

CHAPTER 2 -- ENVIRONMENTAL REVIEW

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CHAPTER 2

ENVIRONMENTAL REVIEW

I. OVERVIEW

This chapter discusses the key environmental requirements that CDBG recipients must comply with to assure protection of the environment and to consider how environmental conditions could impact their CDBG projects.

Different programs require the preparation of an environmental analysis at different times in the application funding process depending upon whether they are subject to federal or state laws, or both. Increasingly, federal and state funding programs are encouraging more thorough analysis of potential environmental impacts during the initial project planning stage, rather than waiting until the funding decision has been made.

Practical experience has shown that it is far better to identify potential problems in the planning process while the project is still being developed and to avoid them entirely, rather than to have to develop time consuming and expensive mitigation measures when a project is underway.

This is why, as part of the CDBG application, grantees are asked to prepare an environmental checklist. Completion of the checklist is intended to ensure that CDBG applicants adequately considered potential environmental impacts while the project was still being planned. It is important to note, as you prepare an environmental review, that every impact category listed in Exhibits 2-B, 2-C, and 2-M has application, with the exception of two: 'Coastal Zone Management' and 'Coastal Barriers'. Every other impact category listed must be carefully considered. Federal, State, and Tribal cooperating agencies must be contacted to provide comments and sources of information, as instructed on the environmental review form. The review must also consider possible impact to sites of historic and cultural importance both on and off tribal lands.

The checklist was designed to alert applicants to considerations that may have been addressed in the location, design, or construction of a public facilities project to avoid potential adverse environmental impacts or expensive mitigation or construction costs.

For example, could the project impact important wildlife habitat or alter an identified historic structure? Or, could the environment affect the project? For example, is there an identified floodplain surrounding the project area that could, at some time, threaten CDBG-funded facilities or are there soils or geologic conditions that could make building construction more expensive?

The environmental checklist submitted with your application also allows the Montana Department of Commerce and other funding agencies to initially consider whether proposed projects might have adverse impacts and, if negative impacts appeared possible, whether applicants had proposed reasonable measures to mitigate them.

Before any CDBG project gets underway, federal and state law require that both the CDBG recipient and the Montana Department of Commerce (MDOC) conduct a final and thorough review of potential environmental impacts from the project. Two key laws govern this environmental review process:

- ❑ The **National Environmental Policy Act (NEPA) of 1969** establishes national policies and procedures for protecting and enhancing environmental quality. Under NEPA, CDBG recipients

are responsible for analyzing the potential environmental impact of a proposed project and making a formal determination regarding its probable impact. Under federal regulations, MDOC cannot release funds for a CDBG project until the CDBG recipient has certified that a review of the project activities demonstrates that no significant impact on the human environment is likely to occur or that actions have been initiated that would mitigate any potential impacts to the extent practicable.

□ The **Montana Environmental Policy Act (MEPA) of 1971** was modeled after NEPA. MEPA seeks to avoid adverse impact on the natural and human environment by mandating careful consideration of the potential impacts of any development activity assisted with state funds or approved by a state agency. Under MEPA, the MDOC is responsible for analyzing the potential environmental impact of a proposed project and making a formal determination regarding its probable impact before authorizing it to begin. MDOC cannot release funds for a CDBG project until it has determined that the project will not have a significant impact on the quality of the human environment.

The significance of MEPA compliance and MDOC's consideration of potential environmental impacts from a CDBG project was elevated by a landmark Montana Supreme Court decision in October 1999. A unanimous court ruled that under Montana's 1972 Constitution, Montanans have an inalienable right to a clean and healthful environment and to be free from unreasonable degradation of that environment. The court said that no state agency can allow an activity that has the potential to degrade the environment.

A. KEY ENVIRONMENTAL REVIEW STEPS

The key environmental review steps that apply to CDBG funded projects are summarized below and explained in detail in the following pages. In addition, HUD has provided the matrix entitled, "HUD Guide to Environmental Clearance: NEPA-Related Statutes, Authorities, and Requirements" (Exhibit 2-CC) that summarizes the environmental issues that must be addressed, applicable activities, thresholds for action, source documentation, action required, and further information.

1. The grantee cannot incur or obligate costs for non-exempt activities (except certain administrative costs) and MDOC cannot release funds for the project until the environmental requirements have been satisfied and the CDBG contract has been signed and all contract conditions fulfilled.
2. An Environmental Certifying Official must be designated by the local government for its CDBG project.
3. An Environmental Review Record (ERR) must be maintained by the grantee for its CDBG project. A full copy of the ERR should be mailed to the MDOC after its completion.
4. Grantees are strongly urged to initiate the historic preservation review process as soon as possible in order to avoid time delays with project start up activities.
5. "Exempt" projects do not need to satisfy federal environmental laws and regulations, but documentation justifying that they are "exempt" must be submitted to and approved by MDOC and maintained in the ERR. Finding A □ discuss
detail.
6. "Categorically Excluded" projects are "Exempt" from NEPA but may or may not be "Exempt" from other applicable environmental laws and regulations. "Environmental Findings B and C explain the forms which must be completed, notices which must be published, time periods which must be allowed for public comment and information which must be submitted to MDOC.

7. Projects that are not "Exempt" or "Categorically Excluded" must undergo a more formal environmental review, either in the form of an Environmental Assessment (EA) or Environmental Impact Statement (EIS). For an "EA," Environmental Finding D explains the forms which must be completed, notices which must be published, time periods which must be allowed for public comment, and information which must be submitted to MDOC.
8. If a Finding of No Significant Impact (FONSI) results under Finding D, the Consolidated Environmental Assessment form and a FONSI / NOI / RROF notice must be prepared and disseminated before funds may be released by MDOC.

B. SOURCES OF ENVIRONMENTAL INFORMATION

Exhibit 2-S found at the end of this chapter contains a listing of State and federal agencies that are sources of environmental information. For instance, the Montana Natural Heritage Program maintains an excellent database of environmental information for Montana.

ENVIRONMENTAL ACRONYMS

The following acronyms are used throughout this Chapter:

EA	-	Environmental Assessment
EIS	-	Environmental Impact Statement
FONSI	-	Finding of No Significant Impact
ERR	-	Environmental Review Record
ROF	-	Release of Funds
RROF	-	Request for Release of Funds
NOI / RROF	-	Notice of Intent to Request Release of Funds

C. OUTLINE OF CDBG'S ENVIRONMENTAL REVIEW PROCESS

The environmental review process presented in this chapter is based on the following outline.

1. Receive Authorization from MDOC to Incur Costs for Environmentally-Exempt Activities.
2. Pass resolution designating the Environmental Certifying Official.
3. Initiate Historic Preservation Review.
4. Undertake Remaining Environmental Review and Make One of the Following Five Environmental "Findings" (Findings A through E) described on the following pages.

FINDING A: All project activities can be considered "Exempt".

If so:

1. Prepare Finding of Exemption (Exhibit 2-P).
2. Submit requests to MDOC for drawdown of funds, as needed.

OR

If **all** activities **cannot** be considered “Exempt,” proceed to Finding B.

FINDING B: All project activities can be considered “Categorically Excluded” AND no activities are affected by federal statutes or executive orders.

If so:

1. Review the list of possible “Categorically Excluded” activities.
2. Complete the Statutory Checklist (Exhibit 2-C).
3. If **all** activities **can** be “Categorically Excluded” and **no** activities are affected by Federal Statutes or Executive Orders, the project is also considered “Exempt” and applicant can proceed as follows:
 - a. Prepare Finding of Exemption (Exhibit 2-P).
 - b. Submit requests to MDOC for drawdown of funds.

OR

If **all** activities **cannot** meet these criteria, proceed to Finding C.

FINDING C: All project activities can be considered “Categorically Excluded” AND some activities are affected by federal statutes and executive orders.

If so:

1. Review the list of possible “Categorically Excluded” activities.
2. Complete the Statutory Checklist (Exhibit 2-C).
 - a. Prepare a Finding of Categorical Exclusion (Exhibit 2-J).
 - b. Prepare a NOI / RROF.
 - c. Submit RROF and Certification to MDOC.

OR

If **all** activities **cannot** be considered “Exempt” or “Categorically Excluded,” proceed to Finding D.

FINDING D: Preparation of an Environmental Assessment (EA) AND a Finding Of No Significant Impact (FONSI) is necessary.

If so:

1. Review examples of activities which require preparation of an EA.
2. Prepare an Environmental Assessment (Exhibit 2-M).
3. If completion of the EA results in Finding of No Significant Impact,” proceed as

follows:

- a. Prepare a combined FONSI / NOI / RROF.
- b. Submit RROF to MDOC.

FINDING E: Preparation of an Environmental Assessment (EA) AND Finding Of Significant Impact is necessary.

If so:

Consult MDOC for further action.

II. APPLICABLE REQUIREMENTS

A. FEDERAL REQUIREMENTS

In summary, the key federal environmental requirements with which grantees must comply include:

1. **Section 104(f) of the Housing and Community Development Act of 1974.** This section of the Act expresses the intent that the policies of the National Environmental Policy Act of 1969 (NEPA) and other provisions of law which further the purpose of NEPA be effectively implemented in connection with the expenditure of funds under CDBG. Such other provisions of law which further the purpose of NEPA are specified in regulations issued pursuant to Section 104(f) of the Act and contained in 24 CFR Parts 51 and 58.
2. **National Environmental Policy Act of 1969** (42 U.S.C. Section 4321, et seq. and 24 CFR Part 58). The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. The federal environmental review procedures are a part of this process.
3. **24 CFR Part 58 - Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities** (April 30, 1996). This provides guidance to grantees for the implementation of NEPA for CDBG projects. It defines the grantee's and the State's responsibilities in conducting an environmental review and details the procedures necessary to ensure compliance with the applicable regulations.
4. **24 CFR Part 51 - Environmental Criteria and Standards: Subpart B, Noise Abatement and Control; Subpart C, Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature; and Subpart D, Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields.** These regulations provide standards for determining whether the proposed location of a HUD-assisted project will be in an unacceptable proximity to sources of noise or hazardous operations which pose risk to human health and welfare. In addition, these regulations prohibit the use of HUD assistance in areas determined to have high risk potential near airports. With respect to noise and hazardous operations, guidance is provided which establishes mitigating procedures which, in some cases, will reduce the noise level or danger from hazardous operations to an acceptable level or degree.
5. **Clean Air Act (42 U.S.C. 7401, et seq.) This Act prohibits engaging in, supporting in any way or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the State implementation plan for national primary and secondary ambient air quality standards.**
6. **Flood Disaster Protection Act of 1973: Public Law 93-234, 87 Stat. 975, (42 U.S.C. 4001-4128). Section 102(a) required, on and after March 2, 1974, the purchase of flood insurance, as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of HUD as an area having special flood hazards.**
7. **Executive Order 11988, May 24, 1977: Floodplain Management (42 FR 26951, et seq.)** **The intent of this Executive Order is to avoid, to the extent possible, adverse impacts**

associated with the occupancy and modification of floodplains and avoid direct or indirect support of floodplain development wherever there is a practical alternative.

8. **Executive Order 11990, May 24, 1977: Protection of Wetlands (42 FR 26961, et seq.).** The intent of this Executive Order is to avoid adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands, wherever there is a practical alternative. The grant recipient must avoid undertaking or providing assistance for new construction located in wetlands unless there is no practical alternative to such construction and the proposed action includes all practical measures to minimize harm to wetlands.
9. **Section 106 of the National Historic Preservation Act of 1966** (16 U.S.C. 470, as amended, including completion of the procedures outlined in 36 CFR Parts 800 and 63.) Compliance with these procedures should include consulting with the State Historic Preservation Office (SHPO) to identify properties listed in or eligible for inclusion in the National Register of Historic Places that may exist within a proposed CDBG project's area of potential environmental impact. Compliance also includes consulting with, as needed, the SHPO, the keeper of the National Register of Historic Places, and the Advisory Council on Historic Preservation to evaluate the significance of historic or prehistoric properties which could be affected by CDBG work and to determine how to avoid or mitigate adverse effects to significant properties from project activities.
10. **Lead-based Paint (LBP). Title IV of the Lead-based Paint Poisoning Prevention Act** (42 U.S.C. 4831). This prohibits the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance of any kind; and **HUD Lead-Based Paint Requirements for Housing Rehabilitation Projects, 24 CFR Part 35, subparts B-R.** See **Exhibit 2-V** for a summary, and for the complete rules, see http://www.hud.gov/offices/lead/library/lead/LeadGuide_Eng.pdf. See pages **2-33** and following for more about CDBG requirements for handling LBP.
11. **Asbestos.** In Montana, asbestos is regulated by the Administrative Rules of Montana (ARM), Chapter 42. In addition to the ARM requirements, grantees may also be affected by the federal Environmental Protection Agency's *National Emission Standard For Hazardous Air Pollutants (NESHAP)*, *40 CFR Part 61, Subpart M*, which pertains to asbestos. The other regulation that commonly applies to asbestos abatement projects is the Occupational Safety and Health Administration's (OSHA) Construction Standard (29 CFR 1926.1101). See Section IX of this chapter for more about CDBG requirements for handling asbestos.
12. **Radon.** The U.S. Congress has set a long-term goal that indoor radon gas levels be no more than outdoor levels. See EPA's Radon-Indoor Air website for Radon hazard information, see and EPA's "Indoor Air: Radon - Additional Information" webpage at http://www.epa.gov/air/community/details/i-radon_addl_info.html. Other sources of information are available in the form of several booklets produced by the EPA. The booklets are available by request from MDOC. The State of Montana's radon contact phone number for general information about radon is (406) 444-6768. See Section IX of this chapter for more about CDBG requirements for handling radon.
13. **Solid Waste Disposal Act**, as amended by the **Resource Conservation and Recovery Act of 1976** (42 U.S.C. Section 6901, et seq.). The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

14. **Safe Drinking Water Act of 1974** (42 U.S.C. Section 201, 300(f) et seq. and 21 U.S.C. Section 349), as amended, particularly Section 1424(e) (42 U.S.C. Section 300h-303(e)) which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency (EPA) determines may contaminate an aquifer which is the sole or principal drinking water source for an area.
15. **Federal Water Pollution Control Act** (P.L. 92-500), as amended (33 U.S.C. 1251-1376), including **The Clean Water Act of 1977**, Public Law 92-212 (33 U.S.C. Section 1251, et seq.). This provides for the restoration and maintenance of the chemical, physical, and biological integrity of the nation's water.
16. **Endangered Species Act of 1973**, as amended (16 U.S.C. 1531 et seq.). The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction of or modification of the habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical.
17. **Fish and Wildlife Coordination Act of 1958**, as amended, (U.S.C. 661 et seq.). This Act requires that wildlife conservation receive consideration and is coordinated with other features of water resource development programs.
18. **Wild and Scenic Rivers Act of 1968**, as amended (16 U.S.C. 1271, et seq.). The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license or other mechanism cannot be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.
19. **Farmlands Protection Policy Act of 1981** (7 U.S.C. 4201(b) and 4202) and any applicable regulations (7 CFR Part 658). The purpose of this Act is to establish compliance procedures for any federally assisted project which will convert farmlands designated as prime, unique, statewide or locally important, to non-agricultural uses.
20. **Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**, February 11, 1994 (59 FR 2629), 3 CFR, 1994 comp.

☐ **Other applicable federal laws and regulations include:**

☐ **Executive Order 11593 - Protection and Enhancement of the Cultural Environment;**

☐ **National Flood Insurance Program** (44 CFR 59-79)

☐ **Executive Order 11288 - Prevention, Control, and Abatement of Water Pollution by Federal Activities;**

☐ **Executive Order 11296 - Evaluation of Flood Hazard** in Locating Federally Owned or Financed Buildings, Roads and Other Facilities, and in Disposing of Federal Lands and Properties;

- ☐ **Executive Order 11514** - Protection and Enhancement of Environmental Quality;
- ☐ **Reservoir Salvage Act of 1960** as amended by the **Archeological and Historic Preservation Act of 1974** (16 U.S.C. 469).

B. STATE REQUIREMENTS

MCA (MONTANA CODES ANNOTATED) WEBSITE http://leg.mt.gov/bills/mca_toc/index.htm

Some of the key State environmental requirements which may affect local projects include the following:

- ☐ Montana Environmental Policy Act (MEPA), Title 75, Chapter 1, MCA;
- ☐ Stream Preservation Act, Title 87, Chapter 5, Part 5, MCA;
- ☐ The Natural Streambed and Land Preservation Act of 1975 - Lakeshore Preservation Act, Title 75, Chapter 7, Parts 1 and 2, MCA;
- ☐ Montana Solid Waste Management Act, Title 75, Chapter 10, Part 2, MCA;
- ☐ Solid Waste Management Act, Title 75, Chapter 10, Part 1, MCA;
- ☐ Clean Air Act of Montana, Title 75, Chapter 2, MCA;
- ☐ Water Quality Act of Montana, Title 75, Chapter 5, MCA;
- ☐ Public Water Supply, Title 75, Chapter 6, MCA;
- ☐ Floodplain and Floodway Management, Title 76, Chapter 5, MCA;

III. GRANTEE RESPONSIBILITIES

The CDBG complexities of the NEPA environmental review process are often difficult to understand. The procedures outlined on the following pages are intended to present the process as simply as possible. If questions arise, grant recipients should contact the CDBG program specialist assigned to their project.

In addition, if at any time during the period of the CDBG project it becomes necessary to substantially revise or amend the project scope of work, it may be necessary to repeat the environmental review process to assess the impact of proposed changes. In these cases the CDBG program specialist should be contacted for guidance.

1. RECEIVE AUTHORIZATION FROM MDOC TO INCUR COSTS FOR "ENVIRONMENTALLY EXEMPT" ACTIVITIES

Following the announcement of grant awards, grant recipients must execute a grant contract with MDOC. **Costs cannot be incurred against the CDBG grant until the grant contract is signed and specific authorization to incur costs is received from the CDBG program specialist.**

When the grant contract has been executed, the CDBG program specialist will issue a specific authorization for each grant recipient to begin incurring costs for "environmentally exempt" activities. "Environmentally exempt" activities include administrative activities such as project planning and management, administrative and engineering consultant selection, engineering and design, and environmental review activities, including the historic preservation review. (See Chapter 1 - Project Start Up.)

Administrative activities are "exempt" from the environmental review requirements under 24 CFR Part 58.34. These are the only costs that can be incurred before the Environmental Review Record (ERR) is completed and funds are released. It is important to note that expenditures for such costs are paid by the grantee until reimbursement at a later date by MDOC.

As emphasized in Chapter 1, **reimbursement is contingent upon the grantee's completion of the ERR, release of funds by MDOC, the signing of the grant contract between the grantee and MDOC, and fulfillment of all special conditions incorporated in the contract. Unless all of these items are completed, MDOC cannot reimburse the local government for any costs incurred.**

2. DESIGNATE THE ENVIRONMENTAL CERTIFYING OFFICIAL

As a second step, all grantees must adopt a resolution designating an Environmental Certifying Official (**see Exhibits 2-A.1 and 2-A.2**) who will be responsible for all further activities associated with the environmental review. The certifying official may be the chief elected official or any other official or staff of the recipient jurisdiction. This person should be capable of defending any information provided to the public or MDOC, or any conclusions or determinations arrived at, as part of the environmental review process. In some instances, a local government employee with technical expertise to conduct the review may receive this designation, such as the local planning or community development director.

In other cases where a consultant will conduct the research for the environmental review, MDOC requires that the local government designate a local official or staff member as the

Environmental Certifying Official. That official would then be responsible for monitoring the technical work performed by the consultant and signing off on the appropriate certifications.

For purposes of federal law, the designated Environmental Certifying Official will be considered a federal official under the requirements of 24 CFR Part 58, and will be responsible for assuring compliance with all of the environmental requirements, and will represent the grantee in any challenge to the local government's compliance with environmental requirements.

3. INITIATE HISTORIC PRESERVATION REVIEW

During project start up, special attention must be paid to the federal requirements for historic preservation. To avoid delay, it is important at the onset that grantees consider the potential effect of the project on historic properties and archaeological resources. As a part of project start up, grant recipients should review **Exhibit 2-H**.

As explained in Exhibit 2-H, a crucial initial step grant recipients must take is to formally request comments from the Montana State Historical Preservation Office (SHPO) regarding possible historical impacts. A model letter to be sent to SHPO is provided (Exhibit 2-I). Grantees must retain a copy of the response received from SHPO in the Environmental Review Record file.

Section 106 of the National Historic Preservation Act [36 CFR Part 800] requires that federally assisted undertakings take into account the effect of the project on properties included in or eligible for the National Register of Historic Places. In particular circumstances, prior to approval of an undertaking, the federal Advisory Council on Historic Preservation must be allowed an opportunity to comment -- 36 CFR Part 800.1(a).

Montana CDBG recipients are required to plan and carry out their projects to minimize harm to historic properties and to consider mitigating measures where appropriate. Section 106 requires that the historic preservation review process described in **Exhibit 2-H** be completed prior to the approval of the expenditure of any Federal funds on an undertaking or prior to the issuance of any license or permit -- 36 CFR Part 800.3 (c).

Prior to the release of funds, the CDBG Program Specialist must have written evidence that the Montana State Historical Preservation Office has been contacted and has been provided a reasonable time in which to respond. Likewise, it is imperative that any written response received from SHPO be attached and included within the project's formal Environmental Review Record.

4. ENVIRONMENTAL RE-EVALUATION WHEN SUPPLEMENTAL HUD FUNDS ARE AWARDED

If a responsible entity, as the result of the receipt of additional HUD funds, embarks on a continuation of activities that were subject to a HUD-approved environmental review, a new environmental review may not need to be conducted if the thresholds listed in Exhibit 2-AA (and also listed below) are met. The previous environmental review record must have included the newly-funded activities. In these cases, the city or county must re-evaluate the environmental findings in conformance with 24 CFR 58.47, subject to approval by MDOC.

A city or county must submit Exhibit 2-AA as their determination that the original environmental findings need not be reevaluated because none of the thresholds in 58.47 requiring that the review be reevaluated were met; specifically;

- There are no substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
- There are no new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; and
- The grant recipient proposes the selection of an alternative not in the original finding.

5. UNDERTAKE REMAINING ENVIRONMENTAL REVIEW AND MAKE ONE OF THE FOLLOWING FIVE ENVIRONMENTAL "FINDINGS"(DETERMINATION LEVELS)

Each CDBG grantee must prepare and maintain a complete written record of the environmental review undertaken. This written record or file is called the Environmental Review Record (ERR) and must be available for public review in the general offices of the local government.

It must contain a description of the project and each of its component activities carried out by the grant recipient, including any documents, notices, information, and public comments received pertinent to the environmental review. Public comments and concerns, as well as their appropriate resolution by the grantee, are extremely important and must be addressed and fully documented in the ERR.

Environmental reviews on Montana CDBG projects will have one of the following five alternate environmental "findings": **Alternatives A through E** -- relative to CDBG environmental requirements.

Grantees should examine the alternative findings beginning in alphabetical order, progressing through the options until an alternative appropriate to all CDBG project activities is identified. Each alternative is progressively more complicated and detailed than the preceding.

All CDBG projects will fall under one of the following five alternative determinations:

- | | |
|--|--|
| 1. Environmental Finding A: | <u>All</u> project activities can be considered exempt. |
| 2. Environmental Finding B:
<u>AND</u> no Executive | <u>All</u> project activities can be "Categorically Excluded" activities are affected by federal statutes or Orders. |
| 3. Environmental Finding C:
<u>AND</u> | <u>All</u> project activities can be "Categorically Excluded" <u>some</u> activities are affected by federal statutes and |

Executive Orders.

4. Environmental Finding D: Preparation of an Environmental Assessment (EA) is necessary AND a Finding of No Significant Impact (FONSI) is necessary.

5. Environmental Finding E: Preparation of an Environmental Assessment (EA) is necessary AND a Finding of Significant Impact is necessary.

Following the announcement of grant awards, MDOC submits summaries of each project to the Environmental Quality Council and the State Historic Preservation Office for their initial review. These state agencies are advised that an ERR for any project will be prepared and that a copy of the ERR will be available at MDOC for their review upon completion.

Grantees should check with their CDBG program specialist prior to publication of their environmental finding to determine whether MDOC has received requests for the ERR from other agencies.

An ERR Statutory Checklist (**Exhibit 2-B**) has been prepared to assist local communities with the environmental review process.

It is MDOC policy that, unless it is aware of any evidence to the contrary or circumstances indicate otherwise, a CDBG project considered "exempt" or "categorically excluded" from NEPA requirements pursuant to 24 CFR Part 58, Subparts 58.34 and 58.35, will not be considered a major action of state government significantly affecting the quality of the human environment. Therefore, such projects are deemed "categorically excluded" from MEPA requirements pursuant to rule 8.2.304(5) A.R.M. and the preparation of an environmental assessment or an environmental impact statement will not normally be required.

