

HOME PROGRAM ENVIRONMENTAL REVIEW

**PLEASE NOTE: VERMONT AGENCY OF COMMERCE AND
COMMUNITY DEVELOPMENT IS THE RESPONSIBLE ENTITY
FOR THE HOME PROGRAM ENVIRONMENTAL REVIEWS**



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NOTE: This chapter provides general guidance intended to assist the applicant in preparing an Environmental Review (ER) so that it can be submitted for pre-approval in GEARS (formerly known as IntelliGrants, the State’s Online Grants Management Database). However, projects and their impacts are evaluated on a case-by-case basis. For *all* ER questions or concerns, please contact the Environmental Officer at quin.mann@vermont.gov or (802) 828-1357.

Background Information

Under 24 CFR Part 58, every U.S. Department of Housing and Urban Development (HUD) assisted project such as Community Development Block Grants (CDBG), HOME, Project-Based Vouchers, etc., must complete an Environmental Review (ER). The purpose of the ER is to assess the impacts of the project on the environment and the impacts of the environment on the project, involve the public in the decision-making process, and make better-informed decisions. Completion of the ER indicates compliance with the National Environmental Policy Act (NEPA), and all other local, state, and federal laws and authorities triggered by the HUD Part 58 ER.

 **Please note:** Vermont Agency of Commerce and Community Development (ACCD) is the responsible entity for the HOME Program Environmental Reviews. **No materials should be forwarded to HUD directly. The VHCB HOME staff is required to forward all materials through ACCD.**

The ER and the HOME Application Process

The Environmental Review can be completed before, during, or after the application process. If the ER is not completed prior to receiving a Preliminary Commitment Letter, the ER will be listed as a Special HOME Award Condition to be met prior to closing. A completed ER will have an executed Authority to Use Grant Funds from HUD, accompanied by an Environmental Review Release Letter from ACCD; this documentation signifies approval and completion of the ER. The ER Release Letter will identify any ER Conditions that will need to be satisfied as the project moves forward.

 **Please note:** If you completed an ER and a significant amount of time has passed (e.g. a year) before you’ve completed your application, you should contact the Environmental Officer to discuss if the ER is still up to date. In addition, if the project activities or scope of work has changed, a new ER may be required.

The Laws

The HUD ER must comply with the National Environmental Policy Act (NEPA), and all other related federal, state, and local laws. For greater detail, please see the [HUD Exchange – Environmental Review Laws and Authorities](#).

Which Projects Need an ER?

Every project applying for HUD funding needs an ER. If a project is anticipating to receive both CDBG and HOME funds, one ER can be done to satisfy the requirements for both individual grants. As stated previously, ACCD is the responsible entity for HOME ERs; alternatively, the applicable municipality is the responsible entity for CDBG ERs. If an ER is being completed to satisfy the requirements of CDBG funds as well as HOME funds, the applicable municipality must be involved in the ER process from the beginning.

 **Please note:** For some projects, it may be known that HUD funding may be pursued a year or two from the start of the project. For example, a developer may need to purchase a site using their own funds but have the intent of applying for HUD funding a year or two down the road for rehabilitation/construction. It is in the best interest to do an ER before the acquisition, or any other choice limiting activity, even if no HUD funding is involved until later. Then, once development plans are finalized, a second ER can be completed.

Choice Limiting Actions



WARNING: Certain activities are prohibited until the completion of the ER.

Activities that are prohibited prior to the ER Release are called choice limiting activities. Engaging in these activities prior to the approval of the ER compromises the unbiased consideration of alternatives and is therefore disallowed. **If a choice limiting activity occurred and cannot be undone or voided, HUD funds will no longer be a funding option.**

Examples of choice limiting activities include actions such as the following: going out to bid for construction-related activities; signing a Purchase and Sales Agreement; signing an Option Agreement that does not allow the purchaser to elect to terminate the Option Agreement if the subject property is not desirable; acquisition of a property, leasing a property, or entering into a commitment or undertaking for repair, rehabilitation, construction, or demolition, or engaging in any of the project activities, regardless of funding source. A commitment is a legally binding contract or agreement. Signing contracts for these types of activities is prohibited until the ER is completed and

approved. Even going out to bid is considered by HUD to be a choice limiting action and must wait until after the ER is approved. Conducting a choice limiting activity, especially buying a property, prior to the completion of the ER means that an unbiased consideration of alternatives has been compromised by not allowing for any modifications or outright cancellation of a project based on the result of the ER.

