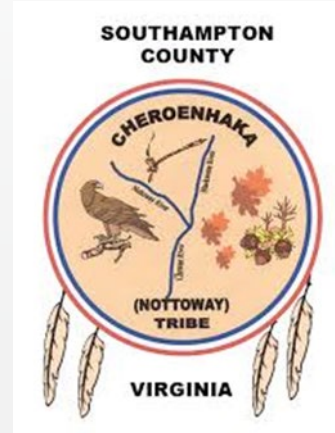
Tribal Nations (Section 106) Continued

- Utilize TDAT <https://egis.hud.gov/TDAT>
- Must allow for 30 days consultation
- Government to Government Correspondence



Tribal Nations (Section 106) Continued

- **Spotsylvania County:**
 - Patawomeck Indian Tribe of Virginia
- **Southampton County:**
 - Cheroenhaka (Nottoway) Indian Tribe
 - Nottoway Indian Tribe of Virginia
- **Stafford County:**
 - Patawomeck Indians of Virginia
- **Surry County:**
 - Nottoway Indian Tribe of Virginia



A few years after the Town of Possumville's school building was renovated, the Town was awarded CDBG funding under the Public Service program to help pay for staffing/equipment.

Since no construction is being performed, this project is considered **EXEMPT**.



QUESTION:

Will the Town need to consult the applicable tribal nations (utilizing TDAT) since there will be NO ground disturbance?

A. Yes

B. No

C. It depends





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- A. Yes
- B. No**
- C. It depends



What

When

?

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Who

ANY QUESTIONS?

How

?

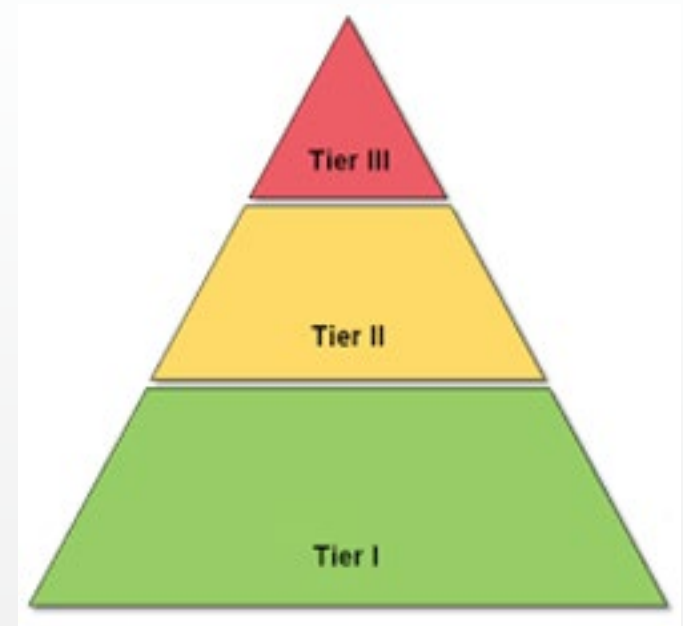
?

Where

Why

Broad-Level Tiered Review Projects

- A Broad-Level Tiered Review is a variation of the CEST level of review
- Most Housing Rehab/Business District Revitalization (BDR) Projects are Broad-Level Tiered
- Used to “eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review”



Broad-Level Tiered Review – Process Housing Rehab/BDR Facades

- The process will roughly go as follows:
 - Complete Statutory Checklist
 - Consult DHR
 - Sign Programmatic Agreement
 - Complete your statutory checklist and consult with regulatory agencies as necessary
 - Do a variation of the combined notices Tiered Review Notice
 - Issue RROF & Cert
-
- Then as project progresses:
 - Once you get the first group of façade rehabs in order, send renderings and work write-ups to DHR (ePix). They will then make a determination for each of the group submitted.
 - Once you have DHR approval, you can put those out to bid.
 - Then repeat these last few steps as many times as needed.



The Town of Possumville has decided to undertake a housing rehabilitation project.

Most of the homes in the identified area are older than **50 years old**.

In preparing the ERR, the Town has determined that all sections of the Statutory Checklist other than the Section 106/DHR Consultation section do not require formal mitigation steps.



How will the Town proceed if they are undertaking a Broad Level CEST Tiered Review?

- A. Batch all houses together and submit them via ePix for a formal review
- B. Begin the posting process for the NOI-RROF, send the RROF-C to DHCD, get under contract with DHCD and update the ERR with each house before it goes out to bid
- C. Trick question – they don't have to consult DHR



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THANK YOU

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