MDOC may, at its discretion, request the preparation of an environmental assessment by the recipient of a CDBG grant at any time prior to the submittal of the grant recipient's environmental finding pursuant to 24 CFR, if available information indicates that proposed project activities may significantly affect the quality of the human environment.

IV. ENVIRONMENTAL FINDING LEVEL A

FINDING A:

ALL PROJECT ACTIVITIES CAN BE CONSIDERED EXEMPT.

If so:

1. Prepare Finding of Exemption (Exhibit 2-P).
2. Submit requests to MDOC for drawdown of funds, as needed.

OR

If **all** activities cannot be considered exempt, proceed to Finding B.

Grantees do not have to comply with environmental requirements of NEPA or other applicable federal environmental laws if the **entire project** (non-administrative as well as administrative activities) is **determined to be exempt** as defined under 24 CFR 58.34.

In these cases, under the Montana CDBG program, the project would also be excluded from the requirements of the Montana Environmental Policy Act (MEPA); however, the project must still comply with all other Montana environmental laws.

Most grants funded under the Montana CDBG Program involve exempt *and* non-exempt activities.

Examples of "exempt activities" include:

- ☐ Administrative and management activities;
- ☐ Environmental review activities;
- ☐ Engineering and design costs associated with eligible projects;
- ☐ Interim assistance to respond to imminent threat or physical deterioration, provided that the assistance does not alter environmental conditions;
- ☐ Certain public service activities that will not have a physical impact or result in any physical change; and
- ☐ Certain "categorically excluded" projects (see Environmental Finding B) provided that there are no circumstances which require compliance with Federal laws or statutes.

A. **QUALIFYING FOR EXEMPTION – ENVIRONMENTAL FINDING A**

To qualify for exemption, all activities of the project must be determined by the certifying official to be **exempt under 24 CFR Part 58.34.**

If **all** activities are exempt, the certifying official must prepare a Finding of Exemption for All Project Activities (**Exhibit 2-P**) which lists the exempt activities and cites the appropriate statutory authority.

In addition in some cases certain CDBG assisted projects, such as some economic development projects, that are "categorically excluded" are also exempt from the requirements of NEPA or other federal environmental laws. In these cases a Finding of Exemption

Exhibit 2-R. If considering a finding based upon **Exhibit 2-R**, please contact the assigned CDBG program officer for guidance.

☐ can be

The Finding of Exemption

grantee's ERR file. MDOC will then review the Finding, and if approved, send a letter of concurrence to the grantee and release project funds. A copy of this letter must be retained in the ERR file.

☐ must th

B. ERR FILE REQUIREMENTS FOR FINDING A

In the event the entire project is "exempt", the ERR file (packet of documents to be submitted to MDOC) need only contain the following:

- ☐ **Exhibit 2-A** Designation by adopted resolution of Environmental Certifying Official;
- ☐
- ☐ **Exhibit 2-P** Finding of Exemption for All Project Activities;
- ☐ **Exhibit 2-R** Finding of Exemption, (if applicable);
- ☐ Information documenting compliance with the Section 106 historic preservation process, as presented earlier in this chapter; and
- ☐ Any other accompanying documentation and applicable correspondence to and from MDOC.

V. ENVIRONMENTAL FINDING LEVEL B

FINDING:

ALL PROJECT ACTIVITIES CAN BE "CATEGORICALLY EXCLUDED"

AND

NO ACTIVITIES ARE AFFECTED BY FEDERAL STATUTES AND EXECUTIVE ORDERS.

If so:

1. Review the list of possible "categorically excluded" activities.
2. Complete the Statutory Checklist (Exhibit 2-C).
3. If all activities can be "categorically excluded" and no activities are affected by Federal Statutes or Executive Orders, the project is also considered "exempt" and applicant can proceed as follows:
 - a. Prepare Finding of Exemption (Exhibit 2-P).
 - b. Submit requests to MDOC for drawdown of funds.

OR

If all activities cannot meet these criteria, proceed to Finding C. Examples of "categorically excluded" activities, as defined in 24 CFR 58.35, are described in the following section.

A. POSSIBLE "CATEGORICALLY EXCLUDED" ACTIVITIES

Unless the project is documented in the ERR as being "exempt" (as in Environmental Finding A), the grantee must determine whether it is "Categorically Excluded" from NEPA requirements. To be considered "Categorically Excluded", all activities of the overall project must meet the definition contained in 24 CFR 58.35.

First-time Home Buyer projects will generally fall under an Environmental Finding B. An environmental site specific checklist for home buyer projects must be completed for each home to be assisted with CDBG project funds. (Please see Exhibit 2-C.6&7.)

As a general guide, "Categorically Excluded" activities are those that do NOT result in a major change in land use or activity at a site (for example, replacing water pipes in the same trench).

The following activities are categorically excluded under NEPA but may be subject to review under authorities listed in 24 CFR 58.5:

- 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 sidewalks, repaving of streets)

1. .
2. Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
3. Rehabilitation of buildings and improvements when the following conditions are met:
 - a. In the case of multifamily residential buildings:
 - (1) Unit density is not changed more than 20 percent;
 - (2) The project does not involve changes in land use from residential to non-residential; and
 - (3) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - b. In the case of non-residential structures, including commercial, industrial, and public buildings:
 - (1) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - (2) 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.
4. An individual action on a one- to four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.
5. Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.
6. Combinations of the above activities.

In addition, **demolition activities** where no new, replacement construction is involved may be considered as categorically excluded; however, the demolition must have SHPO approval. In addition, the grant recipient should be aware that if there are hazardous materials on the site, an environmental assessment could be required.

"Categorical Exclusion" refers to exclusion from NEPA requirements – "categorically excluded" means that the requirements of NEPA do **not** apply because the project falls under one of the specific categories just described.

Projects that are "Categorically Excluded" do not require preparation of either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). In these cases, the project would also be excluded from the requirements of the Montana Environmental Policy Act (MEPA); **however, the project must still comply with all other Montana environmental laws.**

B. THE STATUTORY CHECKLIST -- APPLICABLE TO ENVIRONMENTAL FINDINGS B AND C

When considering “Categorically Excluded Activities”, the Environmental Certifying Official must present evidence that the proposed CDBG project will meet the environmental requirements contained in other applicable federal laws, other than NEPA.

This is achieved through completion of the Statutory Checklist (Exhibit 2-C).

Exhibit 2-C includes the Statutory Checklist format and a listing of the applicable federal laws and executive orders. By completing the checklist, the certifying official considers the effect of the CDBG project on a variety of potential environmental concerns as well as the effect of the environment on the project (such as noise or air traffic hazards). For each compliance factor (air quality, floodplains, etc.) the certifying official must determine whether the factor:

- ✓ is not applicable to the project;
- ✓ requires further consultation;
- ✓ requires additional review;
- ✓ requires a permit;
- ✓ requires permits and such permits have been obtained; or
- ✓ requires compliance with conditions and/or the undertaking of mitigation actions.

The certifying official should be certain to retain all of the documentation (letters, test results, maps, notes on comments of authorities contacted) which were gathered to support the documentation.

Situations which require additional consultation are those in which contact with the appropriate federal or federally authorized agency is necessary. The consultation can result in no need to further address the requirements, the placement of conditions on the grantee prior to the release of funds, or in some cases, may halt the project until mitigating measures are identified and steps taken to achieve compliance.

If permits are required, a listing of the specific permits needed and the procedures by which they will be obtained should be attached to the Statutory Checklist.

If mitigating actions are required, the certifying official should fully describe the actions the grantee will take to assure compliance.

Completion of the Statutory Checklist (Exhibit 2-C) is required only for “Categorically Excluded” activities -- i.e., where there are no major changes in land use or activities at a proposed site.

1. **Suggestions for Preparing the Statutory Checklist**

To help local, State, and federal agencies respond more effectively to inquiries, MDOC suggests preparation of a letter (including a contact phone number) which describes the project. Attach a map to show the project's location. The map can be photocopied from the project application. Follow-up phone calls to agency officials are also suggested.

- a. **Historic Preservation** -- As part of the Statutory Checklist, special attention should be paid to historic preservation requirements. Though historic preservation requirements are one element of the Statutory Checklist, due to timeline constraints, historic preservation requirements are one of the earliest environmental steps grantees should initiate. (See **Exhibit 2-H**, Historic Preservation Review Process.)
- b. **Floodplains and Wetlands** -- In addition, special attention should be paid to requirements related to floodplains and wetlands. The grantee must determine whether a proposed project is located in or will affect a floodplain or wetlands area. If assistance is needed in determining whether the project is located in or would affect a floodplain, please contact:

Floodplain Management Section
Montana Department of Natural Resources and Conservation
1424 9th Avenue
State of Montana
Helena, Montana 59620-1601
Telephone Number: 444-6664

The federal authority for grantee obligations related to floodplains and wetlands appears in Executive Orders 11988 and 11990, respectively. **If the proposed CDBG project is located in or will affect a floodplain**, the grantee must follow the "**Eight-Step Decision Making Process**" to achieve compliance (**See Exhibit 2-D**) and must provide documentation that the eight steps outlined in **Exhibit 2-D** have been carried out.

To provide adequate documentation, it is recommended that recipients develop a narrative outlining specifically how each of the eight steps have been complied with. To assist grant recipients in the documentation of the eight-step process, Exhibit 2-E is provided. The completed Exhibit 2-E (or equivalent narrative information) should be included in the recipient's environmental review record.

If any of the project activities will be situated in floodplains or wetlands, the grantee is **required to publish two notices** related to determination of the impact of the project in the local newspaper. In communities that do not have a local newspaper, the notice should be posted in public buildings such as the town hall, post office, schools, and/or libraries.

It is recommended that the **Early Public Notice for Floodplains and/or Wetlands** (Exhibit 2-F) and the **Notice of Explanation for Floodplains and/or Wetlands** (Exhibit 2-G) be reviewed by the CDBG liaison before publication. Both the 2-F and 2-G notices must be sent to federal, state, and local public agencies, organizations, and, where not otherwise covered, individuals known to be interested in the proposed action (the listing of these contacts is listed in Exhibit 2-O). The two notices may be combined with other project notices wherever appropriate.

The **first** notice is the Early Public Notice for Floodplains and/or Wetlands (Exhibit 2-F) which identifies the nature of the project activity and solicits public comment for a *minimum of 15 calendar days*. It is recommended that the Early Public Notice include an announced date for a public hearing to be held during the 15-day comment period to give the public an opportunity to discuss any floodplain or wetlands-related concerns in regards to the project. If a public hearing is held, it is recommended that a minimum of seven days be provided between the publication date of the Early Public Notice and the hearing date.

The **second** notice, the Notice of Explanation for Floodplains and/or Wetlands (Exhibit 2-G), must be published after the 15-day comment period of the Early Public Notice has expired. This notice should include the determination as to the impact of the proposed project, whether there are any reasonable alternatives to the proposed activity, and any alternative chosen, if applicable. No activities associated with the final approval can be undertaken until at least 7 additional days have passed since the date of publication of the second notice. This period allows for public response to the proposed final determination.

Along with documentation of the eight-step process, the CDBG grantee must submit proof of publication and compliance with the minimum public notice requirements with its environmental finding. The purchase of floodplain insurance is required if a structure financed with CDBG funds is constructed within a floodplain. For the assistance of grant recipients, the publication Further Advice on Executive Order 11988 Floodplain Management is available from MDOC.

All required minimum time periods are counted as calendar days. The first day of a time period begins on the day following the publication date of any notice (24 CFR part 58.21).

NOTE: The National Flood Insurance Program (NFIP)

Sometimes, after having exhausted all practical alternatives, it is necessary to construct or re-construct a CDBG-assisted facility (such as a wastewater lift station) in a flood plain. In these cases, special flood insurance should be purchased coordinated through the National Flood Insurance Program (NFIP). For more information, contact the Floodplain Management Section of the Department of Natural Resources and Conservation noted on the preceding page.

- c. **HUD Environmental Standards** -- As part of the Statutory Checklist, attention should also be paid to HUD Environmental Criteria and Standards (24 CFR Part 51), relating to the following three areas:
- (1) noise abatement and control;
 - (2) siting of HUD-assisted projects near hazardous operations; and
 - (3) siting of HUD-assisted projects in airport runway clear zones, clear zones and accident potential zones.

Noise abatement and control standards refer to encouraging land use patterns for housing and other noise sensitive land uses that will provide a suitable separation between them

and major noise sources, including consideration of noise attenuation measures. The HUD publication *The Noise Guidebook* to assist recipients in assessing noise impacts for projects is available on-line at:

<http://www.hud.gov/offices/cpd/environment/training/guidebooks/noise/index.cfm>

Projects located within 15 miles of a military or civilian airport with scheduled jet aircraft operations, within 3000 feet (approximately six-tenths of a mile) of a railroad track, and/or 1000 feet from a 4-lane highway need to assess noise impacts to the proposed project. This document sets forth procedures whereby people without technical training can assess the exposure of a housing site or public facility such as a Head Start to present and future noise conditions. The noise assessment procedures would be especially applicable to a proposed CDBG-assisted housing rehabilitation or new construction project located in the vicinity of an airport, a highway with significant truck traffic, or in close proximity to a rail line.

Siting of HUD-assisted projects near hazardous operations refers to hazards such as petroleum products operations or explosive or flammable chemical facilities, large propane storage tanks, or similar natural gas storage facilities. In addition to the HUD guidelines, to assist grant recipients in evaluating this factor, the publication Siting of HUD-Assisted Projects Near Hazardous Facilities is available from MDOC.

Siting of HUD-assisted projects in runway clear zones refers to the goal of promoting compatible land uses around civil airports and military airfields, and at the same time discouraging incompatible development. The goal of these special environmental standards is to prevent the location of incompatible land uses, especially within airport runway clear zones. More specific guidance is provided in the HUD publication, A Guide to HUD Environmental Criteria and Standards Contained in 24 CFR Part 51.

- d. **HUD Lead-based Paint Standards** -- As part of the Statutory Checklist, attention should also be paid to HUD Lead-based Paint Standards (24 CFR Part 35) and Sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act that appear within Title X of the Housing and Community Development Act of 1992. For more information about **HUD Lead-based Paint (LBP) requirements please see pages 28 and 29 of this chapter and Exhibit 2-V**.

- e. **EPA and OSHA Asbestos Standards and Regulations** -- The State of Montana is delegated by EPA to administer sections of the asbestos NESHAP (National Emission Standard for Hazardous Air Pollutants) regulations, through the Montana Department of Environmental Quality's (DEQ) Asbestos Control Program. OSHA's asbestos standard (29 CFR 1926.1101) also has been adopted in part by the Department of Environmental Quality's Asbestos Control Program. For more information about Asbestos requirements, see pages 29 and 30 of this chapter.

DEQ's Asbestos Control Program may be reached at (406) 444-3490. Their asbestos control website is

<http://deq.mt.gov/Asbestos/default.mcpix>

C. FINDING OF EXEMPTION FOR FINDING B

According to 24 CFR Part 58.35 if, after completing the Statutory Checklist and Site-Specific Checklist, the grant recipient determines (1) that each and every project activity is Categorically

Excluded and (2) that the proposed project is not affected by any of the federal laws and executive orders listed in the Statutory Checklist, **then** the grantee can claim "Exemption" under 24 CFR 58.34(a)(12).

The grant recipient must prepare a written "Finding of Exemption for All Project Activities" (**Exhibit 2-R**) and submit it along with the Statutory Checklist to MDOC.

Environmental Finding B is SELDOM utilized for CDBG Housing and Public Facilities projects because most activities are affected by at least one of the federal laws and executive orders listed in the Statutory Checklist. (Environmental Findings C and D, described in the following sections are much more typical.)

D. ERR FILE REQUIREMENTS FOR ENVIRONMENTAL FINDING B

The ERR file (the packet of documents to be submitted to MDOC) must contain the following documentation:

- Exhibit 2-A** Designation by adopted resolution of Environmental Certifying Official;
- **Exhibit 2-C** Statutory Checklist;
 - **Exhibit 2-BB** Site-Specific Checklist
 - **Exhibit 2-R** Finding of Exemption for All Project Activities;
 - Information documenting compliance with the Section 106 historic preservation process, as presented earlier in this chapter
 - Any other accompanying documentation and applicable correspondence to and from MDOC should also be included in the ERR file.

VI. ENVIRONMENTAL FINDING LEVEL C

FINDING C:

ALL PROJECT ACTIVITIES CAN BE "CATEGORICALLY EXCLUDED"

AND

SOME ACTIVITIES ARE AFFECTED BY FEDERAL STATUTES AND EXECUTIVE ORDERS.

If so:

1. Review the list of possible "categorically excluded" activities.
2. Complete the Statutory Checklist (Exhibit 2-C) and Site-Specific Checklist, (Exhibit 2-BB), as applicable.
3. If all activities can be "categorically excluded" and some activities are affected by Federal Statutes and Executive Orders, proceed as follows:
 - a. Prepare a Finding of Categorical Exclusion (Exhibit 2-J).
 - b. Prepare a NOI/RROF (Exhibit 2-K)
 - c. Submit a RROF and Certification to MDOC (Exhibit 2-L)

OR

If all activities cannot be considered "exempt" or "categorically excluded", **Finding D**

The Statutory Checklist (Exhibit 2-C) discussed under Finding B must also be completed for Finding C. Under 24 CFR Part 58.35(a), if a grant recipient does determine that a project is Categorically Excluded and determines after completing the Statutory Checklist that any of the Federal laws and executive orders listed in the Statutory Checklist are applicable to some project activities, the grant recipient must follow the steps outlined below.

A. **FINDING OF "CATEGORICAL EXCLUDED"**

After completing the Statutory Checklist, the certifying official must prepare and submit to MDOC, along with a copy of the Statutory Checklist, a Finding of Categorical Exclusion (**Exhibit 2-J**) which lists each activity identified as "Categorically Excluded," and gives the statutory or regulatory authority for that determination.

In these cases under the Montana CDBG program, the project would also be excluded from the requirements of the Montana Environmental Policy Act (MEPA); **however, the project must still comply with all other Montana environmental laws.**

Environmental Finding C is a common finding for Montana CDBG Housing and Public Facilities projects which involve a construction activity in which no major change in land use or activity at a site is proposed (for example, housing rehabilitation projects or simply replacing outdated water or sewer pipe in the same trench with larger diameter pipe.)

If it is determined that there is some continuing impact that requires mitigation, MDOC may direct the grantee to proceed to Environmental Finding D and complete an EA.

1. **Publication, Distribution, and Submission to MDOC of a Notice of Intent to Request Release of Funds (NOI / RROF), Exhibit 2-K**

As a next step, grantees must publish, distribute, and submit to MDOC a Notice of Intent to Request Release of Funds (NOI / RROF) (Exhibit 2-K).

As a minimum, the notice should be sent to the local news media, to individuals and groups known to be interested in the project, and to appropriate local, State, and federal agencies. Exhibit 2-0 lists the agencies and groups which the grantee must provide with a copy of the NOI / RROF.

The NOI / RROF must be published at least once in a newspaper of general circulation in the community. In the cases where there is no regularly published local or area-wide newspaper, the grantee must post the notice prominently at the local post office. The notice should also be prominently displayed in other public buildings or sites.

The NOI / RROF (**Exhibit 2-K**) indicates the grantee's intention to submit to MDOC a Request for Release of Funds no sooner than seven days following the publication of the notice. This gives the public and State and federal agencies **at least seven days** to submit comments to the grantee before any other action is taken. It also establishes **a minimum of 15 days** during which the public may later comment to MDOC, after MDOC has received the request. After receipt of the Request, MDOC must wait a minimum of 15 calendar days for public comment prior to the release of funds.

All required minimum time periods are counted as **calendar days**. **The first day of a time period begins on the day following the publication date of any notice** (24 CFR part 58.21).

2. **Submission of the Request for Release of Funds (RROF) and Certification to MDOC, (Exhibit 2-L)**

The section of regulation below (subsections a-d & f) has particular application for CDBG projects funded by MDOC, and bears careful consideration.

24 CFR § 58.22 - Limitations on activities pending clearance

(a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program on an activity or project until HUD or 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.

(b) If a project or activity is exempt or is categorically excluded (except in extraordinary circumstances), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination, but the recipient must comply with applicable requirements.

(c) If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

(e) [omitted by MDOC – applies only to Self-Help Ownership Program (SHOP)]

(f) Relocation. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR 42.

At least seven days following publication of the NOI / RROF and after all local comments are considered, the grantee should submit the RROF (Exhibit 2-L) to MDOC.

The RROF also contains a Certification which must be signed following the seven day local comment period, by the Environmental Certifying Officer indicating that the Environmental Review has been conducted in the prescribed fashion.

Proof of publication of the NOI / RROF must also accompany the RROF that is sent to MDOC.

As noted, MDOC must wait a minimum of 15 calendar days after receipt of the RROF for public comment prior to the release of funds. A sample time-line illustrating minimum calendar periods for publication and public comment is noted below:

March 15, 201__	Local publication date of NOI / RROF
March 16-22, 201__	Minimum 7-day local comment period
March 23, 201__	Grantee Mails RROF to MDOC, allowing three days for delivery
March 26, 201__	MDOC receives RROF
March 27 - April 10, 201__	MDOC 15-day comment period
April 11, 201__	MDOC release of funds

The Environmental Review Record must be complete. In addition to being reviewed by MDOC CDBG staff, your Environmental Review Record may later be reviewed in detail by HUD environmental specialists to assure local and State compliance with federal environmental requirements. The most pertinent information in the ERR must also be sent to MDOC, including in particular the Statutory Checklist and the historic preservation and floodplain elements (if applicable).

B. ERR FILE REQUIREMENTS FOR FINDING C

The ERR file (the packet of documents to be submitted to MDOC) must contain the following documentation:

- **Exhibit 2-A** Designation by adopted resolution of Environmental Certifying Officer;
- **Exhibit 2-C** Statutory Checklist;
- **Exhibit 2-D** Eight-Step Decision Making Process (if applicable);
- **Exhibit 2-E** Documentation of Eight-Step Decision Making Process (if applicable);
- **Exhibit 2-F** Early Public Notice (if applicable);
- **Exhibit 2-G** Notice of Explanation (if applicable);
- Information documenting compliance with the Section 106 historic preservation process, as presented earlier in this chapter, including **Exhibit 2-I**, Notice to State Historic Preservation Office;
- **Exhibit 2-J** Finding of Categorical Exclusion;
- **Exhibit 2-K** Notice of Intent to Request Release of Funds (NOI/RROF); Proof of Publication of NOI/RROF;
- **Exhibit 2-L** Request for Release of Funds and Certification (RROF);
- **Exhibit 2-O** NOI/RROF and FONSI/NOI/RROF Distribution List;

- All accompanying documentation, evidence of publication of notices, and comments received, with your responses; and
- Copies of applicable correspondence to and from MDOC, such as the letter of authorization to incur administrative costs.

MDOC will review the information listed above including the NOI/RROF and the RROF. If all of the required review periods as provided in the NOI/RROF have expired, and no basis for withholding funds is found, MDOC will send a letter formally releasing CDBG funds for the project.

After the contract has been executed, a management plan has been developed and approved, all special contract conditions fulfilled, and the required forms for drawdown of CDBG funds completed, the grantee can then submit a request for needed CDBG monies to MDOC.

VII. ENVIRONMENTAL FINDING LEVEL D

FINDING D:

PREPARATION OF AN ENVIRONMENTAL ASSESSMENT IS NECESSARY

AND

A FINDING OF NO SIGNIFICANT IMPACT IS NECESSARY.

If so:

1. Review examples of activities which require preparation of an EA.
2. Prepare an EA. See Exhibit 2-M and/or the Site-Specific Checklist (Exhibit 2-BB, as applicable).
3. If completion of the EA results in a "Finding of No Significant Impact" (FONSI), ☐ proceed as follows:
 - a. Prepare a combined FONSI / NOI / RROF.
 - b. Submit the RROF to MDOC.

A. **THE ENVIRONMENTAL ASSESSMENT (EA)**

When is an Environmental Assessment (EA) needed? If the project involves any activities which are neither "exempt" nor "categorically excluded," the grantee must prepare an Environmental Assessment (EA) as discussed in 24 CFR 58.36.

Department of Commerce (DOC) CDBG staff have prepared a new consolidated EA form (Exhibit 2-M) for achieving compliance with both State and Federal requirements that we hope will simplify the Federal and State environmental review processes.

As part of your CDBG application, you already prepared an environmental checklist. If it is necessary for you to prepare the consolidated EA form, you will find that it is very similar to the environmental checklist. In most cases, you will likely find that you already have the necessary information to complete the form without the need to do additional research. (See Exhibit 2-M for Consolidated Environmental Assessment form).

Preparation of an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) is a typical finding for a CDBG Housing and Public Facilities project which involves a major change in land use or activity at a proposed site and no significant adverse impacts on the environment are identified.