To ensure that the Option Agreement for your project has the appropriate HUD language, please review this sample [Option Agreement](#). Please send a draft Option Agreement to VHCB's lead staff underwriter and VHCB's Federal Programs Director for approval. It is very important to get approval before signing such document because if it is not worded appropriately, it could put HUD funding opportunities for your project in jeopardy.



WARNING: If a Purchase and Sales Agreement is signed before the ER has been approved, the project will be ineligible for HUD funding.

Levels of Environmental Review

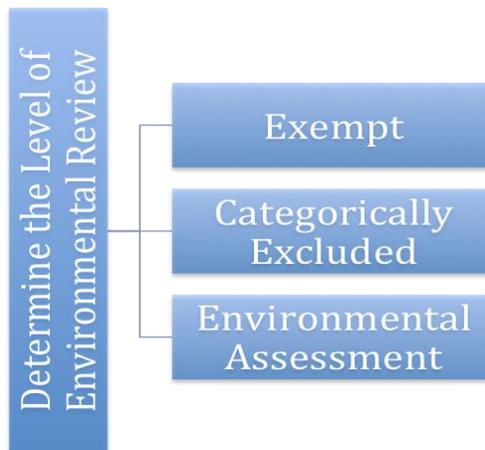


Figure 1. Determine the level of Environmental Review.

For HUD-funded projects, there are three levels of Environmental Review: **Exempt** (this section also includes Categorically Excluded Not Subject To 58.5); **Categorically Excluded** Subject To 58.5 (Categorically Excluded); and **Environmental Assessment** (EA).

Exempt projects are those that have no physical impact, such as providing financial assistance for non-implementation activities, purchasing tools, working capital, feasibility studies, and operating costs. Most planning grants fall into the Exempt level of ER. These types of projects that consist of ONLY planning activities are not eligible for HOME funding administered by VHCB, but there is the potential for an ER completed at the Categorically Excluded Level to convert to Exempt (discussed below).

Categorically Excluded projects include those with a moderate amount of physical impact. The specifics of whether a project is Categorically Excluded vary depending on the project type, such as public facilities, single-family residences, multi-family buildings, or commercial properties. Depending upon project type, a higher level of review may be required if the footprint or capacity increases by more than 20%, if the cost exceeds a certain threshold, or if the existing land use changes. For greater detail concerning the level of ER, please see [Determining the Level of Environmental Review](#).

Certain Categorically Excluded projects that, after review, have no need for mitigation or further compliance, may “convert” to Exempt. This does not mean that the project’s Environmental Review could have started as Exempt, but rather it can be treated as Exempt because no further compliance is needed. The project remains in the State’s GEARS system as a Categorically Excluded project in order to maintain all of the related

supporting documentation, but does not require a public notice, comment or objection period, or Request for Release of Funds. Applicants must still wait to receive the ER Release Letter before engaging in choice limiting activities and/or the commencement of any other project work.

Projects that are neither Exempt nor Categorically Excluded must undergo a full Environmental Assessment.

⚠️ Please Note: All projects, regardless of their level of review or scope of work are required to complete the Historic Preservation [Section 106 Preliminary Review Form](#). The form needs to be submitted and signed off by the Division for Historic Preservation or ACCD's Environmental Officer. This review period can take up to one month before the signed form is sent back to the applicant.

Beginning a New Environmental Review

All ERs are completed using the State's online grants management database, [GEARS](#). The process begins with the [Environmental Officer](#) opening a new ER in GEARS. Typically, ER preparers (either the hired environmental consultant, or project developer) are assigned a role in GEARS as "writers." ACCD staff are able to give others access to the ER by attaching them to the ER in GEARS.

The ER has several forms that need to be completed before being submitted for review. On every GEARS page, there is written guidance to assist in completing the Environmental Review. In addition, all forms are linked within GEARS. Please download these linked forms each time you perform an ER to ensure you are using the most recent version.

Supporting Documentation

The entire ER, including all supporting documentation, is saved in GEARS. This file demonstrates compliance with NEPA, and all other associated local, State, and Federal laws and authorities triggered by the HUD ER. The entire record is made available to the public for their review, comments and/or objections, and is referred to as the Environmental Review Record (ERR).

ACCD's [ER Webpage](#) has a set of step-by-step guidance documents that are excellent tools that can assist the ER preparer in providing appropriate supporting

documentation. Additionally, the ER Webpage has a variety of other guidance documents and resources.

 **Please note:** It is generally unacceptable to provide primary source documentation from State resources (e.g. Vermont Agency of Natural Resources (ANR) - Natural Resources Atlas). If needed, State primary source documents may be used for the purpose of providing supplementary information in addition to Federal source documentation (e.g. Indiana bat habitat).

Floodplain Management

In general, if the project is in a floodplain, the 8-Step Decision-Making Process (8-Step) must be completed after the project design is sufficiently developed (see [8-Step Decision Making Process Guidance](#)). Building in the floodplain is strongly discouraged by HUD. In addition, all local floodplain regulations must be complied with and these may be more restrictive than HUD requirements. If the 8-step process is triggered, a good understanding of the impacts of the project to the floodplain is needed (typically through an engineering report). If the project involves expanding into the floodplain or building new in the floodplain, the area of new disturbance will need to be known and justification for doing so must be provided. An alternatives analysis is also a key component of the 8-step. In addition, mitigation such as elevating the building above the floodplain base elevation will likely be required.

An evacuation plan may also be required (see [Evacuation Plan Model](#)). Therefore, it is critical that the 8-step be completed after the project is designed and the impacts are known. The 8-step involves two public notices. The first notice, the Early Notice, should be published as early on in the planning process as possible. The second notice, the Late Notice, should not be published until you have a very good understanding of the impacts to the floodplain. There are two sample notices available within GEARS. These notices are examples from HUD and the format should not be modified except where requested. Notices must be reviewed by the Environmental Officer prior to publication.



WARNING: A project located in the floodway (as defined by the FIRMette), is only eligible for HUD funding if it qualifies as a functionally dependent use. No housing project eligible for HOME funding administered by VHCB qualifies as a functionally dependent use. If you are unsure on how to interpret the FIRMette, please consult the Environmental Officer.

Toxic Contamination Studies

All projects that involve multi-family residences (5+ units), non-residential properties (such as commercial properties, a municipal property, or vacant land), or acquisition require completion of a Phase I Environmental Site Assessment (ESA), which is different than the Environmental Assessment (EA) mentioned earlier. This, and all other required contamination documentation, is likely the most important piece of documentation required for ERs, largely because these reports take time. The Phase I ESA must be prepared by a qualified environmental professional. This report must adhere to the most recent American Society for Testing and Materials (ASTM) standards, currently ASTM E-1527-13. The newest standards include a vapor encroachment requirement -- you must discuss this with the consultant to make sure that they include a Tier I Vapor Encroachment Screening.

For specific HUD guidance on toxic contamination requirements, (this is generally used by environmental consultants), please refer to the most updated version of Chapter 9 of the [Multifamily Accelerated Processing \(MAP\) Guide](#) (currently January 29, 2016).

 **Please note:** A Phase I ESA has a shelf life beginning from the site visit. If the Phase I ESA is older than six months but less than 12 months prior to the completion of the ER, the Phase I will need to be updated. If the Phase I ESA is older than 12 months prior to the completion of the ER, a new Phase I ESA will be required.

It is recommended that you review the following document prior to hiring an environmental professional for completing a Phase I ESA: [Using a Phase I Environmental Site Assessment to Document Compliance with HUD Environmental Standards at 24 CFR 58.5\(i\)\(2\) or 50.3\(i\)](#). See a List of [Environmental Consultants](#) that have previously completed toxic site investigations for VCDP projects. If the Phase I ESA identifies a Recognized Environmental Condition (REC), a Phase II ESA is required. This report must also be prepared using the most up to date ASTM standards.