Examples of grant activities which require preparation of an EA include:

- ☐ Rehabilitation which requires a change in land use; and
- ☐ Installing public facilities such as a first-time community-wide sewage collection and treatment system.

The Consolidated Environmental Assessment (EA) form presented in **Exhibit 2-M** consists of the following components:

- Project Identification;
- Instructions for Completing this Form; and
- Evaluation of Environmental Impact.

The form should be filled out completely, noting documentation of sources and providing additional supplementary narrative where noted in the instructions. The environmental reviews required under the Montana Environmental Policy Act (MEPA) and the review required as part of the Statutory Checklist, have been consolidated into one single form. The Consolidated Environmental Assessment Form with all attachments must be included in the grant recipient's ERR.

Suggestions for Preparing the Environmental Assessment

To help local, State, and federal agencies respond more effectively to your inquiries, we suggest that you prepare a letter (including your phone number) which describes the project and attach a map to show the project's location. The map can be photocopied from the project application. Follow-up phone calls to agency officials are also suggested.

Environmental Assessments Prepared by Montana Department of Environmental Quality (DEQ) or USDA Rural Development (RD)

In some instances, the CDBG program can accept an Environmental Assessment (EA) prepared by DEQ or USDA RD providing that the project scope is identical. In these instances, the HUD 24 CFR Part 51 requirements dealing with noise, hazardous facilities, and airport runway clear zones must be addressed and attached to the EA document (page 2-M.4). It may also be possible to issue a joint inter-agency environmental notice for DEQ State Revolving Fund or USDA RD co-funded projects (see Exhibit 2-T or Exhibit 2-U). Please contact your CDBG liaison for further instructions in all cases involving coordination of inter-agency environmental reviews.

B. LEVEL OF CLEARANCE FINDING FOR ENVIRONMENTAL FINDING D

Based on the information provided in the EA, the certifying official must then make one of two following findings:

1. The project " . . . is not an action significantly affecting the quality of the human environment, and no Environmental Impact Statement (EIS) is required," **or**

2. The project "... is an action significantly affecting the quality of the human environment, and an EIS is required."

C. **COMBINED FINDING OF NO SIGNIFICANT IMPACT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS -- FONSI / NOI / RROF**

If completion of the EA results in a "Finding of No Significant Impact," the Environmental Certifying Official can proceed with preparing the notices and certifications required to remove the contract conditions related to environmental considerations.

The Montana CDBG program uses a **Combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI / NOI / RROF) as provided for under 24 CFR 58.44 (see Exhibit 2-N)**. Under this procedure, a minimum of 15 days for public comment must be provided at the local level, announcing the intent to Request a Release of Funds, and another 15 days provided at the MDOC level for public comment.

To carry out this step, the grantee must publish and distribute the FONSI / NOI / RROF (**Exhibit 2-N**) notice. As a minimum, the notice should be sent to the local news media, to individuals and groups known to be interested in the project, and to appropriate local, State, and federal agencies. **Exhibit 2-0 lists the agencies and groups which the grantee must provide with a copy of the FONSI / NOI / RROF.**

The FONSI / NOI / RROF must be published at least once in a newspaper of general circulation in the community. In cases where there is no regularly published local or area-wide newspaper, the grantee must post the notice prominently at the local post office. The notice should also be prominently displayed in other public buildings or sites.

The FONSI / NOI / RROF (Exhibit 2-N) states the grantee's "Finding of No Significant Impact" and indicates the grantee's intention to submit to MDOC a Request for Release of Funds no sooner than 15 days following the publication of the notice.

This gives the public and State and federal agencies **at least 15 days** to submit comments to the grantee before any other action is taken. The notice further establishes **a minimum of 15 days** during which the public may comment to MDOC, **after MDOC has received the request**. MDOC must wait a minimum of 15 calendar days after receipt of the Request for Release of Funds (RROF) for public comment prior to release of funds.

All required minimum time periods are counted as **calendar days**. **The first day of a time period begins on the day following the publication date of any notice** (24 CFR part 58.21). The FONSI / NOI / RROF and affidavit of publication and posting, including a distribution list of all agencies, groups, and individuals receiving a copy should be included in the ERR file that is sent to MDOC.

The grantee may wish to utilize additional efforts to inform the public, announcing the availability of the environmental assessment. Such extra efforts could include holding public meetings or hearings locally, maintaining mailing lists of persons interested in a particular action and notifying them of the availability of the environmental assessment, and distributing copies of the assessment for local review and comment.

D. REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION (RROF)

The section of regulation below (subsections a-d & f) has particular application for CDBG projects funded by MDOC, and bears careful consideration.

24 CFR § 58.22 - Limitations on activities pending clearance

(a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program on an activity or project until HUD or 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.

(b) If a project or activity is exempt or is categorically excluded (except in extraordinary circumstances), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination, but the recipient must comply with applicable requirements.

(c) If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

(e) [omitted by MDOC – applies only to Self-Help Ownership Program (SHOP)]

(f) Relocation. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR 42.

After the local comment period of 15 days and after all public comments have been considered, the grantee should then promptly submit a Request for Release of Funds and Certification (RROF) (Exhibit 2-Q) to MDOC, accompanied by proof of publication of the FONSI / NOI / RROF.

► Note: This document should only be signed by the Environmental Certifying Officer after the 15 day local comment period is completed.

After (1) a period of at least 15 calendar days from the date the RROF is received by MDOC and (2) MDOC has reviewed the environmental information required under NEPA and MEPA and (3) MDOC has determined that all applicable special conditions are satisfied and there is no basis to withhold funds, then (4) **MDOC will send a letter of Release of Funds to the grantee.**

Assuming that the contract has been executed, a management plan has been developed, all special grant conditions have been fulfilled, and the required forms for drawdown of funds completed, the grantee can then submit a drawdown request for needed CDBG funds to MDOC. A sample timeline is presented below:

March 15, 201__	Local publication of FONSI / NOI / RROF
March 16-30, 201__	Minimum 15-day local comment period
April 2, 201__	Grantee mails RROF to MDOC, allowing three days for mail delivery
April 5, 201__	MDOC receives RROF
April 6-20, 201__	MDOC 15-day comment period
April 21, 201__	MDOC release of funds

E. ERR FILE REQUIREMENTS FOR FINDING D

The following must be maintained in the ERR file (the packet of documents to be submitted to MDOC) must contain the following documentation for an Environmental Assessment and Finding D:

- **Exhibit 2-A** Designation by adopted resolution of Environmental Certifying Officer;
- **Exhibit 2-D** Eight-Step Decision Making Process (if applicable);
- **Exhibit 2-E** Documentation of Eight-Step Decision Making Process (if applicable);
- **Exhibit 2-F** Early Public Notice (if applicable);
- **Exhibit 2-G** Notice of Explanation (if applicable);
- Information documenting compliance with the Section 106 historic preservation process, as presented earlier in this chapter, including **Exhibit 2-I**, Notice to State Historic Preservation Office;
- **Exhibit 2-M** Consolidated Environmental Assessment (EA) Form;
- **Exhibit 2-N** Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI / NOI / RROF) --- Note: **Exhibit 2-T** or **Exhibit 2-U** may be used in place of **Exhibit 2-N** only when CDBG funds are being used in conjunction with RD or SRF funds;
- **Exhibit 2-Q** Request for Release of Funds (RROF) and Certification;
- **Exhibit 2-O** NOI / RROF and FONSI / NOI / RROF Distribution List;
- **Exhibit 2-T** Combined FONSI / NOI / RROF for **SRF/CDBG jointly-funded projects**

- **Exhibit 2-U** Combined FONSI / NOI / RROF for RD/CDBG jointly-funded projects
- Proof of publication for each public notice;
- All accompanying documentation, evidence of notices of publication, and any comments received; and
- Copies of applicable correspondence to and from MDOC, such as a letter of authorization to incur administrative costs.

A complete copy of the ERR must also be sent to MDOC. By keeping a copy of the ERR on file with the MDOC, other State and federal agencies located in Helena can contact the MDOC, if necessary, to review project environmental materials. It is important that your environmental submission be complete. In addition to being reviewed by MDOC CDBG staff, your Environmental Review Record may later be reviewed in detail by HUD environmental specialists to assure local and State compliance with federal environmental requirements.

VIII. ENVIRONMENTAL FINDING LEVEL E

FINDING E:

PREPARATION OF AN ENVIRONMENTAL ASSESSMENT (EA) IS NECESSARY

AND

FINDING OF SIGNIFICANT IMPACT IS NECESSARY

If so:

Consult MDOC for further action.

If there is a Finding of Significant Impact, immediately contact MDOC for further guidance. MDOC will work directly with the grantee to determine a course of action for fulfillment of the environmental requirements.

IX. OTHER ENVIRONMENTAL ISSUES

A. LEAD-BASED PAINT

Many homes and apartments built before 1978 have paint that contains lead, which is referred to as lead-based paint (LBP). LBP is defined as paint on surfaces with lead in excess of 1.0 milligram per square centimeter (1.0 mg/cm²) as measured by an x-ray fluorescence detector, or 0.5 percent by weight. If CDBG funds are to be spent on a unit or provide assistance to a tenant, compliance requirements must be strictly adhered to so that homebuyers, homeowners and tenants avoid LBP hazards.

Lead from paint, chips and dust can pose serious health hazards if not taken care of properly. Lead-based paint is a potential threat to all people, but a serious threat to the health of children 6 years (72 months) of age or under. The most common sources of childhood exposure to lead come from breathing or swallowing lead dust, or by eating soil or paint chips containing lead. If a child (age six or under) with an identified elevated blood lead level occupies a particular CDBG-assisted unit, then the grantee is responsible for inspection, testing and abatement of the LBP hazard. Contact your CDBG Program Specialist for detailed information.

Lead-based paint regulations apply to all activities using CDBG funds and will be fully enforced by HUD. The **only types of housing** that are **not covered by the regulations** are listed below.

- Housing built after January 1, 1978, when lead paint was banned for residential use;
- Housing exclusively for the elderly or people with disabilities, unless a child under age 6 is expected to reside there;
- Zero-bedroom dwellings, including efficiency apartments, and single-room occupancy housing;
- Property that has been found to be free of lead-based paint by a certified lead-based paint inspector;
- Property where all lead-based paint has been removed; and/or
- Any rehabilitation or housing improvement that does not disturb a painted surface.

For housing that has been kept in good repair and upon a visual assessment, does not have deteriorated paint, LBP is not considered to be a hazard. Grantees who intend to perform the initial visual inspection of housing units may take an on-line training course provided by HUD at: <http://www.hud.gov/offices/lead/training/index.cfm>. If deteriorated paint is present, follow the summary of requirements regarding LBP in CDBG **Exhibit 2-V** which outlines the various compliance requirements.

Rehabilitation work is not considered to be a hazard if the work disturbs:

- less than 2 square feet of lead-based paint in any interior room or space,
- less than 10% of a component with a small surface area, such as interior window sills, baseboards and trim, or
- less than 20 square feet on any exterior surface.

The amount of CDBG funds spent per unit on rehabilitation activities determines the depth of requirements necessary to comply with LBP regulations. If there is deteriorated paint and/or more than 2 sq. ft. of LBP will be disturbed, the lead hazard must be evaluated, then stabilized, reduced or abated, and finally cleared. **Exhibit 2-V** provides guidance on the requirements regarding LBP. **Exhibit 2-W** outlines the procedures to follow for homebuyer assistance programs.

Regardless of the housing's state of repair, homeowners and tenants must still be informed of the possible LBP risks. Before ratification of a contract for housing sale or lease, grantees must provide all information known to prospective tenants, homeowners, or purchasers, on the presence of lead-based paint for all structures built before 1978. (CDBG can provide sample disclosure forms for homebuyers and for renters).

Grantees are also required to give homebuyers and renters the pamphlet titled *Protect Your Family from Lead in Your Home* (available from EPA on the web in English or Spanish at <https://www.epa.gov/lead/pamphlets> and from the Government Printing Office, which can be reached at 202/512-1800 and on the web at <http://www.gpo.gov/>). Grantees also need to obtain and keep signed Acknowledgements of Receipt (**Exhibit 2-X**) of this pamphlet on file for the period of affordability, plus three years. Homebuyers and tenants are granted 10 calendar days to inspect and assess lead-based paint hazards (at their own expense) before being obligated to purchase or rent the housing.

If a grantee conducts an evaluation and hazard reduction activity, HUD requires specific notification procedures. **Exhibit 2-Y** provides the following notices:

- 2-Y.1** Notice of Lead-Based Paint Inspection
- 2-Y.2** Notice of Lead-Based Paint Risk Assessment
- 2-Y.3** Notice of Lead Hazard Evaluation or Presumption
- 2-Y.4** Notice of Lead Hazard Reduction

HUD requires Environmental Protection Agency (EPA) certified personnel to provide LBP risk assessment, LBP abatement services and LBP clearance services for activities that receive more than \$25,000 of CDBG rehabilitation assistance per unit. Workers, who are not EPA-certified may do the abatement work *if* an EPA-certified supervisor is at the work site at all times. Again, **Exhibit 2-V** provides guidance regarding LBP compliance.

When assistance is provided to a participant who will live in a structure built before 1978, Grantees must inform the participant of the potential LBP risk. Additionally, the Grantee must provide firm evidence of LBP compliance in individual participant files.

B. ASBESTOS

Asbestos is the name for a group of naturally occurring minerals that separate into strong, very fine fibers. Because of its heat resistance and durability, asbestos has been used extensively in construction and industrial applications. In residential applications, asbestos has been used most commonly in materials used for purposes of reinforcement, heat and cold insulation, condensation control, fire protection, sound dampening, decoration, and texturing.

Asbestos is a health concern because it is a carcinogen. Asbestos can break down into very small fibers that can become airborne and stay airborne for a long time. Exposure generally occurs by inhalation or ingestion. Because of their durability, these fibers can remain in the body for many years and thereby become the cause of asbestos-related diseases, such as asbestosis, mesothelioma, and other cancers.

An asbestos containing material (ACM) is any material that contains more than 1% asbestos. "Friable" asbestos materials pose the greatest health risk because of their ability to easily become airborne, and are thus the most regulated ACM. The EPA defines "friability" as the ability of a dry asbestos-containing material to be crumbled, pulverized, or reduced to powder *by hand pressure*. Examples of a friable ACM include thermal system insulation and spray-on fireproofing. ACM such

as floor tile, roofing, and asbestos cement products are typically non-friable; however, demolition and renovation activities can often render non-friable ACM friable.

The State of Montana is delegated by EPA to administer sections of the asbestos NESHAP (National Emission Standard for Hazardous Air Pollutants) regulations, through the **Montana Department of Environmental Quality's Asbestos Control Program**. The Asbestos Control Program regulates "asbestos abatement" activities in buildings where **three (3) or more linear or square feet of friable** (easily crumbled, pulverized, or reduced to powder) **or potentially friable ACM are abated**. According to the Asbestos Control Program, **asbestos abatement** includes "the removal, encapsulation, enclosure, repair, renovation, demolition, placement, transportation, and/or disposal of friable or *potentially-friable* ACM."

The most likely scenario for asbestos issues in a CDBG project is during rehabilitation of a structure. If a CDBG project meets the above definition of an "asbestos abatement project", there are certain requirements that must be met:

- Asbestos abatement projects require an inspection by a Montana Accredited Asbestos Inspector prior to renovation or demolition activities.
- All ACM that will be impacted by renovation or demolition activities must be removed before demolition or renovation activities begin.
- Asbestos abatement projects require a permit from the Asbestos Control Program and must be done by persons with a Montana Contractor/Supervisor or Worker accreditation. A list of *Asbestos Consultants/Contractors/Laboratories*, is provided in **Exhibit 2-Z** for your use and information.
- The Asbestos Control Program must be notified 10 working days prior to asbestos abatement and demolition activities.

The Department of Environmental Quality's Asbestos Control Program may be reached at (406) 444-3490. Their web site is <http://deq.mt.gov/Asbestos/default.mcp.x>.

Another agency having regulatory authority over asbestos abatement projects is the Federal Occupational Safety and Health Administration (OSHA). OSHA regulates worker safety and health as they relate to asbestos in the construction industry. Like the Asbestos Control Program, OSHA's asbestos standard (29 CFR 1926.1101) also requires an asbestos inspection prior to initiating construction activities, as part of its hazard communication requirement. DEQ's Asbestos Control Program regulations have adopted by reference some of OSHA's asbestos regulations; however, for more complete information on OSHA's regulatory and reporting requirements, contact OSHA at (800) 321-6742, or in Billings at (406) 247-7494.

C. RADON

Radon is a naturally occurring gas, produced by the breakdown of uranium in soil, rock and water. Air pressure inside a home is usually lower than pressure in the soil around the home's foundation.

Because of this difference in pressure, a house can act like a vacuum, drawing radon in through the foundation cracks and other openings. Radon may also be present in well water and can be released into the air in a home when water is used for showering and other household uses. In most cases, radon entering a home through water is a small risk compared to radon entering a home from the soil.

For additional radon information:

See EPA's Radon-Indoor Air website for Radon hazard information <http://www.epa.gov/radon/index.html> or <http://www.epa.gov/air/community/details/i-radon.html> and EPA's "Indoor Air: Radon - Additional Information" webpage at http://www.epa.gov/air/community/details/i-radon_addl_info.html

The amount of radon in the air is measured in "Pico curies of radon per liter of air," or "pCi/L". The U.S. Congress has set a long-term goal that indoor radon levels be no more than outdoor levels. There are about 0.4 pCi/L of radon normally found in the outside air. The Environmental Protection Agency (EPA) recommends fixing a structure if the results of testing show radon levels of 4 pCi/L or higher.

A radon disclosure statement must be provided on at least one document prior to the execution of any contract for purchase of all inhabitable real property. The buyer shall acknowledge receipt of the disclosure statement by signing a copy of the disclosure statement.

If a seller knows the building has been tested for radon gas, the seller must provide a copy of the results of that test and evidence of any subsequent mitigation or treatment. If testing was not accomplished, a statement will appear on the transaction documents stating testing was not accomplished, in addition to a statement about the health hazards caused by the presence of radon.

Other sources of information are available in the form of several booklets produced by the EPA. The booklets are available by request from MDOC. The State of Montana's radon information hotline for general information is 1-800-546-0483. **If radon becomes an issue in your CDBG project, contact your CDBG Program Specialist for assistance.**

CHAPTER 2

EXHIBITS

2-A.1	Designation of Environmental Certifying Official
2-A.2	Resolution Designating Environmental Certifying Officer
2-B.1	Abbreviated Environmental Checklist
2-B.2	MDOC/CDBG Environmental Review Record Checklist
2-C	Statutory Checklist of Applicable Statutes and Regulations
2-D	Eight-Step Decision Making Process
2-E	Documentation of Eight-Step Decision Making Process
2-F	Early Public Notice for Floodplains and/or Wetlands
2-G	Notice of Explanation for Floodplains and/or Wetlands
2-H	Historic Preservation Review Process
2-I	Notice to State Historic Preservation Office
2-J	Finding of Categorical Exclusion
2-K	Notice of Intent to Request Release of Funds (NOI / RROF)
2-L	Request for Release of Funds and Certification (RROF) For a Finding of Categorical Exclusion
2-M	Consolidated Environmental Assessment (EA) Form
2-N	Combination Notice: Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI / NOI / RROF)
2-O	NOI / RROF and FONSI / NOI / RROF Distribution List
2-P	Finding of Exemption for All Project Activities
2-Q	Request for Release of Funds and Certification (RROF) For an Environmental Assessment
2-R	Finding of Exemption for All Project Activities (for Certain Categorically Excluded Activities)
2-S	Sources of Environmental Information
2-T	Combined FONSI / NOI / RROF for SRF/CDBG jointly-funded projects

- 2-U Combined FONSI/NOI/ RROF for USDA RD/CDBG jointly-funded projects**
- 2-V HUD Lead-Based Paint Requirements for Housing Rehabilitation Projects**
- 2-W Lead-Based Paint – Homebuyer Assistance**
- 2-X Acknowledgment of Receipt**
- 2-Y Lead-Based Paint Notices:**
 - 2-Y.1 Notice of Lead-Based Paint Inspection**
 - 2-Y.2 Notice of Lead-Based Paint Risk Assessment**
 - 2-Y.3 Notice of Lead Hazard Evaluation or Presumption**
 - 2-Y.4 Notice of Lead Hazard Reduction**
- 2-Z Asbestos Consultants, Contractors and Laboratories**
- 2-AA Re-evaluation Form for Supplemental Assistance -- Environmental Re-evaluation when Supplemental HUD Funds are Awarded**
- 2-BB Site-Specific Checklist**
- 2-CC HUD Guide to Environmental Clearance: NEPA-Related Statutes, Authorities, and Requirements**

EXHIBIT 2-A

DESIGNATION OF ENVIRONMENTAL CERTIFYING OFFICIAL

(Sample - To Be Completed on Local Government Letterhead)

(Date)

(Name of CDBG Program Specialist)

Montana Department of Commerce
Community Development Division
301 S. Park
P.O. Box 200523
Helena, MT 59620

Dear (Name of CDBG Program Specialist):

This is to notify you that _____ (Name) _____, _____ (Title) _____, is designated as the Environmental Certifying Official responsible for all activities associated with the environmental review process to be completed in conjunction with the 200__ CDBG grant awarded to _____ (Name of Grantee) _____, Montana.

Sincerely,

Signature*

Typed Name and Title

***The chief elected official should sign this letter (mayor or chairperson of county commission).**

Sample of Resolution for Designating the Environmental Certifying Official

RESOLUTION NO. _____

WHEREAS, in 20__ the (*insert Grantee's Name*) applied for federal, state, local and private funding to (*insert information regarding the type of housing project being funded*);

WHEREAS, all necessary funding has been received to permit the project to go forward; and

WHEREAS, an Environmental Certifying Official may be designated by formal resolution.

NOW, THEREFORE, BE IT RESOLVED that:

(*Name of Environmental Certifying Official*) is designated as the Environmental Certifying Official to produce an Environmental Review Record;

The (*name of Grantee*) will ensure that it and all of its contractors or agents shall conduct all program matters in a non-discriminatory manner such that all persons regardless of race, gender, age, disability, or other protected class shall be treated equally and further each shall comply with the policies and procedures delineated in the 20__ (*insert name of Grantee and/or Project Name*) Management Plan, approved by the Montana Department of Commerce Community Development Block Grant Program.

BE IT FURTHER RESOLVED that the above designation shall become effective on _____, 20__.

NAME OF GRANTEE _____ County, Montana

By _____
Chief Elected Official

Attest _____

EXHIBIT 2-AA

STATEMENT OF NEED FOR RE-EVALUATION OF ENVIRONMENTAL ASSESSMENT

SHOULD BE PRINTED ON GRANT RECIPIENT'S LETTERHEAD

**STATEMENT OF NEED FOR
RE-EVALUATION OF ENVIRONMENTAL ASSESSMENT
FOR ____ (project name here) _____ (PER 24 CFR 58.47)**

The _____ project was reviewed for NEPA compliance on
____/____/____ (the original review materials can be found in
_____ file).

The original Environmental Assessment, prepared by
_____, and completed on ____/____/____ **need not be re-
evaluated because none of the thresholds in 58.47 requiring that the review be re-
evaluated were met:**

- **58.47(a)(1):** There are no substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
- **58.47(a)(2):** There are no new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; and
- **58.47(a)(3):** The grant recipient proposes the selection of an alternative not in the original finding.

Therefore, the existing review is still valid and no further action will be taken.

Responsible Entity

Name and Title of Preparer (ECO)

Date

Grant Recipient (if different than RE)

CDBG Environmental Review Requirements Checklist

NOTE: See 2-B.2 for a more detailed checklist

EA	-	Environmental Assessment
FONSI	-	Finding of No Significant Impact
RROF	-	Request for Release of Funds
NOI / RROF	-	Notice of Intent to Request Release of Funds
SHPO	-	State Historic Preservation Office

Name of Grantee: _____
 Grant Fiscal Year: _____
 Date of Review: _____

Environmental Requirement, if applicable	Yes	No	N/A	See Comments
I. Grantee received Commerce's authorization to incur administrative costs for environmentally-exempt activities. Date: _____				
II. Environmental Certifying Official designated				
III. Historic preservation review initiated (Arrangements made with SHPO)				
IV. Environmental Review/Level of Finding				
<u>FINDING LEVEL "A" - Exempt Activities</u>				
Finding of Exemption				
<u>FINDING LEVEL "B" - Categorically Excluded Activities</u> No activities affected by federal statutes or executive orders				
Finding of Categorically Excluded				
Statutory Checklist, Exhibit 2-C for Finding B				
• Compliance with historic preservation requirements				
• Compliance with floodplain management requirements				
• Compliance with HUD environmental standards (Lead-based Paint, Asbestos, Airport Clear Zone)				
<u>FINDING LEVEL "C" - Categorically Excluded Activities</u> Some activities affected by federal statutes and executive orders				
Statutory Checklist, Exhibit 2-C, including documentation of affects of federal statutes and executive orders for Finding C				
• Compliance with historic preservation requirements				
• Compliance with floodplain management requirements				
• Compliance with HUD environmental standards				
Finding of Categorical Exclusion prepared				
NOI / RROF prepared and published				
Dates of 7-day local comment period for NOI / RROF (do not count date of publication) Dates: _____				
Dates of 15-day Commerce comment period for NOI / RROF (do not count date of publication) Dates: _____				
RROF and Certification submitted to Commerce				
NOTES: 				

Environmental Requirement, if applicable	Yes	No	N/A	See Comments
<u>FINDING LEVEL "D" - Preparation of an EA</u>				
Complete EA Form, Exhibit 2-M				
• Compliance with historic preservation requirements				
• Compliance with floodplain management requirements				
• Compliance with HUD environmental standards				
FONS I / NO I / RROF prepared and published				
Dates of 15-day local comment period for FONSI / NOI / RROF (do not count date of publication) Dates: _____				
Dates of 15-day Commerce comment period for FONSI / NOI / RROF (do not count date of publication) Dates: _____				
RROF submitted to Commerce				
<u>FINDING LEVEL "E" - Finding of Significant Impact</u>				
EA prepared				
Finding of <u>Significant</u> Impact				
Contact Commerce				
Does any information in the ERR indicate either (1) the proposed project would <u>significantly</u> impact the environment or (2) the grantee should consider <u>mitigating measures</u> to <u>avoid significant impacts</u> (attach comments, if necessary)?				
NOTES:				

EXHIBIT 2BB

CDBG ENVIRONMENTAL SITE SPECIFIC CHECKLIST

CDBG Project # _____ Address: _____

Grantee Contract # _____ Owner: _____

Date of Construction of proposed home: _____

The Montana CDBG Program is subject to the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA). Together these laws and associated regulations require that CDBG grant recipients must evaluate any possible effects a specific project site could have on the environment and consider mitigating actions where adverse effect could be present.

Source or Documentation may be cited from Statutory Checklist as applicable.

1. Site Suitability

Is the Project site or area generally physically suitable for the proposed CDBG activity in terms of slope, erosion, or soils?

YES _____ NO _____

Compliance Source and/or Documentation: _____

2. Floodplain

Is the project area within or adjacent to an identified 100-year floodplain, similar flood-prone area, or area of storm water drainage discharge?

NO _____ YES _____ Based on FEMA Map # _____

If yes, the CDBG owner must have proof of flood insurance throughout the period of affordability.

3. Surface Water and Aquifers

Would the proposed project have a potential adverse impact on either surface water quality or an identified underground aquifer (water bearing zone)?

NO _____ YES _____

Compliance Source and/or Documentation: _____

4. Wildlife Habitat/Endangered Species

Would the project in general have a potential adverse impact on existing wildlife or fish habitat?
Would the proposed project have a potential adverse impact on either an endangered animal or plant species?

NO _____ YES _____

Compliance Source and/or Documentation: _____

5. Wetlands

Would the proposed project alter or disturb wetlands? "Wetlands" generally include swamps, marshes, bogs or similar areas such as sloughs, wet meadows, river overflows, mud flats, and natural ponds.

NO _____ YES _____

Compliance Source and/or Documentation: _____

6. Air Quality

Would the proposed project have an adverse effect on existing area air quality?

NO _____ YES _____

Compliance Source and/or Documentation: _____

7. Historic Properties and Archeological Resources

Is the house associated with the proposed project older than 50 years or located within an identified Historic District?

NO _____ YES _____

Would the proposed project have any effect on historic structures, properties, or archeological resources?

NO _____ YES _____

Compliance Source and/or Documentation: _____

8. Farmlands

Would the proposed project impact prime, unique, or statewide designated or locally important farmland?

NO _____ YES _____

Compliance Source and/or Documentation: _____

9. Noise

a. Is the proposed project located within the noise contours of an airport?

NO _____ YES _____ (Noise level must be under 65DNL (Day Night Level))

b. Is the proposed project located within 1000 feet from a major highway?

NO _____ YES _____

c. Is the proposed project located within 3000 feet from nearest railroad?

NO _____ YES _____

d. Would aircraft, highway, or railroad noise adversely affect the proposed project?

NO _____ YES _____

Compliance Source and/or Documentation: _____

10. Hazardous Facilities

Is there a facility that produces or stores flammable material that is visible from the project site? Hazardous facilities could consist of chemical or petrochemical gas or liquid storage facilities, including propane gas storage tanks.

NO _____ YES _____

If yes, please refer to the *HUD Explosive and Flammable Material Handbook* or call your CDBG Program Officer.

Compliance Source and/or Documentation: _____

11. Airport Clear Zones

Is the proposed project located within the crash zone (2500 feet) of an airport?

NO _____ YES _____

Compliance Source and/or Documentation: _____

12. Lead-Based Paint Inspection

Beginning April 2010, contractors performing renovation, repair and painting projects that disturb lead based paint in homes, childcare facilities and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination. Lead-hazard information for renovation, repair and painting activities is found in the EPA lead hazard information pamphlet: *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*. The pamphlet is available online at: <http://www.epa.gov/lead/pubs/renovaterightbrochure.pdf>

Homes built prior to 1978 must be inspected for Lead-Based Paint:

LBP Found: No _____ Yes _____ N/A _____

Name of Lead based paint inspector _____ Date: _____

Attach copy of Lead Based Paint Inspector Certification

13. Asbestos Inspection

OSHA asbestos standard (29 CFR 1926.1101) and EPA asbestos sections of NESHAP (National Emission Standard for Hazardous Air Pollutants), administered by Montana Department of Environmental Quality's Asbestos Control Program

Do Clean Air Act asbestos requirements apply to this site? _____ No _____ Yes

If yes, explain how Clean Air Act will be complied with: _____

If yes, Attach inspection and testing documents

14. Do any specifically local environmental concerns exist not already addressed? Please Describe:

I certify that the findings listed above accurately reflect the status of compliance with applicable laws and regulations for the identified property.

Signature: _____

Title: _____

Date: _____

EXHIBIT 2-C

Statutory Checklist

Checklist of Applicable Statutes and Regulations

Project Local Government and Contract Number: _____

Are all activities of this project exempt from NEPA procedures? Yes____ No____
(If yes, this Statutory Checklist **need not be filled out.**)

Are activities of this project categorically excluded from NEPA procedures? Yes____ No____
(If yes, this Statutory Checklist and all required actions **must be completed.**)

Precise citations for the applicable statutes and regulations in the 13 areas below are printed on pages 2-C.2 and following. See Pages 2-19 and following of Chapter 2 for additional explanation of the Statutory Checklist.

Area Of Statutory-Regulatory Compliance <i>Column Codes are explained on page 2-C-2.</i>								(*) = Attach evidence that required actions have been taken.
	NA	CR	RR (*)	PR (*)	DOC/ APO	CMA R(*)		
								Note Compliance Documentation
1. Historic Properties								
2. Floodplain Management								
3. Wetlands Protection								
4. Noise								
5. Air Quality								
6. Man-made Hazards								
Lead-based Paint								
Asbestos								
Thermal/Explosive Hazards								
Airport Clear Zones								
7. Water Quality								
Surface Water/Water Quality								
Groundwater & Aquifers ¹								
8. Solid Waste Disposal								
9. Farmlands Protection								
10. Wild & Scenic Rivers								
11. Endangered Species, Fish & Wildlife								
12. Environmental Justice (E.O. 12898)								
13. State or Local Statutes								

¹Including the Missoula Sole Source Aquifer; contact DOC for further information regarding Missoula area projects.

First-time Home Buyer Projects will need to complete the site specific environmental review checklist found on pages 6 and 7 of this Exhibit prior to providing funding to assist in each home purchase.

Codes used in the columns in the Statutory Checklist on page 2-C-1:

NA: Not applicable to this project.

CR: Consultation required.

RR (*): Review required.

PR: Permits required.

DOC/APO: Determination of consistency. Approvals, permits obtained.

CMAR (*): Conditions and/or mitigation actions required.

(*)Attach evidence that required actions have been taken.

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**INDEX OF APPLICABLE FEDERAL STATUTES AND REGULATIONS INCLUDED IN THE  
HUD STATUTORY CHECKLIST AND COMPLIANCE CERTIFICATION**

**1. Historic Properties**

- a. National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 et seq.) particularly sections 106 and 100 (216 U.S.C. 470 and 470h-2).
- b. Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971-1975 Comp.
- c. Federal historic preservation regulations:
  - (1) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and
  - (2) 36 CFR part 801 with respect to UDAG
- d. The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. et seq.)

**2. Floodplain**

- a. Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp, as interpreted in HUD regulations at (24 CFR Part 55.
- b. Executive Order 11990 Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., and Applicable State Legislation or Regulations.

**3. Coastal Zone Management**

The Coastal Zone Management Act of 1972

**4. Noise**

HUD Regulations 24 CFR Part 51, Subpart B, (7/12/79).

**5. Air Quality**

Clean Air Act of 1970 as Amended (42 U.S.C. 7401-7642), EPA Regulation 40 CFR Part 50, and Partially 40 CFR Part 51, 52, 61.

**6. Man-made Hazards**

- a. HUD Regulation 24 CFR Part 51, Subpart C, (2/10/84) Hazardous Facilities.
- b. Also 24 CFR Part 51, Subpart D, (1/6/84) Airport Runway Clear Zones.

**7. Water Quality**

- a. Federal Water Pollution Control Act, as Amended (33 U.S.C. 1251-1376).
- b. Safe Drinking Water Act of 1974 (42 U.S.C. 300f-300j-10), as Amended.
- c. U.S. Environmental Protection Agency (EPA) Implementing Regulations 40 CFR Parts 100-149.
- d. Missoula, Montana Sole Source Aquifer, in accordance with Section 1424 (e) of the Safe Drinking Water Act, 42 U.S.C.A. Section 300h-3 (1982).

**8. Solid Waste Disposal**

- a. Solid Waste Disposal Act as Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901-6987).
- b. U.S. Environmental Protection Agency (EPA) Implementing Regulations 40 CFR Parts 240-265.

**9. Farmlands**

- a. Farmland Protection Policy Act of 1981 (U.S.C. 4201 et. seq).
- b. U.S. Department of Agriculture implementing regulations (7 CFR Part 658).

**10. Wild and Scenic Rivers Act of 1968**

16 U.S.C. 1271 et. seq., as amended: particularly sections 7(b) and 7(c), and 16 U.S.C. 1278 (b) and (c).

**Note:** In Montana, this act applies to the North Fork of the Flathead River from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir; and, the Missouri River consisting of the segment from Fort Benton, one hundred and forty-nine miles downstream to Fred Robinson Bridge.

**11. Endangered Species, Fish and Wildlife**

- a. Endangered Species Act of 1973 as Amended (**16 U.S.C. 1531-1543**).
- b. Fish and Wildlife Coordination Act (16 U.S.C. 661-666c).

**12. Environmental Justice**

Executive Order 12898 -- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. P. 859. (24 CFR Part 58.5, April 30, 1996)

**13. Lead-based Paint**

HUD Lead-based Paint Standards (24 CFR Part 35) and Sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act that appear within Title X of the Housing and Community Development Act of 1992.

**14. Asbestos**

OSHA's asbestos standard (29 CFR 1926.1101) and EPA asbestos sections of NESHAP (National Emission Standard for Hazardous Air Pollutants), administered by Montana Department of Environmental Quality's Asbestos Control Program

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CERTIFICATION

I certify that the findings on the preceding Community Development Block Grant Statutory Checklist accurately reflect the status of compliance with applicable laws and regulations for the proposed CDBG project.

Type Name and Title of
Environmental Certifying Officer

Signature

Date

Exhibit 2-CC: HUD Guide to Environmental Compliance: NEPA-Related Statutes, Authorities and Requirements



**Region VIII Office
Denver, Colorado**

24 CFR Part 58.5 – NEPA-Related Federal laws and authorities

Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
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Important: (1) Information contained herein is for general guidance only. Applicable authorities and regulations take precedence over guidance material and should be consulted as necessary to achieve full compliance. (2) HUD cannot attest to the accuracy of information provided by web sites external to HUD, and access to these sites does not constitute an endorsement by HUD, or any of its employees, of the sponsors of the site or the products presented on the site. (3) Contact the HUD Environmental Officer in your area for information or assistance related to compliance with HUD environmental requirements. [<http://www.hud.gov/offices/cpd/environment/contact/localcontacts/#RegionVIII>] **RIGIROZZI_HUD_REGION VIII_VERSION 1010**



Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
1. Air Quality Clean Air Act of 1970, as amended (42 U.S.C. 7401 <i>et seq.</i>), particularly 7506 (c) & (d). 40 CFR parts 6, 51, and 93 (EPA)	<ul style="list-style-type: none"> Acquisition of undeveloped land Change of land use Demolition Major rehabilitation New construction 	<ul style="list-style-type: none"> Project is located in an EPA-designated non-attainment area or maintenance area for one or more of six “criteria pollutants,” called National Ambient Air Quality Standards (NAAQS). Project site contains hazardous pollutants (HAPS) such as asbestos-containing materials (ACM) certain projects i.e. building demolition and renovation requires testing, removal, and disposal of ACMs in accordance with state regulations. <p>Criteria pollutants (NAAQS): http://www.epa.gov/air/criteria.html</p>	<p>Designated non-attainment and maintenance areas are listed on EPA web site: http://www.epa.gov/oar/oaqps/greenbk/</p> <p>HAPS list available at : http://www.epa.gov/appcdwww/aptb/hap_list.pdf</p> <p>County-level air quality data: http://www.epa.gov/oar/oaqps/greenbk/multipol.html</p> <p>Maps of non-attainment areas: http://www.epa.gov/oar/data/</p>	<p>A determination of conformity with the State Implementation Plan (SIP) is required with respect to the proposed activity and the specific pollutant for which the area was designated a non-attainment or maintenance area.</p> <p>Document that the activity does/does not require SIP compliance. Contact the MPO or EPA to determine if the proposed activity is one that requires a permit under the SIP. If yes, obtain letter of consistency showing that the project is consistent with the SIP.</p> <p>If suspected to be present, contact the applicable state health agency about requirements for testing, removal, and disposal.</p>	<p>Conformity to SIP is made by:</p> <ul style="list-style-type: none"> Regional or Metropolitan Planning Organization (MPO); or EPA Regional Office. <p>Status of non-attainment areas and EPA policy questions are addressed by EPA Regional Office.</p> <p>State and Regional Agency contacts for SIPs and HAPS: http://www.epa.gov/iaq/whereyoulive.html</p> <p>Region 8 Air and Radiation Program http://www.epa.gov/region8/air</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/airpollution.cfm</p>

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
2. Airport Hazards (Clear Zones & APZ) 24 CFR Part 51-D "Siting of HUD-Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields" (HUD)	<ul style="list-style-type: none"> Acquisition for construction Change in land use Increase in density Major ('substantial') rehabilitation New construction <p><u>Where airport is:</u></p> <ul style="list-style-type: none"> Civil airport designated in Nat'l Plan of Integrated Airport System (NPIAS): http://www.faa.gov/airports/planning_capacity/npias/reports/ All military air installations <p>(Note: See also Clear Zone notification requirement, page 8.)</p>	<p>Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway.</p> <p>HUD policy is to promote compatible land uses in RCZ/CZ/APZ.</p>	<p>Airport clear zone and accident potential zone (APZ) maps are available from airport operations authority.</p> <ul style="list-style-type: none"> Civil airport: The Airport Layout Plan shows the Runway Clear Zone (RCZ), [a.k.a. Runway Protection Zone]. Military airfield: The AICUZ Study shows the CZ and APZ. 	<p>RCZ/CZ: New construction, major rehabilitation, and activities that significantly prolong physical or economic life of the property are prohibited.</p> <p>APZ: HUD assistance in APZ is discouraged, and project must be compatible with DOD land use guidelines for APZs.</p>	<p>Contact airport operator or nearest FAA District office.</p> <p>Airport locations: http://www.airnav.com/airport/s/ and http://www.faa.gov/airports/planning_capacity/npias/reports/</p> <p>Military Bases: http://www.globalsecurity.org/military/facility/conus.htm and http://www.globemaster.de/bases.html</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/airport.cfm</p>
3. Coastal Zone Management Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et. seq., particularly section 1424(e)).	<ul style="list-style-type: none"> Acquisition of undeveloped land Change of land use Major rehabilitation New construction 	<p>Project is located in a state having a Coastal Zone Management (CZM) Program. MT is not located with CZM areas and the CZMA requirements are not applicable.</p>	<p>CZMP maps are on NOAA (Nat'l Oceanic & Atmospheric Administration) web site: http://coastalmanagement.noaa.gov/mystate/welcome.html</p>	<p>State CZM agency (or its approved local designee) must concur with a finding (or issue permit) in evidence that project is consistent with approved State CZM plan.</p>	<p>NOAA: http://coastalmanagement.noaa.gov/</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/coastal.cfm</p>
4. Contamination	<ul style="list-style-type: none"> Acquisition 	Project is located on or	Documentation may consist	Due diligence must be	EPA Envirofacts Data:

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
and Toxic Substances 24 CFR Part 58.5 (i) (2) (HUD).	<ul style="list-style-type: none"> Conversion from Non-residential to residential. Demolition Leasing New construction Rehabilitation 	<p>near site that contains hazardous materials or contaminants that could affect the health and safety of occupants or that conflict with the intended utilization of the property.</p> <p>Particular attention to be given to any site located on or in general proximity to landfills, dumps, industrial sites, gas stations or other locations that contain hazardous wastes or materials.</p> <p>HUD policy is to ensure that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.</p>	<p>of Phase I environmental site assessment* (ASTM standard E1527-05, as amended) and, if applicable, Phase II assessment.</p> <p>Additional/alternative documentation may include:</p> <ul style="list-style-type: none"> Site inspection(s) by knowledgeable professional(s). Search of EPA and other databases for sites and facilities posing real or potential contamination concerns (including NPL (Superfund), TRI, RCRA sites and facilities). Analysis of past uses of the site and adjacent properties as documented by Sanborn Fire Insurance Rate Maps (or equivalent historic maps). <p>ASTM Phase I and Phase II protocols are available at: http://www.astm.org/cgi-bin/SoftCart.exe/index.shtml?E+mystore</p> <p>Current ASTM Phase I standard (E1527-05): http://www.astm.org/cgi-bin/SoftCart.exe/DATABASE.CART/PAGES/E1527.htm?L+mystore+iweh6695+1022889987</p> <p>NOTE: A person may purchase property with the knowledge that the property is contaminated without being held potentially liable</p>	<p>exercised to ascertain the presence of contamination.</p> <p>In many cases, a Phase I environmental site assessment (ASTM standard E1527-05, as amended) must be performed.* If the Phase I assessment recognizes environmental concerns or if the results are inconclusive, a Phase II environmental site assessment will be required.</p> <p>Based upon the Phase II results, remediation, mitigation and monitoring measures may be required.</p> <p>Such measures must be consistent with Federal, State and local laws and regulations, and must be implemented by qualified professionals.</p> <p>Specific forms of remediation are not prescribed by HUD and may vary depending on the nature of the hazard.</p>	<p>http://www.epa.gov/enviro/</p> <p>EPA Toxic Release Inventory (TRI): http://www.epa.gov/enviro/html/toxic_releases.html</p> <p>EPA Maps: http://www.epa.gov/emefdata/em4ef.home</p> <p>HUD Maps (select "Map Your Community"): http://egis.hud.gov/egis/</p> <p>EPA CERCLIS/NPL database Text - http://cfpub.epa.gov/supercpa/d/cursites/srchsites.cfm</p> <p>Map http://www.epa.gov/superfund/sites/</p> <p>ATSDR "ToxFAQs" summaries about hazardous substances: http://www.atsdr.cdc.gov/substances/index.asp</p> <p>Right-To-Know Network:</p> <ul style="list-style-type: none"> EPA databases, including TRI (Toxic Release Inventory); NPL & CERCLIS; RCRA: http://www.rtk.net/ <p>Scorecard.Org:</p> <ul style="list-style-type: none"> Releases of toxic chemicals Cancer risks from hazardous air pollutants Superfund sites

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			<p>for the cleanup of the contamination. Conducting "all appropriate inquiries" (AAI) into the previous ownership and uses of a property is one of the requirements for claiming CERCLA liability protection.</p> <p>The federal (USEPA) standard for performing AAI is effective 11/01/06. The AAI final rule is found at 40 CFR 312. http://www.epa.gov/swerosps/bf/aaif/index.htm</p> <p>The ASTM E1527-05 Phase I standard is consistent and compliant with EPA's final rule for AAI and may be used to comply with the provisions of AAI.</p>		<p>▪ Facilities emitting criteria air pollutants http://www.scorecard.org/community/ej-index.tcl</p> <p>FAQs about USTs: http://www.epa.gov/swerst1/faqs/index.htm</p> <p>EPA Cleanup Guidance: http://clu-in.org/</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/hazardous.cfm</p>
<p>5. Endangered Species</p> <p>Endangered Species Act of 1973 (16 U.S.C. 1531 <i>et seq.</i>), particularly section 7 (16 U.S.C. 1536)</p> <p>50 CFR Part 402 "Endangered Species Act" (DOI & Commerce)</p>	<ul style="list-style-type: none"> ▪ Acquisition of undeveloped land ▪ Conversion of land use ▪ Demolition ▪ Major rehabilitation ▪ New construction 	Project is likely to affect, or may affect, any Federally listed endangered or threatened species or habitat.	<p>Contact the US Fish and Wildlife Service (FWS) office to determine if a listed species or habitat is present in the project action area or may be affected by the project.</p> <p>General information on listed species and habitats: http://www.fws.gov/endangered/wildlife.html</p> <p>USFWS Critical Habitat online mapper: http://crithab.fws.gov/</p>	<p>If a listed species or habitat is present, consultation is required under Section 7 of the Endangered Species Act to determine if the proposed activity will adversely affect the subject species or habitat.</p> <p>Step-by-step consultation: http://www.fws.gov/midwest/endangered/section7/s7process/7a2process.html</p> <p>When required, a biological assessment must be prepared by a qualified professional (e.g., biologist or botanist) explaining the likely effect on the species or</p>	<p>Section 7 consultation: http://www.fws.gov/midwest/endangered/section7/index.html</p> <p>U.S. Fish & Wildlife Ecological Services Field offices:</p> <ul style="list-style-type: none"> ▪ Colorado- http://www.fws.gov/mountain-prairie/es/Colorado/index.htm ▪ Utah- http://www.fws.gov/utahfieldoffice/ ▪ Montana- http://www.fws.gov/mountain-prairie/es/Montana/index.htm

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
				habitat.	<ul style="list-style-type: none"> North Dakota- http://www.fws.gov/mountain-prairie/es/NorthDakota/ South Dakota- http://www.fws.gov/mountain-prairie/es/SouthDakota/index.htm Wyoming- http://www.fws.gov/wyominges/ <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/endangered-species.cfm</p>
6. Environmental Justice E.O. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"	Applies when an adverse impact or condition occurs with respect to an environmental issue; <i>and,</i> When the activity is: <ul style="list-style-type: none"> Acquisition Change of land use Demolition Major rehabilitation New construction 	Project entails adverse health or environmental effects which disproportionately impact a minority or low-income population relative to the community at large. The potential for new or continued adverse health or environmental effects must be considered.	EPA's Geographic Assessment Tool provides information relevant to EJ assessments: http://www.epa.gov/enviro/ej/ Census and geospatial data from local and regional planning agencies. Census data and maps also available at: http://factfinder.census.gov/home/saf/main.html and: http://www.census.gov/ Tract-level data on race & income: http://www.ffiec.gov/geocode/default.htm	Perform an EJ analysis using census, geographic and other data to determine if a low-income/minority population is disproportionately impacted. If susceptible populations are impacted: <ul style="list-style-type: none"> Mitigation or avoidance of adverse impacts must be considered to the extent practicable; and, Public participation processes must involve the affected population(s) in the decision-making process. 	EJ maps & analysis: http://www.scorecard.org/community/ej-index.tcl EPA Maps: http://www.epa.gov/compliance/environmentaljustice/assessment.html CEQ guide to NEPA & EJ http://www.epa.gov/compliance/resources/policies/ej/ej_guidance_nepa_ceq1297.pdf Human Health & Toxicology: <ul style="list-style-type: none"> CDC (NIOSH) http://www.cdc.gov/niosh/topics/chemical.html ATSDR http://www.atsdr.cdc.gov/ EPA (IRIS) http://cfpub.epa.gov/ncea/iris/index.cfm <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/environmentaljustice.cfm</p>
7. Explosive and	Residential project	Project is located within	Site inspection, aerial photo	Calculate the acceptable	Contact HUD Field