Depending upon the results of the Phase II ESA, a remediation plan, soil management plan, Phase III, or Corrective Action Plan (CAP) may be required prior to the completion of the ER. Since a CAP can take a long time to produce, it is acceptable to complete the ER with a Vermont Department of Environmental Conservation (DEC) approved Draft CAP, with the condition that the Final CAP will be kept in the Environmental Review Record and implemented.

 **Please note:** DEC uses a similar report called an Initial Site Investigation that is informally referenced as a Phase II. This report does not follow the most recent ASTM standards and is not accepted by HUD. It is not the same as the Phase II Environmental Site Assessment.

Radon

Radon is a colorless, odorless gas that can enter the indoor air environment. Elevated concentrations of indoor radon pose health risks to occupants of the building. The Office of Energy and Environment's [Radon Fact Sheet](#) addresses HUD regulations at 24 CFR 50.3(i) and 58.5(i)(2), which require all property to be free of contamination where a hazard could affect the health and safety of occupants or conflict with the intended use of the property. For projects that include any structures, a radon test is required, unless the activity only involves minor rehabilitation. Locations with elevated radon levels require a radon mitigation system to be installed. In addition, radon resistant construction is required for all new construction.

Review Process

Throughout the review process, the ER will be moved through various stages of review. As each stage is completed, the status of the ER is changed in GEARS.

The preparer and the Environmental Officer change these statuses to initiate request for review or conversely request for modifications by the Environmental Officer. When the ER is first opened, it will default to the status "Env Review In Process." In this status, the applicant is able to make edits and uploads freely.

 **Please note:** The project description for an ER is extremely important. If an activity or project component is being added after the ER Release and that component was not included in the project description for the ER, a new ER will be required - even if it seems as if the new activity has no environmental impact. This includes Section 8 Project Based Vouchers (PBVs). If there is any potential for applying for PBVs as part of a project, it is very important to include this information in the project description and notice. **Project description is entered in GEARS.**

Project Description	<p>Please provide a very detailed description of all activities to be undertaken. This project description should not be the same one used in a grant application. Please include activity type such as acquisition, new construction, major rehab, minor rehab, demolition, repair, etc. For projects that will change the existing footprint, please include current and proposed square footage. Please identify property use (commercial, public facility, critical facility, single or multi family, etc) and property use changes (such as single family to open space or single family to multi family). If unit size changes, please indicate the change in the number of units. Please include details about number of units, number of buildings, projected cost, repair type, and rehab activities, such as new roof, window replacement, exterior modification, interior demolition.</p> <div style="border: 1px solid black; height: 100px; width: 100%; margin-top: 10px;"></div>
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⚠ Please note: Permits will be required prior to the completion of the ER whenever a permit is needed for mitigation purposes. This may or may not involve an impact but may be required as prevention of an impact. In some instances, one permit may be inextricably linked to another permit. In those cases, all associated permits will be required prior to the completion and approval of the ER.

When the applicant has taken the ER as far as they can and all required information is uploaded and completed, the applicant changes the status to “Env Review Pre-Approval Submitted.” In this status, the applicant is unable to edit the ER. At this stage, the ER will be reviewed by the Environmental Officer.

VCDP Environmental Review Menu - Status Options

Select a button below to execute the appropriate status push.

Document Information: [ENV-2015-ACCD-00014](#)

[▶ Details](#)

Possible Statuses

ENV REVIEW PRE-APPROVAL SUBMITTED

Any required revisions, additional documentation, and feedback will be provided to the applicant and the status will change to a “Env Pre-Approval Modifications Required” loop. Typically, feedback is provided through email. It is always recommended to respond to this email and to identify by each comment whether a change has been made in GEARS. This helps expedite the next review period. When all revisions have been made, the applicant should change the status from “Env Pre-Approval Modifications Required,” to “Env Pre-Approval Modifications Submitted.” When the

Environmental Review is sufficient, the Environmental Officer will change the ER to the next status, “Env Review Public Notice Required.”