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Flammable Operations Housing and Community Development Act of 1974, as amended. 24 CFR Part 51 Subpart C "Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature" (HUD)	when the activity is: ▪ Conversion of land use from non-residential to residential use ▪ New construction ▪ Rehabilitation, where unit density increased ▪ Vacant building made habitable or, Any project for industrial, commercial, institutional, or recreational use where people may congregate.	sight of or within a one-mile proximity to a stationary hazardous facility that stores, handles or processes chemicals or petrochemicals of an explosive or flammable nature, such as liquid propane, gasoline or other above-ground storage tanks. Mobile tanks, (including railroad cars), buried tanks, residential tanks for 1-4 unit housing, and tanks with less than 100-gallon capacity and having common fuels are excluded.	analysis and/or contact local fire protection or emergency management agencies as to presence of hazardous industrial operations in vicinity of project. Contact local operator of such facility to determine the type and volume of fuels and chemicals of an explosive or flammable nature.	separation distance (ASD) per guidebook HUD-1060-CPD (1996), "Siting of HUD-Assisted Projects Near Hazardous Facilities," and apply appropriate mitigation measures or reject the site. Mitigation may include construction of a barrier of adequate size and strength to protect the building and occupants.	Environmental Officer for tanks having over 1 million-gallon capacity. HUD explosive/flammable hazard guidebook: http://www.hud.gov/offices/cpd/environment/training/guidebooks/hazfacilities/ HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/explosive.cfm and http://www.hud.gov/offices/cpd/environment/review/qa/hazardfacilities.cfm

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
8. Farmland Protection Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.), particularly sections 1504(b) & 1541 7 CFR Part 658, "Farmland Protection Policy" (USDA)	<ul style="list-style-type: none"> Acquisition of undeveloped land Conversion of undeveloped land New construction Site clearance 	Project is located in area that includes prime farmland, unique farmland, or land of statewide or local importance. Can include forest land, pastureland or cropland, but not water or urbanized land. Urban land is exempt if the land is "already in" or "committed" to urban development per 7 CFR 685.2(a).	<p>Limited coverage of USDA online maps at: http://www.nrcs.usda.gov/technical/NRI/maps/</p> <p>NRCS soil maps (95% of nation's counties): http://websoilsurvey.nrcs.usda.gov/app/</p> <p>Alternatively, contact local Natural Resources Conservation Service (NRCS) office to determine the potential presence of protected farmland.</p>	<p>Site assessment by NRCS is required to determine impact of the farmland conversion. Form #AD-1006 rates 12 criteria. Sponsor must submit form to NRCS, which has 45 days to make a determination.</p> <p>Form AD-1006 and instructions: http://www.nrcs.usda.gov/programs/fppa/pdf_files/AD_1026_Instruct.pdf</p>	<p>County offices for Natural Resources Conservation Services (NRCS) listed at: http://offices.sc.egov.usda.gov/locator/app</p> <p>NRCS and FPPA: http://www.nrcs.usda.gov/programs/fppa/</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/farm-landprotection.cfm</p>
9. Floodplain Management E.O. 11988, "Floodplain Management", particularly section 2(a). 24 CFR Part 55 "Floodplain Management" (HUD)	<ul style="list-style-type: none"> Acquisition for construction or for existing bldg >4 units Disposition >4 units Financing >4 units Leasing >4 units New construction Substantial Rehabilitation (rehab cost >50% pre-rehab value or >20% density increase) 	Project is located within a Special Flood Hazard Area (100-year floodplain), or, if a critical action (e.g., nursing home; hospital; fire station) is located in a 500-year floodplain.	<p>FEMA Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Map (FHBM).</p> <p>FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: http://www.store.msc.fema.gov</p> <p>For unmapped areas, FEMA Community Status Book can provide information on flood hazards: www.fema.gov/fema/csb.shtm</p>	<p>Avoid direct or indirect support of floodplain development wherever there is a practicable alternative.</p> <p>Approval of project requires compliance with the decision-making provisions of §55.20, i.e., the "eight-step" process.</p> <p>Project may be approved only if there is no practicable alternative outside the floodplain. Project must apply appropriate mitigation.</p>	<p>FEMA: http://www.fema.gov/business/nfip/fmapinfo.shtm</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/floodplainmgmt.cfm</p> <p>8-Step" Public Notices: http://www.fema.gov/plan/ehp/ehplaws/eo11988.shtm</p> <p>State Floodplain Managers: http://www.floods.org/StatePOCs/map.asp</p>

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
10. Historic Preservation National Historic Preservation Act of 1966 (16 U.S.C. 470 <i>et seq.</i>), particularly sections 106 & 110. 36 CFR Part 800 "Protection of Historic Properties" (AHP)	Any undertaking having the potential to cause effect, such as: <ul style="list-style-type: none"> ▪ Acquisition ▪ Demolition ▪ Disposition ▪ Ground disturbance ▪ New construction ▪ Rehabilitation 	Project's area of potential effects [see §800.16(d)] contains: <ul style="list-style-type: none"> ▪ A property listed in, or eligible for listing in, the National Register of Historic Places; or, ▪ An historic district listed in, or eligible for listing in, the National Register of Historic Places; or, ▪ Compelling evidence of the high probability of archeological resources eligible for listing in the National Register of Historic Places. National Register Eligibility Criteria: http://www.achp.gov/nrcriteria.html HUD tribal database: www.hud.gov/offices/cpd/environment/tribal/	Information on historic resources available from National, State, Tribal and local registers/sources: <ul style="list-style-type: none"> ▪ National Register http://www.nr.nps.gov/ ▪ State Historic Preservation Office (SHPO) http://ncshpo.org ▪ Tribal Historic Preservation Office (THPO) http://www.nathpo.org ▪ Certified Local Government (CLG) preservation staff. 	Afford the Advisory Council on Historic Preservation a reasonable opportunity to comment, consistent with the procedures of 36 CFR Part 800 implementing the Section 106 process. Consultation with the SHPO is required. Consultation with THPO and interested parties and public participation may be required. The Section 106 process includes initiation of the process [§800.3], identification of historic properties [§800.4], assessment of adverse effects [§800.5], and resolution of adverse effects [§800.6]. A Memorandum of Agreement (MOA) stipulates how adverse effects will be resolved. Guidance on writing MOAs: http://www.npi.org/tools.html HUD database of Section 106 agreements (MOA & PA): http://www.hud.gov/offices/cpd/environment/section106/index.cfm	Advisory Council: http://www.achp.gov Federally-recognized Indian tribes: http://www.cast.uark.edu/other/nps/nacd/ National Register database: http://www.nr.nps.gov/ National Register: http://www.cr.nps.gov/nr/index.htm Preservation staff of a CLG (Certified Local Govern't) – local contact. NPS technical info: http://www.cr.nps.gov/hps/tps/index.htm Other resource links: http://www.nal.usda.gov/ric/ric/pubs/preserve.html HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/historicproperties.cfm

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11. Noise Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978. 24 CFR Part 51 Subpart B "Noise Abatement and Control" (HUD)	Residential and other noise-sensitive developments (e.g., hospitals, nursing homes, etc.) Required: ▪ Acquisition for residential or noise-sensitive use ▪ Conversion of land use from non-residential to residential ▪ New construction Encouraged: ▪ Rehabilitation	Project is located within: ▪ 1,000 feet of a major/busy roadway, ▪ 3,000 feet of a railway, ▪ 15 miles of an airport (civil or military). HUD interior noise goal is 45 decibels (DNL) or lower. HUD exterior noise goal is 55 decibels (DNL) or lower, although 65 DNL is considered acceptable.	Noise assessment data sources include: local or state highway departments; local or regional planning departments; public works departments; railroad dispatch offices; and airport operators. Airport noise contour maps are shown on Airport Layout Plan (civil airport) or AICUZ Study (military airfield). Civil airports subject to HUD noise requirements are those designated in the FAA's "National Plan of Integrated Airport System" (NPIAS): http://www.faa.gov/airports/planning_capacity/npias/reports/ • Both Commercial Service (CS) and Primary (P) airports have noise contours maps available General Aviation (GA) airports with less than 9000 enplanements may be assumed to not present a community noise concern; otherwise, consult airport operator	Perform noise assessment in accordance with the Noise Assessment Guidelines (NAG) in guidebook HUD-953-CPD(1). For airports, use the airport's noise contour maps to determine noise levels (the contour lines are expressed in DNL noise levels). Projected noise levels: ▪ 65-75 DNL – "Normally Unacceptable," requires mitigation or attenuation. ▪ >75 DNL "Unacceptable;" requires rejection. Noise barrier calculator: http://www.hud.gov/offices/cpd/environment/mitigation.cfm Noise hazard calculation (overall site DNL): Obtain necessary data and enter into the HUD online calculator tool: http://www.hud.gov/offices/cpd/environment/dnlcalculatortool.cfm Noise barrier calculator tool: http://www.hud.gov/offices/cpd/environment/mitigation.cfm	Barrier guidance (FHWA): http://www.fhwa.dot.gov/environment/keepdown.htm HUD noise guidebook: http://www.hud.gov/offices/cpd/environment/training/guidebooks/noise/

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
12. Water Quality (Sole Source Aquifers) Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) <i>et seq.</i> , and 21 U.S.C. 349), particularly section 1424(e) 40 CFR Part 149 "Sole Source Aquifers" (EPA)	<ul style="list-style-type: none"> Acquisition of undeveloped land Change of land use New construction 	Project is located within area of an EPA-designated sole source aquifer, unless project utilizes municipal water and sewer and has appropriate local drainage.	Designated sole source aquifers are listed on EPA web site: http://www.epa.gov/region8/water/solesource.html	Review of project by Regional EPA Office of Ground Water is required if activity is of a type and size specified in an agreement between EPA and HUD. Project may require memorandum of understanding (MOU) with EPA describing compliance to be followed.	EPA: http://cfpub.epa.gov/safewater/sourcewater/ EPA regional source water assessment program contact: http://cfpub.epa.gov/safewater/sourcewater.cfm?action=Contacts EPA – TMDL maps: http://www.epa.gov/OWOW/tmdl/index.html EPA – Septic Systems: http://cfpub.epa.gov/safewater/sourcewater.cfm?action=Septic HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/aquifer.cfm
13. Wetland Protection E.O. 11990, "Protection of Wetlands," particularly sections 2 & 5. Draft 24 CFR Part 55 "Floodplain Management" (42 FR 26961 – 5/25/97)	<ul style="list-style-type: none"> Acquisition of undeveloped land Change of land use New construction 	Project is located within, or has impact upon, a wetland.	National Wetlands Inventory maps are listed on FWS site: http://www.fws.gov/wetlands/data/index.html NWI maps are useful as a preliminary screen. Where site inspection or other information indicates potential for a wetland, delineation of a wetland by a qualified professional should occur.	Avoid adverse impacts upon wetlands and direct or indirect support of new construction in wetlands wherever there is practicable alternative. Approval of project requires compliance with the decision-making provisions of §55.20, i.e., the "eight-step" process. Project may be approved only if there is no practicable alternative outside the wetland.	U.S. Army Corp of Engineers: http://www.usace.army.mil/ECW/Pages/reg_faq.aspx and http://www.usace.army.mil/ECW/Pages/cecwo_reg.aspx U.S. Fish and Wildlife Service: http://wetlands.fws.gov/ EPA: http://www.epa.gov/owow/wetlands/ HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/wetland.cfm

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14. Wild & Scenic Rivers Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 <i>et seq.</i>), particularly section 7(b) & (c). 36 CFR Part 297 "Wild and Scenic Rivers" (USDA)	<ul style="list-style-type: none"> Acquisition of undeveloped land Change of land use Major rehabilitation New construction 	Project is located within one (1) mile of a designated Wild & Scenic River, or river being studied as a potential component of the Wild & Scenic River system.	Designated wild and scenic rivers are listed on the National Park Service site: http://www.rivers.gov/wildriverslist.html GIS shape files (maps) can also be downloaded from this site. Study Rivers (potential wild and scenic rivers): http://www.rivers.gov/study.html National River Inventory (NRI) listed rivers: http://www.nps.gov/ncrc/programs/rtca/nri/	Determination from the Forest Service must be obtained finding that the project will not have a direct and adverse effect on a designated river, nor invade or diminish values associated with such a river. Consultation with Forest Service is recommended to identify and eliminate direct and adverse effects.	National Park Service: http://www.nps.gov/rivers/ and http://www.nps.gov/ncrc/programs/rtca/nri/auth.html NEPA /CEQ Guidance: http://www.nps.gov/ncrc/programs/rtca/nri/hist.html Publications: http://www.rivers.gov/publications.html#guidelines HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/rivers.cfm

24 CFR Part 58.6 – Other Requirements

1. Airport Clear Zones 24 CFR Part 51 Subpart D "Siting of HUD-Assisted Projects in Clear Zones and Accident Potential Zones" (HUD)	<ul style="list-style-type: none"> Purchase or sale of property 	Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway.	Airport clear zone maps available from airport operations authority.	Purchase or sale of a property in a CZ requires notification to buyer per 24 CFR Part 58.6(d). The notice informs the prospective buyer of potential hazards from airplane accidents and the potential by airport or airfield operators who may wish to purchase the property at some point in the future.	Contact airport operator or nearest FAA District office. Sample notice and HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/airport.cfm
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2. Coastal Barriers Coastal Barrier Resources Act, as amended (16 U.S.C. 3501)	<ul style="list-style-type: none"> All activities having a physical impact 	Project is located in a community listed in the Coastal Barrier Resources System (CBRS). MT is not located with CBRA areas and the CBRA requirements are not applicable.	Coastal barriers also displayed on FEMA Flood Insurance Rate Maps (FIRM).	Federal funding is prohibited for projects located within a designated coastal barrier.	FEMA: http://www.fema.gov/pdf/nfip/manual200505/18cbrs.pdf HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/coastal.cfm
3. Flood Insurance Federal Disaster Protection Act of 1973, as amended. National Flood Insurance Reform Act of 1994 (42 U.S.C. sec 4001f) 44 CFR Parts 59-77 "Regulations of the National Flood Insurance Program" (FEMA)	All HUD programs that provide assistance to buildings. <u>Exceptions:</u> <ul style="list-style-type: none"> Leasing without rehab, acquisition or improvements Loans < \$5,000 repaid within 1 year Maintenance State-administered formula grants (i.e., CDBG, HOME & ESG programs) <u>Inapplicable:</u> <ul style="list-style-type: none"> Improvements or repairs costing less than the deductible of a standard flood insurance policy on a building (current FEMA deductible is \$500). 	Project is located within Special Flood Hazard Area (SFHA) is the 100-year floodplain).	FEMA Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM). FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: http://www.store.msc.fema.gov	Property owner must purchase and maintain flood insurance protection. Coverage is limited to the building and improvements only. No coverage is available for land. Coverage requirements: <ul style="list-style-type: none"> Grants – Life of building, regardless of transfer of ownership, and for total project cost (up to maximum coverage limit). Loans – Term of loan and for amount of loan (up to maximum limit). 	FEMA "Mandatory Purchase of Flood Insurance" Guidelines: http://www.fema.gov/business/nfip/ Nat'l Flood Insurance Program (NFIP): http://www.fema.gov/business/nfip/index.shtm and FEMA "FloodSmart": http://www.floodsmart.gov/floodsmart/pages/index.jsp Community status of participation in National Flood Insurance Program: www.fema.gov/fema/csb.shtm HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/floodinsurance.cfm http://www.hud.gov/offices/cpd/environment/review/qa/floodplainmgmt.cfm

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EXHIBIT 2-D

EIGHT-STEP DECISION-MAKING PROCESS

Note: Be sure to maintain documentation of each step and include it in the Environmental Review Record (ERR)

STEP 1. Determine whether the proposed action is located in a floodplain and/or wetland.

For information on floodplains or insurance, contact:

Floodplain Management Section
Montana Department of Natural Resources and Conservation
48 N. Last Chance Gulch
State of Montana
Helena, Montana 59620-1601
Phone Number: 444-6654

STEP 2. Notify and involve the public at the earliest possible time of a proposal to consider an action in a floodplain and/or wetland.

Refer to **Exhibit 2-F**, Early Public Notice for (Floodplains and/or Wetlands), regarding the public comment period and public hearing to discuss the proposed project.

STEP 3. Identify and evaluate practicable alternatives to locating the proposed action in a floodplain and/or wetland.

STEP 4. Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain and/or wetland.

STEP 5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the floodplain and/or wetland, and to restore and preserve its natural and beneficial values.

STEP 6. Reevaluate the proposed action to determine:

a) Whether it is still practicable in light of its exposure to flood hazards in the floodplain and/or wetland, the extent to which it will aggravate the current hazards to other floodplains and/or wetlands, and its potential to disrupt floodplain and/or wetland values; and

b) Whether alternatives preliminarily rejected at Step 3 of this section are practicable in light of the information gained in Steps 4 and 5 of this section.

STEP 7. **If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the floodplain and/or wetland, publish a final notice**

Refer to **Exhibit 2-G**, Notice of Explanation for Floodplains and/or Wetlands, regarding public comment period.

STEP 8. **Upon completion of the decision making process in Steps 1 through 7, implement the proposed action.**

EXHIBIT 2-E

DOCUMENTATION OF EIGHT-STEP DECISION MAKING PROCESS

The following form is for CDBG recipients to document compliance with the eight-step decision making process outlined in **Exhibit 2-D** required for projects located in or affecting a floodplain. Grant recipients must provide narrative specific to the steps outlined below (attach and reference additional narrative, maps, or studies, as appropriate):

1. DETERMINE IF PROPOSED ACTION IS LOCATED IN OR AFFECTS A FLOODPLAIN.

Describe how determination was made that the proposed CDBG project is located in or affects a floodplain.

2. INVOLVE PUBLIC IN DECISION-MAKING PROCESS.

Describe steps taken to involve the public and solicit responses. Attach proof of publication of **Exhibit 2-F**, Early Public Notice.

3. DETERMINE IF THERE IS A PRACTICABLE ALTERNATIVE.

For purposes of the eight-step process, “practicable” is defined as capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost, or technology. In some cases relocation of the proposed project away from a floodplain to another site may be the practicable and best alternative.

4. IDENTIFY IMPACTS.

Assess the direct and indirect impact of the proposed project in regards to the floodplain. For example, it might be found that locating a certain project within the floodplain might create a hazard to life or property, or as an alternative, locating some projects within the floodplain might increase the possibility of water pollution from wastes, such as may be the case with a sewage treatment plant located in the floodplain.

5. MITIGATE ADVERSE IMPACTS.

Determine how projected impacts can be adjusted by altering the project or using alternative construction methods to minimize impacts. If applicable, determine how the public could be protected from hazards or potential hazards.

6. REEVALUATE ALTERNATIVES.

After completing an evaluation of the proposed action, including evaluation of practicable alternatives and possible, adverse impacts, determine whether it is necessary in light of the further review concluded, to reevaluate the original alternatives considered. At this point a recommendation can be made to proceed with the proposed action, an alternate action, a limitation of the proposed project or alternate action, or take no action.

7. ANNOUNCE AND EXPLAIN DECISION TO THE PUBLIC.

Attach **Exhibit 2-G**, Notice of Explanation for Floodplains and/or Wetlands. Attach proof of publication, such as affidavit of publication or copy of newspaper notice containing date of publication and title of newspaper. At this stage, the public is formally informed of the determination as to the impact of the proposed project, any mitigation proposed, and whether there are any practicable alternatives to the proposed activity.

8. IMPLEMENT ACTION WITH APPROPRIATE MITIGATION.

Describe proposed steps to implement the project, including appropriate mitigation. Deviations from the proposed plan of action that would involve significant changes from the circumstances presented to the public as part of the Early Public Notice and Notice of Explanation should not be undertaken without repeating the eight-step process. Where appropriate, the CDBG grant recipient should also provide assurance that some agency will be responsible for the proper operation, maintenance, and replacement of the proposed project features either located in or affecting the floodplain.

EXHIBIT 2-F

EARLY PUBLIC NOTICE FOR FLOODPLAINS AND/OR WETLANDS

Date of Publication of Notice

The (name of grantee: City, Town or County of _____), Montana, is considering a (describe proposed project, proposed location and the total number of acres or square footage of floodplain involved for example: housing rehabilitation program for residences along Second Avenue between Main Street and Broadway Street, totaling 1.5 acres of floodplain involved) as a CDBG project under the Montana CDBG program. The project is located in the 100 year floodplain and/or wetland. The (City, Town or County) is interested in discussing alternatives to this project and receiving public comment regarding possible adverse impacts that could result from the project and suggestions for how to mitigate them. A public hearing is scheduled at (time) on (date) at (location) to discuss the proposed project. Please attend or send written comments to: (name of Environmental Certifying Officer and mailing address). Comments will be received until (date, a minimum of 15 calendar days shall be allowed for comment on the public notice). A full description of the proposed action may be reviewed at (Name of Public Office, such as City Hall or Planning Department, address, phone number and the hours of operation).

(Name) _____

Environmental Certifying Officer

COMMENT: After a minimum of 15 days following the publication of the Early Public Notice, a Notice of Explanation (**Exhibit 2-G**) must be published, allowing a minimum of 7 calendar days for public comment. Proof of publication must be submitted to DOC.

EXHIBIT 2-G

NOTICE OF EXPLANATION FOR FLOODPLAINS AND/OR WETLANDS

Date of Publication of Notice¹

The (Name of Grantee: City, Town or County) of _____, Montana intends to undertake a project located in the 100-year floodplain and/or wetland. The project involves (describe the proposed **project and reasons why the proposal must be located in the floodplain**. For example: housing rehabilitation and floodproofing of residences along Second Avenue between Main Street and Broadway Street. This program will provide improved housing conditions for 25 low and moderate income families. Proposed housing improvements cannot be undertaken in any other location because relocation costs would exceed available program resources. Failure to provide the rehabilitation and flood proofing assistance would result in the continued unsafe and unhealthy living conditions for the 25 families.)

It is the (City's, Town's or County's) judgement that the proposed improvements outweigh consideration of Executive Order _____.² **[Note: At this point grantees must add proper justification for this finding, such as providing mitigation through floodplain insurance, conformance with adopted floodplain regulations, or structural flood proofing. Also provide a short statement explaining the ramifications of any/all practical alternatives considered, but not selected; and all mitigation measures that are to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.]** A more detailed description of the project and the FEMA flood maps are available for citizen review at (Name of Public Office, such as City Hall or Planning Department, name of City or Town), Montana. Comments will be received until (date, a minimum of 7 calendar days shall be allowed for comment on the public notice).

(Name)
Environmental Certifying Officer
Complete Mailing Address

¹ Publish a minimum of 15 days following publication of Early Public Notice (Exhibit 2-F). A minimum of 7 calendar days shall be allowed for public comment. Proof of publication must be submitted to DOC.

² For a situation involving floodplains, enter Number 11988.
For a situation involving wetlands, enter Number 11990.

EXHIBIT 2-H

HISTORIC PRESERVATION REVIEW PROCESS

KEY DEFINITIONS USED IN THE SECTION 106 PROCESS

Key definitions related to historic preservation requirements and the Section 106 process are listed below:

Area of Potential Effects: the geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist.

Historic Property: any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register. This term includes, for the purposes of these regulations, artifacts, records, and remains that are related to and located within such properties. The term "eligible for inclusion in the National Register" includes both properties formally determined as such by the Secretary of the Interior and all other properties that meet National Register listing criteria.

National Register: the National Register of Historic Places maintained by the Secretary of the Interior.

National Register Criteria: the criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register.

State Historic Preservation Officer (SHPO): the official appointed or designated to administer the State Historic Preservation Program.

Undertaking: any project, activity, or program that can result in changes in the character or use of historic properties, if any such properties are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. "Undertakings" include new and continuing projects, activities, or programs and any of their elements not previously considered under Section 106.

THE SECTION 106 PROCESS

The following procedures outline the Section 106 process that Community Development Block Grant (CDBG) recipients must follow. All of the following steps apply equally to archaeological sites as well as to historic properties.

First: Determine if the Project is an "Undertaking" Under Section 106

It is the responsibility of the CDBG recipient, in consultation with SHPO, to determine whether or not a proposed CDBG activity constitutes an "undertaking" according to the definition noted above. For instance, in some cases, such as an economic development project involving CDBG financial assistance to a business that will result in no physical change or disturbance, the CDBG project would not constitute an "undertaking." In these cases, along with the documentation noted below, the Section 106 process would be completed. The CDBG Program Officer assigned to your project should also be consulted prior to making the determination. SHPO can be contacted at the following address:

State Historic Preservation Office
1410 Eighth Avenue
P.O. Box October 201302
Helena, MT 59620-1202
Telephone: 444-7715

Required Documentation - Documentation would only be required in the case of a determination that a project did not constitute an "undertaking" under Section 106. A letter to your CDBG Program Officer signed by the Environmental Certifying Official stating the determination and a letter of concurrence signed by SHPO are required.

Second: Establish Area of Potential Effects

Assuming a proposed CDBG project does constitute an "undertaking," grantees must consider and propose the undertaking's "area of potential effects" according to the definition noted above. The "area of potential effects" should be delineated on maps in a preliminary fashion according to the best judgment of the grantee. Later, at the next level, it may be necessary to adjust the "area of potential effects" after consulting with SHPO.

Third: Identify Historic Properties or Archaeological Sites within the Area of Potential Effects

Assuming that an undertaking and area of potential effects has been established, the grantee must review any existing information on historic properties or archaeological sites potentially affected by the undertaking, including any information concerning the likelihood that unidentified historic properties or archaeological sites may exist in the area of potential effects.

It is necessary to formally request the views of the Montana SHPO regarding further actions to identify historic properties that may be affected by completing Exhibit 2-I and providing the required information and attachments.

It is also the responsibility of the grantee to seek information locally on potential historic properties or archeological sites and potential effects of the CDBG project by contacting local organizations and individuals with knowledge of historic properties, including any local historical societies and Indian tribes.

By contacting SHPO, local individuals, and organizations or groups familiar with local historic properties or archaeological sites, the recipient will be able to determine whether there is a need for

further actions, such as field surveys. If the need for a special study or survey is indicated, your CDBG Program Specialist should be contacted immediately for further guidance.

Comment: The Region VIII office of the U.S. Department of Housing and Urban Development (HUD) discourages the use of CDBG funds for archaeological field surveys unless there is documented empirical evidence that significant archaeological resources have been identified within 1000 feet of the site of the proposed CDBG project or disturbance.

Fourth: Locate Any Historic Properties

The grantee, in consultation with SHPO, must make reasonable efforts to identify any historic properties or archaeological sites that may be affected by the undertaking and gather sufficient information to assist SHPO to evaluate the eligibility of these properties for the National Register [36 CFR Part 800.4 (b)].

Fifth: Evaluating Historical Significance

The grantee must assist SHPO to perform an evaluation of eligibility of historic properties for the National Register of properties that may be affected by the undertaking and that have not been previously evaluated for eligibility. If the grantee does not agree with SHPO as to the eligibility of particular historic properties or archaeological sites for the National Register, the grantee has the right to request a determination of eligibility from the Keeper of the National Register [36 CFR Part 800].

Sixth: When No Historic Properties are Found

In the event that SHPO and the grantee agree that no historic properties or archaeological sites exist that may be affected by the undertaking, written determination of this finding must be obtained from SHPO. In such cases, SHPO will issue a finding that the proposed activity does not pose a threat to significant cultural resources and that no further cultural resource review appears warranted for the proposed undertaking. The grantee should also notify interested persons and organizations of this determination and make the documentation leading to the decision available to the public. In these circumstances, the grantee is not required to take further steps in the Section 106 process [36 CFR part 800.4 (d)].

Seventh: Assess Effects

Grantees will progress to this stage if historic properties or archaeological sites exist that have been identified according to the preceding process and that may be affected by the undertaking. Where such properties or sites exist, it is necessary for the grantee to assess the effect of the CDBG project on these properties, in coordination with SHPO, and make one of the following three determinations of effect:

- < **Option #1: Finding of No Effect;**
- < **Option #2: An Effect is Found, but Effect is Not Adverse; or**
- < **Option #3: An Effect is Found and Effect is Adverse.**

Under Section 106, the criteria for determining an "effect" and "adverse effect" are as follows [36 CFR Part 800.9]:

Criteria of Effect: An "undertaking" has an effect on a historic property when the undertaking may alter characteristics of the property that may qualify the property for inclusion in the National Register. For the purpose of determining effect, alteration to features of a property's location, setting, or use may be relevant depending on a property's significant characteristics and should be considered.

Criteria of Adverse Effect: An "undertaking" is considered to have an adverse effect when the effect on a historic property may diminish the integrity of the property's location, design, setting, materials, workmanship, or association. Adverse effects may include outright physical destruction, damage, or alteration of all or part of the property, change in character or setting, or addition of inappropriate elements such as noise.

Option #1 - Finding of No Effect

In consultation with SHPO, the grantee may make a finding of "no effect." When the grantee concludes the undertaking will have no effect on historic properties or archaeological sites, the grantee shall notify SHPO by letter as well as any interested local historic preservation organization or individuals. Unless SHPO objects within 15 days of receiving such notice, the grantee is not required to take any further steps in the Section 106 process.

Required Documentation - A letter to your CDBG Program Officer, signed by the Environmental Certifying Official, stating the finding of "no effect" and a letter of concurrence signed by SHPO are required, along with the following materials:

1. A description of the undertaking including photographs, maps, and drawings, as necessary;
2. A description of the efforts used to identify historic properties or archaeological sites;
3. A statement of how and why the finding of "no effect" was found applicable; and
4. The views of SHPO, affected local governments, Indian tribes, Federal or state agencies, and the public, if any were provided, as well as a description of the means employed to gather those views.

Option #2 - An Effect is Found but Effect is Not Adverse

When a grantee finds, in consultation with SHPO, that the project or "undertaking" would have an effect on a historic property or archaeological site according to the "criteria of effect" noted above, the grantee must next decide if that effect is **adverse** or **not adverse**. This is done by the grantee applying the "criteria of adverse effect" noted above. If the grantee finds the effect is "not adverse," the recipient must obtain SHPO concurrence (in writing) with this determination and notify and submit to the Advisory Council on Historic Preservation summary information documenting the reasons for the finding. (See below for address of the Advisory Council.)

If the Advisory Council does not object to the finding of "no adverse effect" within 30 days of receipt of the notice, or if the Council objects but proposes changes that the grantee accepts, the Section 106 process is ended at this point. If the Advisory Council objects to the finding or the grantee does not agree with the changes proposed by the Council, the effect shall be considered adverse.

Required Documentation - For a finding of "no adverse effect," the following documentation must be maintained in the grantee's Environmental Review Record file:

1. A description of the undertaking including photographs, maps, and drawings, as necessary;
2. A description of the historic properties that may be affected by the undertaking;
3. A description of the efforts used to identify historic properties or archaeological sites;
4. A statement of how and why the criteria of "adverse effect" were found inapplicable; and
5. The views of SHPO, affected local governments, Indian tribes, Federal or state agencies, and the public, if any were provided, as well as a description of the means employed to gather those views.

Option #3 - An Effect is Found and Effect is Adverse

When an adverse effect on historic properties or archaeological sites is found, the grantee must notify the Advisory Council and consult with SHPO on ways to avoid or reduce the effects. The Council may participate in the consultation process. Interested individuals or public or private organizations should be informed through normal local public involvement procedures. The grantee can meet with interested members of the public or conduct a public information meeting for this purpose.

If the grantee and SHPO agree upon how the effects will be taken into account, they will execute a Memorandum of Agreement. The Council may choose to participate in this agreement. The SHPO should be consulted further as to developing the particular language of the Memorandum.

Required Documentation - For a finding of "no adverse effect," the following documentation must be maintained in the grantee's Environmental Review Record file:

1. A description of the undertaking including photographs, maps, and drawings, as necessary;
2. A description of the efforts used to identify historic properties or archaeological sites;
3. A description of the affected historic properties, using materials already compiled during the evaluation of significance, as appropriate;
4. A description of the undertaking's affects on historic properties;
5. A description and evaluation of any alternative or mitigation measures proposed;

6. A description of any alternative or mitigation measures that were considered but not chosen and the reasons for their rejection; and
7. A description of the grantee's efforts to obtain and consider the views of affected local governments, Indian tribes, and other interested persons.

HOW TO NOTIFY THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

The address for the Advisory Council on Historic Preservation is:

Advisory Council on Historic Preservation
Suite 401
730 Simms Street
Golden, CO 80401

PROGRAMMATIC AGREEMENTS

In the case of complicated CDBG projects where numerous, repeated historic reviews would have to be initiated (such as a housing rehabilitation project.) SHPO recommends that grantees execute a "programmatic agreement" with SHPO and the Advisory Council describing how the process of identification of possible historic properties and determination of effect will be administered for all individual project activities. Execution of a programmatic agreement can expedite the review of numerous properties. For example, a programmatic agreement may be desirable for a grantee administering a housing rehabilitation project that may involve individual historic reviews for dozens of residences proposed for rehabilitation. Grantees who believe that this type of arrangement may assist in the completion of their CDBG projects should contact their CDBG Program Officer for further guidance.

EXHIBIT 2-I

NOTICE TO STATE HISTORIC PRESERVATION OFFICE

(Date)

State Historic Preservation Office
Montana Historical Society
1410 Eighth Avenue
Helena, Montana 59620

Re: Consultation under 36 CFR Part 800 Community Development Block Grant Program

Dear _____:

The (name of Grantee) has approval for a Montana Community Development Block Grant (CDBG) of (amount) from the Montana Department of Commerce. This grant will involve (*include description of project, for example: replacing water lines, or providing housing rehabilitation grant assistance to low/moderate income families in 25 owner-occupied, single-family houses. The target area is Second Avenue between Main and Broadway Streets.*)

We request that you review the enclosed data and notify us either of (1) any sites, structures, or districts already listed in or determined eligible for listing in the National Register of Historic Places which could be affected by the proposed project or (2) your recommendations regarding the need for archeological or historical and architectural inventory of the project area. We understand that the effects of the proposed undertaking on properties listed in or determined to be eligible for listing in the National Register (already determined or determined as a result of inventory) will be discussed with you and the Advisory Council on Historic Preservation later.

(Please use this portion of the letter to describe the land and structures within the project area. For projects affecting tracts without structures, what has been the previous land use, has it been farmed, has it been an industrial park, are sewer and water lines already constructed through it, is it an improved roadway, etc.? For projects affecting standing structures, what are the general dates or the dates of buildings throughout the neighborhood or subdivision, what patterns of modifications have occurred to the buildings, etc.?) I am enclosing the following materials (aerials, maps, photos, etc.) that will give you a better understanding of the area and resources that will be affected.

If we do not receive a reply within 30 days, we will assume that you know of no properties or sites which are included in or eligible for inclusion in the National Register, which may be affected by the proposed undertaking. Also, if we do not identify any cultural property during

our review process, we will proceed with the project assuming that cultural resources have been adequately addressed.

Sincerely,

Signature and Typed Name of
Environmental Certifying Officer
Mailing Address
Telephone Number

NOTE: Please enclose maps, legal description, and pertinent photographs.

EXHIBIT 2-J

FINDING OF CATEGORICAL EXCLUSION

(Sample - Complete on Local Government Letterhead)

(Date)

(Name of CDBG liaison)

Montana Department of Commerce
Community Development Division
301 S. Park
P.O. Box 200523
Helena, MT 59620-0523

Dear *(Name of CDBG liaison)*:

It is the finding of the *(Name of Grantee: City, Town or County of _____)*, Montana, that the following activities approved for funding under the Montana CDBG program are defined as categorically excluded under 24 Part 58.35 of the Environmental Review Procedures for Title I Community Development Block Grant Programs, and that these activities are in compliance with the environmental requirements of related federal authorities. The activities and the statutory authority for exclusion are listed below:

List applicable activities, descriptions, and authority. **For example:**

1. *Second Street Improvements -- Paving of previously graveled road.*

Authority -- Section 58.35(a)(1)(ii): improvements replace or upgrade existing facilities.

2. *Local Residential Rehabilitation Grant Program -- Rehabilitation of 20 owner-occupied, single-family homes.*

Authority -- Section 58.35(a)(4): Rehabilitation and improvements within the specified guidelines.

Compliance with the environmental requirements of other federal authorities is indicated on the attached Statutory Checklist.

Sincerely,

Signature of Environmental Certifying
Official or Chief Elected Official

EXHIBIT 2-K

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOI/RROF)

Date of Publication of Notice

Name of Grantee: City, Town or County of _____

Mailing Address

City, Montana Zip

Telephone Number of Grantee

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

On or before (date¹), the above-named (City, Town or County) will request the Montana Department of Commerce to release funds under Title I of the Housing and Community Development Act of 1974, as amended, (PL93-383) for the following project:

PROJECT, TITLE OR NAME: *(For Example: Second Avenue Housing Rehabilitation Program.)*

PURPOSE OR NATURE OF PROJECT: *(For Example: Rehabilitation of 25 owner-occupied, single-family homes.)*

LOCATION (CITY, COUNTY, STATE): *(For Example: Second Avenue between Broadway Street and Main Street, City, County, Montana.)*

ESTIMATED COST OF PROJECT:

An Environmental Review Record documenting review of all project activities in respect to impacts on the environment has been made by the above-named (City, Town, or County). This Environmental Review Record is on file at the above address and is available for public examination or copying, upon request.

The (City, Town, or County of _____) will undertake the project described above with Community Development Block Grant funds provided by the Montana Department of Commerce, under Title I of the Housing and Community Development Act of 1974, as amended. The (City, Town, or County of _____) is certifying to the Department of Commerce that the (City, Town or County of _____) and (Mayor _____ or Commissioner _____), in his or her official capacity as (Mayor or Chairperson of the County Commission), consent to accept the jurisdiction of the federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making, and action; and that these responsibilities have been satisfied. The legal effect on the certification is that upon its approval, the (City, Town, or County) may use the CDBG funds, and the Department of Commerce will have satisfied its responsibilities under the National Environmental Policy Act of 1969 as delegated to the State of Montana through the 1981 Amendments to the Housing and Community Development Act.

The Department of Commerce will accept an objection to its approval of the release of funds and acceptance of the certification only if it is on one of the following bases:

¹ This date must be a minimum of 7 days **following** the Date of Publication or 10 days following the posting of this notice .

- (a) that the certification was not in fact executed by the chief executive officer or other officer approved by the Department of Commerce;
- (b) that the applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process;
- (c) the grant recipient has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by DOC; or
- (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental design.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and may be addressed to the CDBG Program, Department of Commerce, Community Development Division, P.O. Box 200523, 301 S. Park Avenue, Helena, Montana 59620.

Objections to the release of funds on bases other than those stated above will not be considered by the Department of Commerce. No objection received after (Date²) will be considered by the Department of Commerce.

Name of Mayor or Commissioner

City or Town Hall or County Courthouse

_____, Montana Zip Code

Name and Address of Chief Elected Official or Environmental Certifying Officer

² This date must be a minimum of 15 days **following** the anticipated date that the grantee will request release of funds from the Department of Commerce as provided for in Paragraph One of this Notice. It is advisable to allow 18 or 19 days to allow several days for mailing time. Proof of publication is required.

EXHIBIT 2-L

MONTANA DEPARTMENT OF COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

REQUEST FOR RELEASE OF FUNDS (RROF) (Pursuant to Section 104(h) of Title I of the Housing and Community Development Act of 1974 as Amended)

ENVIRONMENTAL FINDING OF CATEGORICAL EXCLUSION

1. NAME OF GRANTEE	2. GRANT NUMBER
3. ADDRESS (Include Street, City, State, ZIP Code)	4. REQUEST DATE

5. **REQUEST FOR RELEASE OF FUNDS.** Release of approved grant funds for the following project is requested.

PROJECT

GRANTEE

(If Other than applicant)

6. **CERTIFICATION.** With reference to the above project, I the undersigned officer of the applicant, certify:

That the applicant has at least seven (7) days prior to submitting this request for release of funds and certification, published and disseminated, in the manner prescribed by 24 CFR 58.45 a notice to the public (a copy of which is attached) in accordance with 24 CFR 58.70):

That the applicant has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project named above; that the applicant has complied with the National Environmental Policy Act of 1969; that the applicant has complied with environmental procedures, permit requirements and the statutory obligations of the laws cited in 25 CFR 58.5; and that the applicant has taken into account the environmental criteria, standards, permit requirements and other obligations applicable to the project under the other related laws and authorities cited in 24 CFR 58.5;

That the level of environmental clearance carried out by the applicant in conjunction with this project () did () did not require the preparation and dissemination of an environmental impact statement;

That the dates upon which all statutory and regulatory time periods for review, comment, or other response or action in regard to this clearance began and ended as indicated below; applicant is in compliance with the requirements of 24 CFR Part 58;

ITEM	COMMENCE	EXPIRE
	MO/DAY/YR	MO/DAY/YR

7-day Notice of Intent to
Request Release of Funds:
Publication

15-day DOC Decision Period

Other (Specify)

That I am authorized to, and do, consent to assume the status of responsible federal officer under the National Environmental Policy Act of 1969 and each provision of the law specified in 24 CFR 58.5 insofar as the provisions of these laws apply to state and federal responsibilities for environmental review, decisionmaking and action assumed and carried out by the applicant; that by so consenting, I assume the responsibilities, where applicable, for the conduct of environmental review, decisionmaking, and action as to environmental issues, preparation and circulation of draft, final and supplemental environmental impact statements, and assumption of lead agency or cooperating agency responsibilities for preparation of such statements on behalf of State and Federal agencies, when these agencies consent to such assumption. That I am authorized to consent to, and do, accept on behalf of the applicant and personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my official capacity as certifying officer of the applicant.

_____	_____
	Date

(Signature, Title and Address of Certifying Officer or
Chief Elected Official)

WARNING -- Section 1001 of Title 18 of the United States Code and Criminal Procedures shall apply to this certification. Title 18 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter with the jurisdiction of any department or agency of the united States, shall be fined not more than \$10,000 or imprisoned not more that five years or both.

EXHIBIT 2-M

MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

CONSOLIDATED ENVIRONMENTAL ASSESSMENT FORM

INTRODUCTION

The following form is for the use of Community Development Block Grant (CDBG) recipients who must prepare an Environmental Assessment (EA) as required by HUD Environmental Review procedures for the CDBG program (24 CFR 58.36). Satisfactory completion of this form will meet the requirements of the federal Housing and Community Development Act as well as the national Environmental Policy Act (NEPA).

CDBG recipients must also demonstrate compliance with the environmental requirements of the other related federal environmental laws and regulations listed in the HUD Statutory Checklist (24 CFR 58.5). For this reason, the Statutory Checklist requirements have been combined into this single consolidated form. An index of the applicable federal statutes and regulations is found at the end of this form. Where noted, the numbers that appear to the right of the environmental subject areas listed in the checklist correspond to the listing of statutes found in the index.

The requirements of the Montana Environmental Policy Act (MEPA) and the uniform State administrative rules adopted pursuant to the Act have also been integrated into the consolidated form.

PROJECT IDENTIFICATION

Recipient:

(City, Town, or County)

Chief Elected Official:

Environmental Certifying Officer:

CDBG Contract #:

Project Name:

(Example: Lonesome Dove Water Distribution System)

Person Preparing this
Environmental Assessment:

Phone Number:

Instructions for Completing this Form

The following instructions should be presented and evaluated in a level of detail which is appropriate to the following considerations:

- (a) the complexity of the proposed action;
- (b) the environmental sensitivity of the area affected by the proposed action;
- (c) the degree of uncertainty that the proposed action will have a significant impact on the quality of the human environment;
- (d) the need for and complexity of mitigation required to avoid significant environmental impacts.

In all cases, the CDBG grant recipient should reference and attach additional narrative providing the specific information requested or documentation supporting the evaluation of the impact of the proposed project or activity as it relates to each environmental subject area. The narrative should also note, where applicable, the source of the evaluation, including date of contact, page reference to pertinent source documents, and the name and title or persons contacted, along with the name of the specific organization or agency.

Environmental information and assistance in preparing an environmental assessment can be obtained from a wide variety of sources. Possible sources of information include existing plans and studies, knowledgeable local residents and officials such as the county sanitarian, city or county planning board or department, local officials with the U.S. Soil and Conservation Service (SCS) or local conservation district, as well as local representatives of the State Fish, Wildlife & Parks Department, to list just a few examples. Grant recipients may also contact the State and federal agencies listed in **Exhibit 2-O** for information and assistance.

The Department of Commerce Community Development Bureau maintains copies of environmental assessments prepared on previous projects that may be useful to grant recipients, as well as full copies of applicable federal and State environmental statutes and related information. Copies of the HUD publication, *Environmental Review Guide for Community Development Block Grant (CDBG) Programs*, can be requested from the CDBG program specialist assigned to your project.

EVALUATION OF ENVIRONMENTAL IMPACT

Provide the information requested below and attach additional narrative as appropriate.

- 1. Describe the proposed action or activity, including construction and end-product (attach maps and graphics as necessary).
- 2. Describe the project site and surrounding area(s), including existing site use and environmental conditions (attach map as applicable).
- 3. Describe the benefits and purpose of the proposed action.
- 4. Describe all sources of project funding:

5. Describe any project plans or studies which are relevant to the project.
6. Proposed implementation schedule.
7. Compliance with any applicable local plans, ordinances, or regulations.

Project is in Compliance

	Yes	No	Not Applicable
Local Comprehensive (Growth Management) Plans including housing, land use and public facilities elements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Local zoning ordinances or land use regulations, such as permit systems or soil conservation district requirements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. Evaluation of impact, including cumulative and secondary impacts, on the **Physical Environment:**

Please complete the following checklist. Attach narrative containing more detailed analysis of topics and impacts that are potentially significant.

Key Letter: **N** - No Impact/Not Applicable; **B** - Potentially Beneficial; **A** - Potentially Adverse;
P - Approval/ Permits Required; **M** - Mitigation Required

KEY	Impact Categories-- PHYSICAL ENVIRONMENT	Source of Documentation Note date of each contact or page reference. Attach additional material as applicable. Where appropriate, please fully explain in attached materials.
_____	Soil Suitability, Topographic and/or Geologic Constraints	
	HUD Environmental Criteria--24 CFR Part 51:	
_____	51(b) Noise--Suitable Separation Between Housing & Other Noise Sensitive Activities & Major Noise Sources (Aircraft, Highways & Railroads) ^{8*}	
_____	51(c) Hazardous Facilities--Acceptable Separation Distance from Explosive and Flammable Hazards (Chemical/ Petrochemical Storage Tanks & Facilities-- ex., Natural Gas Storage Facilities & Propane Storage Tanks) ^{7*}	
_____	51(d) Airport Runway Clear Zones-- Avoidance of Incompatible Land Use in Airport Runway Clear Zones ^{7*}	
_____	EPA Hazardous Waste Sites, or Other Hazards or Nuisances Not Covered Above	
_____	Lead-based Paint ¹³	
_____	Asbestos ¹⁴	
_____	Effects of Project on Surrounding Air Quality or Any Effects of Existing Air Quality on Project ^{1*}	
_____	Groundwater Resources & Aquifer ^{a 10*}	
_____	Surface Water/Water Quality, Quantity & Distribution ^{10.*}	

* See index at end of form.

^aIncluding Sole Source Aquifer. Contact DOC for further information regarding Missoula-area projects.

Key Letter: **N** - No Impact/Not Applicable; **B** - Potentially Beneficial; **A** - Potentially Adverse;
P - Approval/ Permits Required; **M** - Mitigation Required

KEY	Impact Categories-- PHYSICAL ENVIRONMENT	Source of Documentation Note date of each contact or page reference. Attach additional material as applicable. Where appropriate, please fully explain in attached materials.
	Floodplains & Floodplain Management ^{5*}	
_____	Wetlands Protection ^{11*}	
_____	Agricultural Lands, Production, & Farmland Protection ^{3*}	
_____	Vegetation & Wildlife Species & Habitats, Including Fish ^{4*}	
_____	Unique, Endangered, Fragile, or Limited Environmental Resources, Including Endangered Species ^{2*}	
_____	Unique Natural Features	
_____	Access to and Quality of Recreational & Wilderness Activities, and Public Lands, Including Federally Designated Wild & Scenic Rivers ^{12*}	

9. Evaluation of impact, including cumulative and secondary impacts, on the **Human Population** in the area to be affected by the proposed action:

Please complete the following checklist. Attach narrative containing more detailed analysis of topics and impacts that are potentially significant.