Environmental Review Public Notice Required

At this stage, the applicant/writer will prepare the public notice (see next section for requirements). A public notice is required for Categorically Excluded or Environmental Assessment reviews (except when an ER completed at the Categorically Excluded level converts to exempt, discussed in the next section). The HOME staff at VHCB and the Environmental Officer at ACCD must review all materials and approve the notice before publication. If the public notice is not reviewed prior to publication and there are deficiencies, the public notice may need to be reissued, thus delaying the completion of the ER. All public notices are posted for one day in newspapers that serve the project area. The dates in the notice must coincide with the required public comment period. If the dates are incorrect, the notice may need to be republished. Remember, no materials should be forwarded to HUD directly. The HOME staff is required to forward all materials through ACCD.

Public Notice for Categorically Excluded Projects

If a Categorically Excluded project does not trigger compliance issues, the project may “convert” to exempt. In this case, a public notice is not required, and the N/A check box on the notice form will need to be checked (see below).

 N/A'."/>

VERMONT **GEARS**
Grant Electronic Application and Reporting System

Home Applications Monitoring/Reporting Requisitions/Claims/Invoices Archive

Reports | Administration | Training Materials | Organization(s) | Profile | Logout

SAVE CHECK GLOBAL ERRORS SPELL-CHECK SHOW HELP

Back

Document Information: [ENV-2016-ACCD-00026](#)

Details

You are here: > [VCDP Environmental Review Menu](#) > [Forms Menu](#)

NOTICE OF INTENT TO RELEASE FUNDS

Instructions:

1. Enter the following information and click the Save button.
2. Click the View PDF button to generate the public notice document.
3. NOTE: If the project can be converted from Categorically Excluded to Exempt, it must be included in the public notice.

NOTE: If your project can be converted from Categorically Excluded to Exempt a public notice is not required. Please select N/A if your project has been determined to be exempt. N/A

For all other Categorically Excluded projects, there is a **7-day** public comment period that begins the day after the publication date. After the public comment period ends,

ACCD staff will certify and officially submit the ER by changing the status to “Environmental Review Submitted” in GEARS. Upon receipt of the ER submission, the Environmental Officer will change the status to “Env Review Approval Pending,” at this same time ACCD sends the Request for Release of Funds (7015.15 Form) to HUD. HUD’s receipt of the 7015.15 Form initiates the beginning of a separate objection **15-day** period.

Public Notice for Environmental Assessment Projects

For EA projects, there is a **15-day** public comment period starting the day after the publication date. After this public comment period, ACCD staff will certify and officially submit the ER by changing the status to “Environmental Review Submitted” in GEARS. Upon receipt of the ER, the Environmental Officer will change the status to “Env Review Approval Pending,” at this same time ACCD sends the Request for Release of Funds (7015.15 Form) to HUD. HUD’s receipt of the 7015.15 Form initiates the beginning of a separate **15-day** objection period.

Comments/Objections

If comments are received, ACCD must prepare written responses to all comments individually to each respective commenter and include all comments and responses in the ERR.

The Responsible Entity (ACCD) must consider any comments received and make project modifications, if appropriate, before completing the environmental certification and before submitting the Request for Release of Funds to HUD.

Objections are accepted only if they are made on permissible bases (which are outlined in the public notice). If an objection is received, HUD can refuse the Request for Release of Funds and ACCD’s certification.

ER Release Letter

If no public comments or objections are made during the comment period or the 15-day objection period, the Authority to Use Grant Funds will be issued by HUD and the ER Release Letter will be issued by ACCD. If conditions are required, they will be identified in the ER Release Letter, along with steps on how to satisfy each condition.

Upon receipt of the Authority to Use Grant Funds and the ER Release Letter, the ER is considered complete and you may move forward signing contracts and other choice limiting activities.

 **Please note:** Any such activities are at the applicant's risk until there is an executed HOME Grant/Loan Agreement with VHCB. Any incurred costs must follow [VHCB's procurement guidelines](#) . Questions regarding the procurement process should be directed to [Ron Rupp](#).

Should you have any questions regarding any of this information or any other aspect of the ER process, please contact the Environmental Officer at quin.mann@vermont.gov or (802) 828-1357.