Key Letter: **N** - No Impact/Not Applicable; **B** - Potentially Beneficial; **A** - Potentially Adverse;
P - Approval/Permits Required; **M** - Mitigation Required

KEY	Impact Categories-- HUMAN POPULATION	Source of Documentation Note date of each contact or page reference. Attach additional material as applicable. Where appropriate, please fully explain in attached materials.
_____	Visual Quality--Coherence, Diversity, Compatible Use, and Scale Aesthetics	
_____	Historic Properties, Cultural, and Archaeological Resources ⁶	
_____	Changes in Demographic (Population) Characteristics	
_____	Environmental Justice ^{13 *}	
_____	General Housing Conditions--Quality & Quantity	
_____	Displacement or Relocating of Businesses or Residents	
_____	Human Health	
_____	Local Employment & Income Patterns--Quantity and Distribution of Employment	
_____	Local and State Tax Base & Revenues	
_____	Educational Facilities	
_____	Commercial and Industrial Facilities, Production & Activity	
_____	Health Care	
_____	Social Services	

Key Letter: **N** - No Impact/Not Applicable; **B** - Potentially Beneficial; **A** - Potentially Adverse;
P - Approval/Permits Required; **M** - Mitigation Required

KEY	Impact Categories-- HUMAN POPULATION	Source of Documentation Note date of each contact or page reference. Attach additional material as applicable. Where appropriate, please fully explain in attached materials.
_____	Social Structures & Mores (Standards of Social Conduct/Social Conventions)	
_____	Land Use Compatibility	
_____	Energy Consumption	
_____	Solid Waste Disposal ^{9*}	
_____	Waste Water--Sewage System	
_____	Storm Water	
	Community Water Supply	
_____ _____	Public Safety: Police	
_____	Fire	
_____	Emergency Medical	
_____	Parks, Playgrounds, & Open Space	
_____	Cultural Facilities, Cultural Uniqueness, & Diversity	

Key Letter: **N** - No Impact/Not Applicable; **B** - Potentially Beneficial; **A** - Potentially Adverse;
P - Approval/Permits Required; **M** - Mitigation Required

KEY	Impact Categories-- HUMAN POPULATION	Source of Documentation Note date of each contact or page reference. Attach additional material as applicable. Where appropriate, please fully explain in attached materials.
_____	Transportation--Air, Rail & Auto (Including Local Traffic)	
_____	Consistency with Other State Statutes or Local Ordinances, Resolutions, or Plans (<i>to be added by local community</i>)	

10. Describe and analyze reasonable alternatives to the proposed activity whenever alternatives are reasonably available and prudent to consider, and discuss how the alternatives could be implemented, if applicable.
11. Where applicable, list and evaluate mitigation actions, stipulations, and other controls which will be enforced by the local government or another governmental agency.
12. Is the proposed project in compliance with all applicable Federal, State, and local laws and regulations?

☐ Yes ☐ No

LEVEL OF CLEARANCE FINDING:

Based on the foregoing environmental review, it is concluded that:

[] FINDING: A request to the Montana Department of Commerce for release of funds for the within project **is not** an action significantly affecting the quality of the human environment, and no EIS is required. A Finding of No Significant Impact (FONSI) can be made.

OR

[] FINDING: A request to the Montana Department of Commerce for release of funds for the within project **is** an action significantly affecting the quality of the human environment, and an EIS is required.

Finding Executed by:

Name (Typewritten):

Title: Environmental Certifying Officer

Signature:

Date:

INDEX OF APPLICABLE FEDERAL STATUTES AND REGULATIONS INCLUDED IN THE CHECKLIST

1. Air Quality

- a. Clean Air Act (42 U.S.C. 7401 et seq.) as amended; particularly section 17(c) and (d) (42 U.S.C. 7506(c) and (d)).
- b. Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency-- 40 CFR parts 6, 51, and 93).

2. Endangered Species

- a. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended; particularly section 7 (16 U.S.C. 1536).

3. Farmlands

- a. Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).
- b. Farmland Protection Policy (U.S. Department of Agriculture 7 CFR Part 658).

4. Fish and Wildlife

- a. Fish and Wildlife Coordination Act (16 U.S.C. 661-666c).

5. Floodplain

- a. Executive Order 11988, Floodplain Management, May 24 1977 (42 FR 26951, 3 CFR, 1977 Comp., as interpreted in HUD regulations at 24 CFR Part 55.
- b. Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128).
- c. National Flood Insurance Program (44 CFR 59-79).

6. Historic Properties

- a. The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2), except as provided in ☐58.17 for Section 17 projects.
- b. Executive Order 11593 - Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971-1975 Comp., particularly section 2(c).

- c. 36 CFR Part 800 with respect to HUD programs other than Urban Development Grants (UDAG)
- d. The Reservoir Salvage Act of 1960 as amended by the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), particularly section 3 (16 U.S.C 469a-1).

7. Man-made Hazards

- a. Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature, 24 CFR Part 51, Subpart C, (49 FR 5103, 2/10/84).
- b. HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, 9/10/79.
- c. Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields, 24 CFR Part 51, Subpart D (49 FR 880, 1/6/84)

8. Noise

- a. Noise Abatement and Control, 24 CFR Part 51, Subpart B, (44 FR 40861, 7/12/79, as amended at 61 FR 13333, 3/26/96).

9. Solid Waste Disposal

- a. Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901-6987).
- b. U.S. Environmental Protection Agency (EPA) Implementing Regulations 40 CFR Parts 240-265.

10. Water Quality

- a. Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1376).
- b. The Safe Drinking Water Act of 1974, as amended (42 U.S.C. 69-01-6978, 300f-300j-10).
- c. U.S. Environmental Protection Agency (EPA) Implementing Regulations 40 CFR Parts 100-149.
- d. Missoula, Montana Sole Source Aquifer, in accordance with Section 1424 (e) of the Safe Drinking Water Act, 42 U.S.C. Section 300h-3 (1982).

11. Wetlands

- a. Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., particularly sections 2 and 5; and Applicable State Legislation or Regulations.

12. Wild and Scenic Rivers

- a. Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et. seq.) as amended, particularly section 7(b) and (c), (16 U.S.C. 1278 (b) and (c)).

Note: *In Montana, this act applies to the North Fork of the Flathead River from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir; and, the Missouri River consisting of the segment from Fort Benton, one hundred and forty-nine miles downstream to Fred Robinson Bridge.*

13. Environmental Justice

- a. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. P. 859. (24 CFR Part 58.5, April 30, 1996)

14. Lead-based Paint

HUD Lead-based Paint Standards (24 CFR Part 35) and Sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act that appear within Title X of the Housing and Community Development Act of 1992.

15. Asbestos

OSHA's asbestos standard (29 CFR 1926.1101) and EPA asbestos sections of NESHAP (National Emission Standard for Hazardous Air Pollutants), administered by Montana Department of Environmental Quality's Asbestos Control Program.

EXHIBIT 2-N

COMBINED NOTICE: FINDING OF NO SIGNIFICANT IMPACT and NOTICE TO PUBLIC OF REQUEST FOR RELEASE OF FUNDS (FONSI/NOI/RROF)

Date of Publication of Notice

City, Town or County

Mailing Address

City, State, Zip Code

Telephone

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

On or before (date¹) the above-named (City, Town or County) will request the Montana Department of Commerce (DOC) to release Community Development Block Grant (CDBG) funds provided under Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383) for the following project:

CDBG Project Title or Name

Purpose or Nature of the CDBG Project *(Insert brief description.)*

City, County, State - of CDBG Project)

Location -

Finding of No Significant Impact

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and accordingly the above named (City, Town, or County) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for the decision not to prepare such Statement are as follows *(Set forth reasons for decision.)*:

(insert response)

¹ _____
Earliest date for submittal of REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION (Exhibit 2-Q) is one day after termination of public comment period set for the Finding of No Significant Impact.

An Environmental Review Record documenting review of all project activities in respect to impacts on the environment has been made by the above-named (City, Town, or County). This Environmental Review Record is on file at the above address and is available for public examination and copying upon request between the hours of _____ and _____.

No further environmental review of such project is proposed to be conducted prior to the request for release of CDBG project funds.

Public Comments on Findings

All interested agencies, groups and persons disagreeing with this decision are invited to submit written comments for consideration by the (City, Town, or County) to the (office of the undersigned or other specified place) on or before (date²). All such comments so received will be considered and the (City, Town, or County) will not request release of funds or take any administrative action on the project prior to the date specified in the preceding sentence.

Release of Funds

The (City, Town, or County of _____) will undertake the project described above with CDBG funds provided by DOC under Title I of the Housing and Community Development Act of 1974, as amended. (City, Town, or County) is certifying to DOC that (City, Town or County and chief executive officer/other certifying official as approved by DOC), in his or her official capacity as (office) consents to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making, and action; and that these responsibilities have been satisfied. The legal effect on the certification is that upon its approval, the (City, Town, or County of _____) may use the CDBG funds and DOC will have satisfied its responsibilities under the National Environmental Policy Act of 1969.

Objections to State Release of Funds

The Department of Commerce will accept an objection to its approval of the release of funds and acceptance of the certification only if it is on one of the following bases:

- (a) that the certification was not in fact executed by the chief executive officer or other officer approved by the Department of Commerce;
- (b) that the applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process;
- (c) the grant recipient has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by DOC; or

² A minimum of 15 days after publication, or 18 days after the posting of this notice.

(d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental design.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and may be addressed to: Department of Commerce, Community Development Division, 301 S. Park Avenue, P.O. Box 200523, Helena, Montana 59620.

Objections to the release of funds on bases other than those stated above will not be considered by DOC. No objection received after (date³) will be considered by DOC.

Name of Environmental Certifying
Officer or Chief Elected Official

Date

Street Address

City, County, State, Zip Code

³ Estimate this date as a minimum of 15 days after the date that the Grantee anticipates **DOC will receive the request**. See 24 CFR Part 58. It is advisable to allow 18 or 19 days to allow several days for mailing time. **Proof of publication is required.**

EXHIBIT 2-O

NOI / RROF AND FONSI / NOI / RROF DISTRIBUTION LIST CHECK APPLICABLE AGENCIES

State Agencies

- _____ Montana Department of Commerce
Community Development Division
301 S. Park
P.O. Box 200523
Helena, MT 59620-0523
Ph: 841-2770
- _____ Montana Department of Fish, Wildlife & Parks
Resource Assessment Unit
P.O. Box 200701
1420 East Sixth Avenue
Helena, MT 59620-0701
Ph: 444-5670
- _____ Montana Department of Environmental Quality
P.O. Box 200901
1520 East Sixth Avenue
Helena, MT 59620-0901
Ph. 444-5263
- _____ Montana Department of Natural Resources & Conservation
1625 Eleventh Avenue
P.O. Box 201601
Helena, MT 59620-1601
Ph. 444-6743
- _____ Montana Environmental Quality Council
P.O. Box 201704
Helena, MT 59620-1704
Ph. 444-3742
- _____ Montana State Historic Preservation
Preservation Officer
P.O. Box 201202
1410 Eighth Avenue
Helena, MT 59620-1202
Ph. 444-7717

Federal Agencies

_____ U.S. Environmental Protection Agency
Montana Office, Federal Building
10 W. 15th Street STE 3200
Helena, Montana 59626
Attention: EIS Review
Ph. 457-5000

_____ U.S. Fish & Wildlife Service
Sub-office Coordinator
2900 Fourth Ave. N, Room 301
Billings, MT 59101
Ph. 247-7366

_____ National Park Service

Local Agencies

_____ Local Conservation District
(List Name and Address)

_____ Local Government Planning Agency
(List Name and Address)

_____ Local Historical Society
(List Name and Address)

Other:

_____ Appropriate Tribal Historic Preservation Office

Visit the following website and select the appropriate county to identify the appropriate office(s) and officer(s) to contact:
<http://egis.hud.gov/tdat/Tribal.aspx>

_____ Please contact the Montana SHPO office for a list of all other interested parties that need to be contacted. Please write the name and contact information of the other parties contacted at SHPO's direction in the space below.

EXHIBIT 2-P

FINDING OF EXEMPTION FOR ALL PROJECT ACTIVITIES

(Sample - Completed on local government letterhead.)

(Date)

(Name of CDBG Program Officer)
Montana Department of Commerce
301 S. Park Avenue
P.O. Box 200523
Helena, MT 59620-0523

Dear *(Name of CDBG Program Officer)*:

On _____, 200____, the *Town (City or County)* of _____ received notice from the Montana Department of Commerce that the *(City's, Town's, or County's)* application for an *(economic development) (housing) (public facilities)* project under the Montana Community Development Block Grant (CDBG) Program has been tentatively approved.

Pursuant to this notification, it is the finding of the *(Town, City, or County)* that all of the following project activities approved for funding under the State-administered CDBG Program are defined as "exempt" under 24 CFR Part 58.34, and meets the conditions specified therein for such exemption, of the Environmental Review Procedures for the Title I CDBG Program, and that the costs associated with conducting these activities are defined as reimbursable under 24 CFR Part 570.200(h) of the CDBG Regulations:

(List all project activities here.)

Sincerely,

Signature of
Environmental Certifying Officer
or Chief Elected Official

EXHIBIT 2-Q

REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION (RROF) FOR AN ENVIRONMENTAL ASSESSMENT

(Pursuant to Section 104(h) of Title I of the Housing and
Community Development Act of 1974 as Amended)

ENVIRONMENTAL -- FOR ENVIRONMENTAL ASSESSMENT*

1. NAME OF GRANTEE	2. GRANT/CONTRACT NUMBER
3. ADDRESS (Include Street, City, State, ZIP Code.)	4. REQUEST DATE

5. **REQUEST FOR RELEASE OF FUNDS.** Release of approved grant funds for the following project is requested.

PROJECT

GRANTEE
(If Other than applicant)

6. **CERTIFICATION.** With reference to the above project, I the undersigned officer of the applicant, certify:

- That the applicant has at least fifteen (15) days prior to submitting this request for release of funds and certification, published and disseminated, in the manner prescribed by 24 CFR 58.43 a notice to the public (a copy of which is attached) in accordance with 24 CFR 58.70);
- That the applicant has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project named above; that the applicant has complied with the National Environmental Policy Act of 1969; that the applicant has complied with environmental procedures, permit requirements and the statutory obligations of the laws cited in 25 CFR 58.5; and that the applicant has taken into account the environmental criteria, standards, permit requirements and other obligations applicable to the project under the other related laws and authorities cited in 24 CFR 58.5;
- That the level of environmental clearance carried out by the applicant in conjunction with this project [] did [] did not require the preparation and dissemination of an environmental impact statement;
- That the dates upon which all statutory and regulatory time periods for review, comment, or other response or action in regard to this clearance began and ended as indicated below; applicant is in compliance with the requirements of 24 CFR Part 58;

	COMMENCE MO/DAY/YR	EXPIRE MO/DAY/YR
15-day Notice of No Significant Impact: Publication		
15-day DOC Decision Period		
Other (Specify)		

- That I am authorized to, and do, consent to assume the status of responsible federal officer under the National Environmental Policy Act of 1969 and each provision of the law specified in 24 CFR 58.5 insofar as the provisions of these laws apply to state and federal responsibilities for environmental review, decisionmaking and action assumed and carried out by the applicant; that by so consenting, I assume the responsibilities, where applicable, for the conduct of environmental review, decisionmaking, and action as to environmental issues, preparation and circulation of draft, final and supplemental environmental impact statements, and assumption of lead agency or cooperating agency responsibilities for preparation of such statements on behalf of State and Federal agencies, when these agencies consent to such assumption.
- That I am authorized to consent to, and do, accept on behalf of the applicant and personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my official capacity as certifying officer of the applicant.

Signature, Title and Address of Certifying Officer or Chief Elected Official

Date

WARNING -- Section 1001 of Title 18 of the United States Code and Criminal Procedures shall apply to this certification. Title 18 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter with the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

EXHIBIT 2-R

FINDING OF EXEMPTION FOR ALL PROJECT ACTIVITIES (FOR CERTAIN CATEGORICALLY EXCLUDED ACTIVITIES)

(Sample - Complete on Local Government Letterhead)

(Date)

(Name of CDBG liaison)

Montana Department of Commerce
Community Development Division
301 S. Park Avenue
PO Box 200523
Helena, MT 59620-0523

Dear *(Name of CDBG liaison)*:

On _____, 200__ the *(name of community)* received notice from the Montana Department of Commerce that the application for a *(economic development, housing, or public facility)* project under the Montana Community Development Block Grant (CDBG) Program has been tentatively approved. Pursuant to this notification, it is the finding of *(name of community)* that the following activities approved for funding under the State administered CDBG Program are defined as categorically excluded under 24 CFR Part 58.35. Furthermore, it is the finding of *(name of community)*, after completion of the Statutory Checklist, that the activities listed below are also exempt under 24 CFR 58.34 (a) (10):

(Describe All Project Activities Here)

Sincerely,

Signature of Chief Elected Official

EXHIBIT 2-S

POTENTIAL AGENCY CONTACTS FOR ENVIRONMENTAL RESOURCES

State Agencies:

DOC	Department of Commerce, Census and Economic Information Center, 301 S. Park, PO Box 200505, Helena, MT 59620-0505. Phone (406) 841-2739.
DEQ	Department of Environmental Quality, Permitting and Compliance Division, 1520 E. 6th Ave., PO Box 200901, Helena, MT 59620-0901. Phone (406) 444-4323.
FWP	Department of Fish, Wildlife and Parks, 1420 E. 6th, Helena, MT 59620. Phone (406) 444-2535.
DOLI	Department of Labor and Industry, 1327 Lockey, PO Box 1728, Helena, MT 59624. Phone (406) 444-9091.
DNRC	Department of Natural Resources and Conservation, 1625 11 th Ave., PO Box 201601, Helena, MT 59620-1601. Phone (406) 444-2074
DOT	Department of Transportation, 2701 Prospect Ave., PO Box 201001, Helena, MT 59620. Phone (406) 444-6200.
SHPO	State Historic Preservation Office, 1410 8th Ave., PO Box October 201302, Helena, MT 59620. Phone (406) 444-7715.

Federal Agencies:

BIA	Bureau of Indian Affairs, 316 N. 26 th St., Billings, MT 59101. Phone (406) 247-7970.
BLM	Bureau of Land Management, PO Box 30157, Billings, MT 59107. Phone (406) 538-7461.
FAA	Federal Aviation Administration, 2725 Skyway Dr., Helena, MT 59602. Phone (406) 449-5271.
NPS	National Park Service, PO Box 25287, Denver, CO 80225-0287. Phone (303) 969-2850.
NRCS	Natural Resource Conservation Service, 10 E. Babcock St., Bozeman, MT 59771. Phone (406) 587-6811.
OSHA	Occupational Safety and Health Administration, 2900 4 th Ave. N., Billings, MT 59101. Phone (800) 488-7087.
USACE	U.S. Army Corps of Engineers, 10 W. 15 th St., Ste. 2200, Helena, MT 59626. Phone (406) 441-1375.

- USDOT U.S. Department of Transportation, 2880 Skyway Dr., Helena, MT 59602. Phone (406) 449-5303.
- USEPA U.S. Environmental Protection Agency, Montana Office, 10 W. 15 Street Ste. 3200, Helena, MT 59626. Phone (406) 457-5000.
- USFWS U.S. Fish and Wildlife Service, Ecological Services, 100 N. Park, Ste. 320, Helena, MT 59601. Phone (406) 449-5225.
- USFS U.S. Forest Service, Region 1, PO Box 7669, Missoula, MT 59807. Phone (406) 329-3150.

SUMMARY OF SOURCES FOR ENVIRONMENTAL INFORMATION

Environmental Resources	Contact	Type of Information Available
General Land Use	Local planning agencies	Zoning, land use classifications
Important Farmland	NRCS	Soil surveys
Formally classified lands	DNRC, FWP, NPS, BLM, USFS, BIA, USACE	State lands, monuments, landmarks, wild and scenic rivers, wilderness areas, State or national parks, reservations, recreational areas
Floodplains	DNRC, County Disaster Coordinator	Floodplain information
Wetlands	NRCS, USACE, FWP, USFWS	Soil surveys, National Wetland Inventory maps, and Section 404 issues
Cultural resources	SHPO, THPO	Historic and archaeological sites. Visually sensitive areas
Biological resources	USFWS, FWP	Threatened and endangered species, critical habitats, species of special concern
Water quality	USEPA, DEQ, DNRC, FWP	Discharge permits, water appropriation permits, sole source aquifers, nondegradation, underground storage tanks
Socio-Economic / Environmental Justice	Census Bureau, DEQ, USEPA, Local civic organizations	Economic data, location of minority and low-income populations
Air quality	DEQ	State Implementation Plan
Transportation	FAA, MDOT, USDOT	Airports, highway safety
Noise	DOT, DOLI, USEPA, OSHA, FAA	Noise levels/restrictions

EXHIBIT 2-T

(Sample) COMBINED FONSI/NOI/RROF for SRF/CDBG funded projects

Date: _____

COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT and NOTICE TO PUBLIC OF REQUEST FOR RELEASE OF FUNDS (FONSI/NOI/RROF)

TO ALL INTERESTED GOVERNMENTAL AGENCIES AND PUBLIC GROUPS

On or before _____, (...*Tamarack County*...) will request the Montana Department of Commerce (DOC) to release Community Development Block Grant (CDBG) funds provided under Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383) for the following project:

Project	(... <i>Pinedale Wastewater Improvements Project</i> ...)
Location	(... <i>Pinedale, Montana</i> ...)
SRF Project Number	(... <i>C301181-AA</i> ...)
Total Cost	(... <i>\$870,000</i> ...)

As required by state and federal rules for determining whether an Environmental Impact Statement is necessary, an environmental review has been performed on the aforementioned project.

Project Summary

The community of (...*Pinedale*...), through its Preliminary Engineering Report (PER) for the (...*Pinedale County Water & Sewer District*...), has identified the need to (...*upgrade portions of its wastewater collection and treatment system*...). The purpose of this project is to (...*provide a long-term solution to MPDES discharge violations and meet a Department of Environmental Quality (DEQ) Administrative Order calling for improvements*...)

(...*The community of Pinedale is currently served by a gravity collection system and an extended aeration wastewater treatment package plant. The sewer mains for the collection system range in size (4" to 10") and are in poor to fair shape. Evidence of extensive deterioration in the collection system has been noted. The treatment plant is also deteriorating rapidly and is estimated to be able to remain in operation for only a few years. The Pinedale County Water and Sewer District is operating under a MPDES discharge permit (MT-0099999) to the Water River, which flows into the Missouri River near Pinedale, Montana. The existing system is operating below standards and is currently under a DEQ Administrative Order due to several violations with regards to the fecal coliform, BOD₅, and Total Suspended Solids (TSS) limits. A disinfection system has recently been added to control fecal coliform concentrations. The collection and treatment system in Pinedale is old, failing, and discharging inadequately treated wastewater to the Water River. Therefore, it is recommended that a treatment facility that meets current standards be constructed*...).

The recommended alternative from the PER includes the following improvements:

- (...*Replace all 6" sewer mains with 8" and 10" sewer mains ...*)
- (...*Replace sewer mains that have broken vitrified clay pipe ...*)
- (...*Replace sewer mains that are allowing infiltration of water and foreign material ...*)
- (... *Construct a new wastewater treatment package plant utilizing ultraviolet technology for disinfection ...*)

Finding of No Significant Impact

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and accordingly (...*Tamarack County, the Pinedale County Water and Sewer District ...*), and the DEQ have decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for the decision not to prepare such Statement are:

(...*The project will provide improvements to the environment by eliminating MPDES permit violating discharges to the Water River and the land use for the general area will not change. The new system will ultimately reduce safety, health, and environmental hazards...*)

Environmentally sensitive characteristics such as wetlands, floodplains and threatened or endangered species are not expected to be adversely impacted as a result of the proposed project. No significant negative long-term environmental impacts were identified.

An Environmental Review Record prepared by the aforementioned (...*Tamarack County, and Pinedale County Water and Sewer District ...*) and an Environmental Assessment prepared by the DEQ documenting review of all project activities in respect to impacts on the environment are attached to this Finding of No Significant Impact and Request for Release of Funds. These documents are available for public scrutiny on the DEQ web site (<http://www.deq.mt.gov/ea.mcp>) and also available for public examination and copying upon request between the hours of 9:00 AM and 4:00 PM at the following locations:

Dept. of Environmental Quality 1520 East Sixth Avenue P.O. Box 200901 Helena, Montana 59620-0901	(... <i>Pinedale Water & Sewer District P.O. Box 55 Pinedale, Montana 59001...</i>)	(... <i>Tamarack County Court House 800 River Road Slick, Montana 59000...</i>)
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No further environmental review of such project is proposed to be conducted prior to the request for release of CDBG project funds.

Release of Funds

Anticipated funding for the project is through a combination of the following: a Community Development Block Grant (CDBG), (...*a Treasure State Endowment Program (TSEP) Grant, a Renewable Resource Grant Program (RRGP) from the Department of Natural Resources and Conservation (DNRC) ...*) and a State Revolving Fund (SRF) Loan.

(...*Tamarack County and The Pinedale County Water and Sewer District* ...) will undertake the project described above with CDBG funds provided by DOC under Title I of the Housing and Community Development Act of 1974, as amended. The (...*County* ...) is certifying to DOC that (...*Tamarack County*...) and chief executive officer/other certifying official (... .., *Tamarack Commission Chair* ...) as approved by DOC, in her/his official capacity as commissioner and environmental certifying officer consents to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making, and action; and that these responsibilities have been satisfied. The legal effect on the certification is that upon its approval, the (...*County*...) may use the CDBG funds and DOC will have satisfied its responsibilities under the National Environmental Policy Act of 1969.

Public Comments and/ or Objections on Findings

For purposes of CDBG funding, all interested agencies, groups and persons disagreeing with the Finding of No Significant Impact are invited to submit written comments for consideration by the (...*County* ...) to the (...*Tamarack County Court House* ...) on or before (date¹). All such comments so received will be considered and the (...*County* ...) will not request release of funds or take any administrative action on the project prior to the date specified in the preceding sentence.

Comments supporting or disagreeing with this decision may also be submitted to DEQ and DOC for consideration. DOC will accept an objection to its approval for State Release of Funds only if it is on one of the following bases:

1. that the certification was not in fact executed by the certifying officer or other officer of the applicant approved by DOC;
2. that the applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process;
3. the grant recipient has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by DOC; or
4. another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental design.

Objections to be considered by DEQ and/or DOC must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and may be addressed to one of the following agencies:

1. Department of Commerce, Community Development Division, 301 S. Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523.
2. Department of Environmental Quality, Planning, Prevention & Assistance Division, 1520 East Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901.

¹ A minimum of 15 days after publication, or 18 days after posting of this notice.

DOC will not consider objections to the release of funds on bases other than those stated above. After evaluating the objections and comments received, the agencies will make a final decision. However, no administrative action will be taken on the project for at least 30 calendar days after publication of the Finding of No Significant Impact. For CDBG funding purposes, no objection received after (date ²) will be considered by DOC.

The following documents have been utilized by the DEQ and (...*Tamarack County Water and Sewer District* ...) in the preparation of this Environmental Assessment and Environmental Review Record:

1. (... Wastewater Facility Plan for Pinedale Special Sewer District #1, Hinsdale, Montana, September 1999 report prepared by Extra Engineering, Inc., Slick, MT...)
2. (...Preliminary Engineering Report, Pinedale County Water & Sewer District, Pinedale, Montana, Preliminary Engineering Report prepared by Extra Engineering, Inc., Slick, MT...)

Sincerely,

Todd Teegarden P.E., TFA Chief
Planning, Prevention & Assistance Division
Department of Environmental Quality

(...*David Renner, County Commissioner,
Environmental Certifying Officer
Tamarack County, Montana...*)

² Estimate this date as a minimum of 15 days after the date DOC receives request for release of funds and proof of publication.

EXHIBIT 2-U

COMBINED FONSI/NOI/ RROF FOR USDA RD/CDBG JOINTLY-FUNDED PROJECTS

COMBINED NOTICE OF FINDING OF NO SIGNIFICANT ENVIRONMENTAL IMPACT and NOTICE TO PUBLIC OF REQUEST FOR RELEASE OF FUNDS (FONSI/NOI/RROF)

PUBLICATION DATE: _____

(...*Sunset County Water and Sewer District...*)
(...*P.O. Box 25...*)
(...*Sunset City MT 59191 Telephone: (406) 777-1178...*)

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

The USDA Rural Development office and the Montana Community Development Block Grant Program are considering an application for financial assistance to the (...*Sunset County Water and Sewer District, Sunset City, Montana...*) The specific elements of this proposed action are (...*constructing a wastewater collection system and treatment facility to serve the community of Sunset County. The treatment of the effluent will occur at a site north of Sunset County, with land application of the effluent for agronomic intake....*)

On or before (date¹), the above-named (...*Sunset County Water and Sewer District, Sunset City, Montana, ...*) will also request the Montana Department of Commerce (DOC) to release Community Development Block Grant (CDBG) funds provided under Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383) for the following project: (...*Sunset County Water and Sewer District Wastewater System Improvements, CDBG Contract #MT-CDBG-03PF-09...*)

Finding of No Significant Impact

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and accordingly the above named (...*Sunset County Water and Sewer District...*) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for the decision not to prepare such Statement are as follows:

- § A consolidated environmental assessment, which is on file at the (...*Sunset County Courthouse and at the Sunset County Water and Sewer District in Sunset City...*), itemizes the physical environment and human population of the project area.
- § The potential environmental impacts have been assessed by USDA Rural Development determining that the proposed action will not significantly affect the quality of the human environment.

¹ A minimum of 15 days after publication, or 18 days after posting of this notice.

§ The proposed action is not located within a minimum required distance of any delineated 100-year flood plain.

An Environmental Review Record documenting review of all project activities in respect to impacts on the environment has been made by the above-named (...*Sunset County Water and Sewer District*...) This Environmental Review Record is on file at the (...*Sunset County Water and Sewer District, P.O. Box 25, Sunset City, Montana 59191* ...), and is available for public examination and copying upon request between the hours (... *of 9:00 a.m. and 3:00 p.m.* ...) Requests to review the RD environmental assessment upon which this determination is based should be directed to Rural Development/Rural Utilities Service, (...*900 Technology Blvd., Suite B, P.O. Box 850, Bozeman, Montana 59715-0850*...).

No further environmental review of such project is proposed to be conducted prior to the request for release of CDBG project funds.

Public Comments on Findings

All interested agencies, groups and persons disagreeing with this decision are invited to submit written comments for consideration by (... *Sunset County Water and Sewer District*...) to the office of the undersigned, or to Rural Development/Rural Utilities Service, (... *900 Technology Blvd., Suite B, P.O. Box 850, Bozeman, Montana 59715-0850*...) on or before (...*May 30, 2003*...) All such comments so received will be considered and the (... *Sunset County Water and Sewer District*...) will not request release of funds or take any administrative action on the project prior to the date specified in the preceding sentence.

State Release of Funds

(...*The Sunset County Water and Sewer District*...) will undertake the project described above with CDBG funds provided by DOC under Title I of the Housing and Community Development Act of 1974, as amended. The (...*Sunset County Water and Sewer District*...) is certifying to DOC that (... *Ellen S. Steel* ...), in (... *her / his* ...) official capacity as (... *Sunset County Commissioner*...), consents to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making, and action; and that these responsibilities have been satisfied. The legal effect on the certification is that upon approval, the (... *Sunset County Water and Sewer District* ...) may use the CDBG funds and DOC will have satisfied its responsibilities under the National Environmental Policy Act of 1969.

Objections to State Release of Funds

DOC will accept an objection to its approval only if it is on one of the following bases:

- (a) that the certification was not in fact executed by the certifying officer or other officer of the applicant approved by DOC;
- (b) that the applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process;
- (c) the grant recipient has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by DOC; or

- (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental design.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and may be addressed to: Department of Commerce, Community Development Division, 301 S. Park Ave., P.O. Box 200523, Helena, Montana 59620-0523.

Objections to the release of funds on bases other than those stated above will not be considered by DOC. No objection received after (date²) will be considered by DOC.

(... Ellen S. Steel ...)

Name of Chief Elected Official

(... April 24, 2003 ...)

Date

(... Sunset County Courthouse ...)

Address

(... Sunset City, Montana 59191 ...)

City, County, State, Zip Code

² Estimate this date as a minimum of 15 days after the date that the Grantee anticipates **DOC will receive the request.** See 24 CFR Part 58. It is advisable to allow 18 or 19 days to allow several days for mailing time. **Proof of publication is required.**

EXHIBIT 2-V

HUD LEAD-BASED PAINT REQUIREMENTS FOR HOUSING REHABILITATION PROJECTS

HUD's LBP requirements **do not apply** if any one of the following exist:

- The structure was built after January 1, 1978; or
- Is officially certified as free of lead-based paint by an EPA-certified lead-based paint inspector; or
- A visual inspection identifies no deteriorated paint, and rehabilitation work shall disturb
 - less than two square feet (2 sq. ft.) of paint in any one interior room;
 - less than 10% of the total surface area on any interior component; and
 - less than 20 sq. ft. on exterior painted surfaces

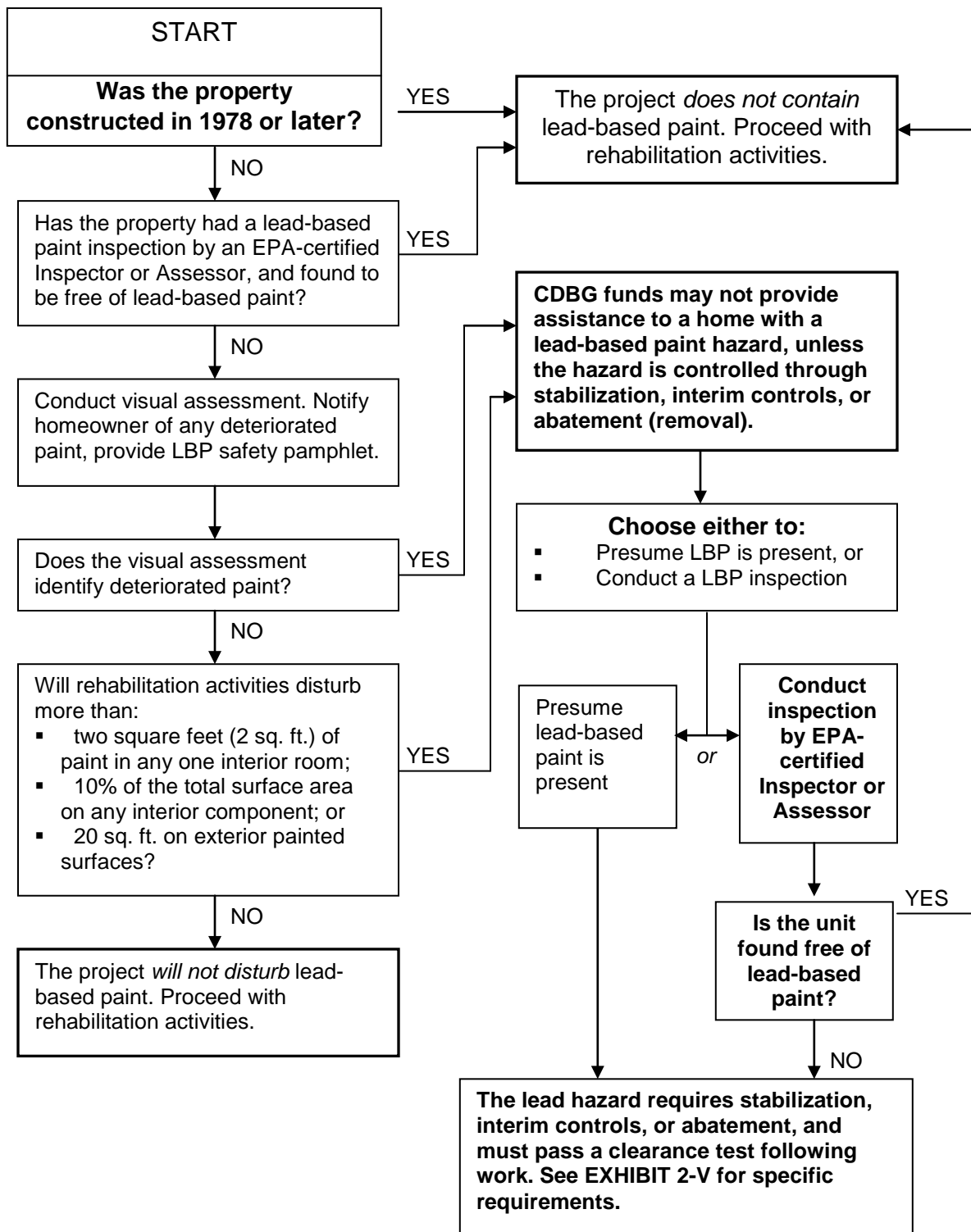
Amount of CDBG Funds	<i>Lead-Based Paint Requirements</i>
A. Property receiving \$5,000 or less in rehabilitation work per unit	<p>1) <u>Notification:</u></p> <p>a) Grantees must supply occupants with the lead information pamphlet (<i>Protect Your Family From Lead In Your Home</i>) and document its delivery. See <i>Exhibit 2-X</i>, CDBG Manual.</p> <p>b) Grantees must notify owners of defective paint surfaces.</p> <p>c) Owners must disclose the presence of LBP to current and prospective homebuyers/occupants. See <i>Exhibit 2-Y.3</i>, CDBG Manual.</p> <p>2) <u>Paint Testing:</u> An EPA-certified LBP Inspector or Assessor must inspect the unit(s). Grantees may presume the presence of lead-based paint in lieu of conducting an inspection. ⁱ (See <i>Notes</i>, page I-4 below.)</p> <p>3) <u>Lead Hazard Reduction/Control:</u></p> <p>a) HUD-qualified workers must perform the stabilization work (implementation of interim controls). These persons do not need to be EPA-certified LBP supervisors or workers. ⁱⁱ (See <i>Notes</i>, page I-4 below.)</p> <p>b) Use safe work practices during rehabilitation.</p> <p>4) <u>Clearance:</u> (Necessary only for the LBP hazard reduction work area.) An EPA-certified LBP Risk Assessor or Clearance Technician must certify the unit as safe for occupancy. ⁱ</p> <p>5) <u>Notification:</u> Owners, occupants, and prospective occupants or purchasers must be notified of the results of any lead hazard reduction work. See <i>Exhibit 2-Y.4</i>, CDBG Manual.</p>

<p>B. Property receiving more than \$25,000 per unit in rehabilitation work</p>	<ol style="list-style-type: none"> 1) <u>Notification:</u> <ol style="list-style-type: none"> a) Grantees must supply occupants with the lead information pamphlet (<i>Protect Your Family From Lead In Your Home</i>) and document its delivery. See <i>Exhibit 2-X</i>, CDBG Manual. b) Grantees must notify owners of defective paint surfaces. c) Owners must disclose the presence of LBP to current and prospective homebuyers/occupants. See <i>Exhibit 2-Y.3</i>, CDBG Manual. 2) <u>Paint Testing:</u> An EPA-certified LBP Inspector or Assessor must inspect the unit(s). Grantees may presume the presence of lead-based paint in lieu of conducting an inspection. ⁱ 3) <u>Risk Assessment:</u> A Risk Assessment by an EPA-certified LBP Risk Assessor is required. ⁱ 4) <u>Abatement (Removal) of LBP hazards:</u> <ol style="list-style-type: none"> a) Rehabilitation will include <u>mandatory abatement (removal) of all LBP</u>. b) EPA-certified persons must do all work. EPA-certified Inspectors, Risk Assessors, Supervisors and Workers are the only persons who may do work on a project involving greater than \$25,000 worth of rehabilitation on a unit. ⁱ Note: A HUD-qualified worker may do the abatement work, but an EPA-certified supervisor <i>must</i> be on the work site <i>at all times</i>. ⁱⁱ 5) <u>Clearance:</u> The LBP abatement work area must be cleared to assure it is safe for occupancy. An EPA-certified Risk Assessor or Clearance Technician must do the clearance. ⁱ 6) <u>Notification:</u> Owners, occupants and prospective occupants or purchasers must be notified of the results of any lead hazard reduction work. See <i>Exhibit 2-Y.4</i>, CDBG Manual. 7) <u>Ongoing LBP maintenance:</u> The property owners are responsible for maintaining a lead-free environment. If, upon annual inspection (<i>if such an inspection is required by the property's on-going funding sources</i>), the presence of chipping, peeling or cracking paint is identified, EPA-certified personnel must inspect and assess the lead risk in the unit; HUD-certified workers must stabilize the deteriorated paint; and an EPA-certified person must perform clearance testing.
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ⁱ To be considered an EPA-certified inspector, assessor, clearance technician or supervisor, one must complete a weeklong training course and successfully pass the EPA-administered exam.

ⁱⁱ HUD-certified workers must complete an eight-hour, HUD-sponsored lead safety-training program. Contact your HOME Program Officer for current information on HUD training, or go to: <http://www.leadsafetraining.org/>

Lead-based Paint Flowchart for Single- and Multi-Family Rehabilitation



Lead-based Paint Flowchart for Homebuyer Assistance

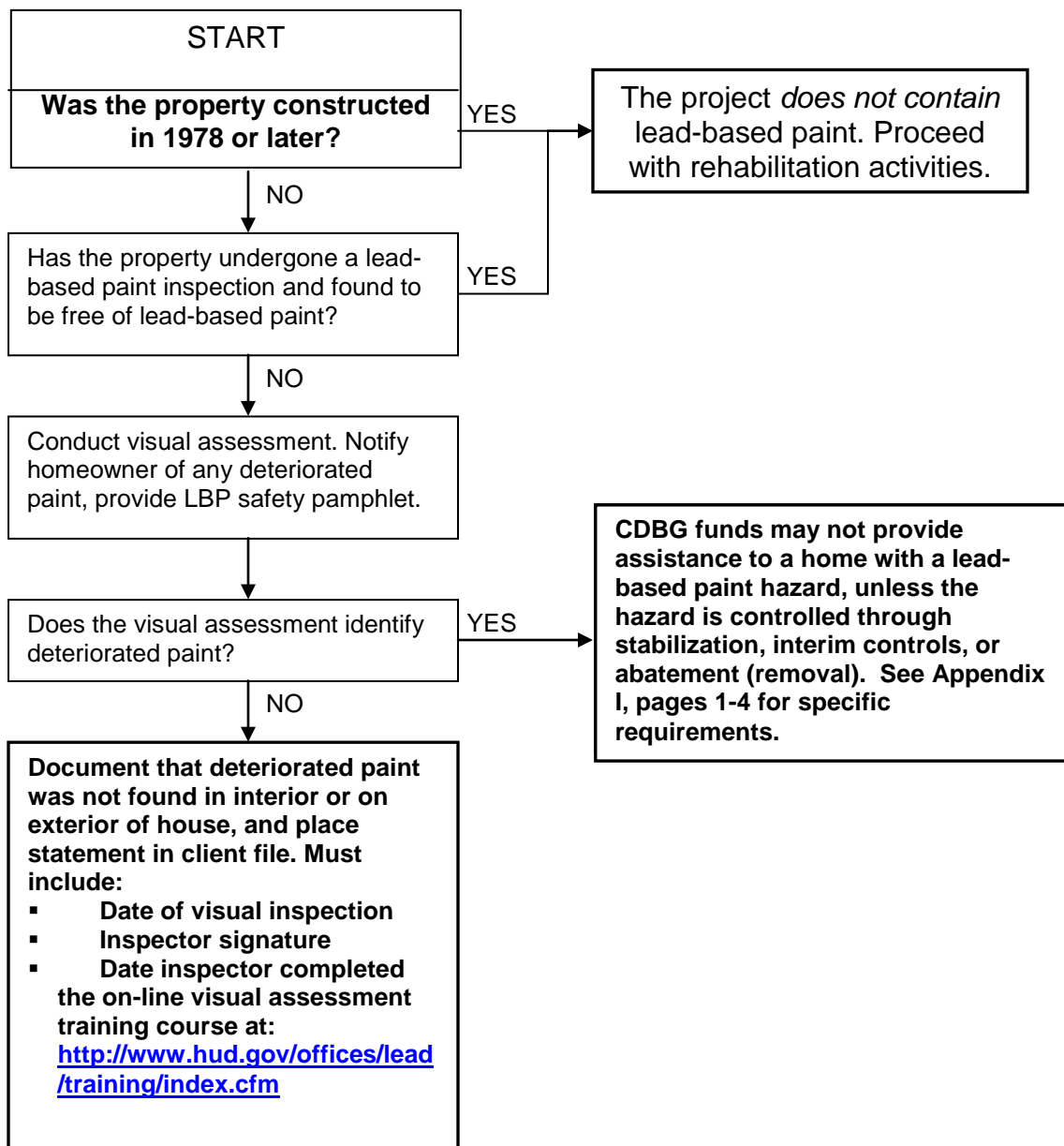


EXHIBIT 2-W

LEAD BASED PAINT HOMEBUYER ASSISTANCE

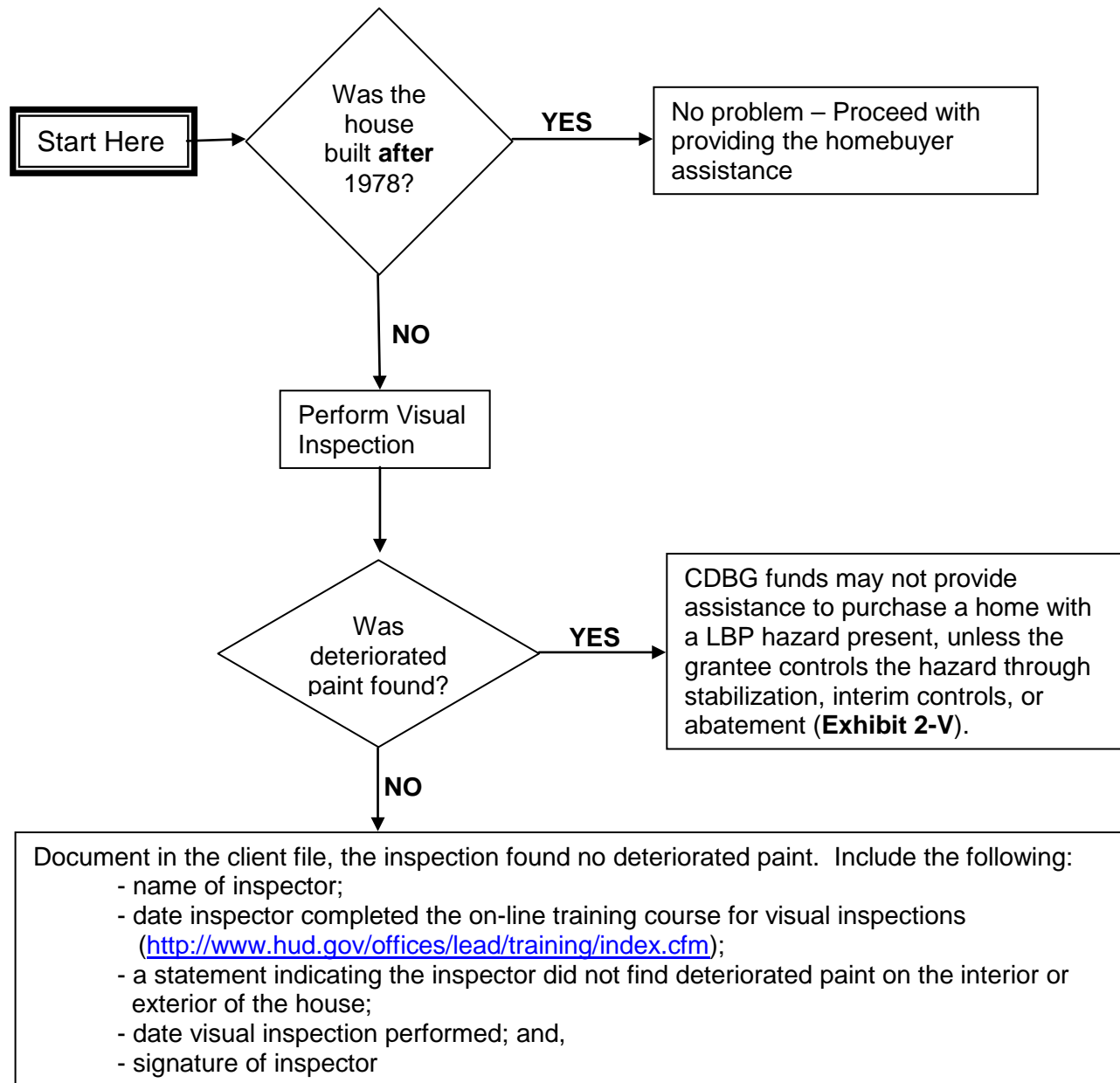


EXHIBIT 2-X

ACKNOWLEDGMENT OF RECEIPT

I have received a copy of the pamphlet, '***Protect Your Family From Lead In Your Home***', informing me of the potential risk of lead hazard exposure from renovation activity to be performed in my dwelling unit.

I received this pamphlet before the work began.

Printed Name: _____

Signature: _____

Date: _____

Unit Address: _____

Certification of Attempted Delivery

(For use when an occupant is unavailable for signature or refuses to sign the acknowledgment of receipt)

Date: _____

Unit Address: _____

Method of Delivery of Pamphlet: _____

Name(s) of the person(s) delivering the Pamphlet: _____

Reason for lack of acknowledgment: (e.g. occupant refuses to sign, no adult occupant available)

Signature of Renovator: _____

Date of Signature: _____

Refusal to Sign Certification

I certify that I have made a good faith effort to deliver the pamphlet, '***Protect Your Family From Lead In Your Home***', to the unit listed below at the dates and times indicated, and that the occupant refused to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Printed Name: _____

Signature: _____

Date: _____

Unit Address: _____

Attempted Delivery Dates and Times: _____

Unavailable For Signature Certification

I certify that I have made a good faith effort to deliver the pamphlet, '***Protect Your Family From Lead In Your Home***', and that the occupant was unavailable to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit by sliding it under the door.

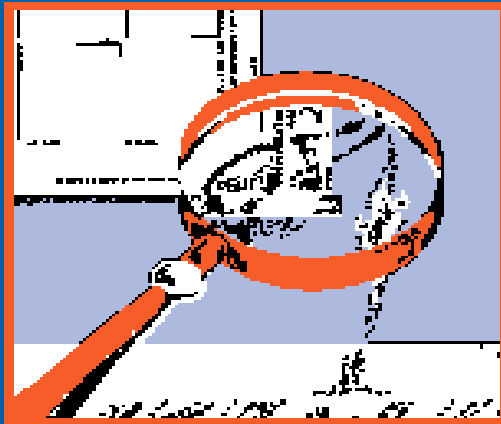
Printed Name: _____

Signature: _____

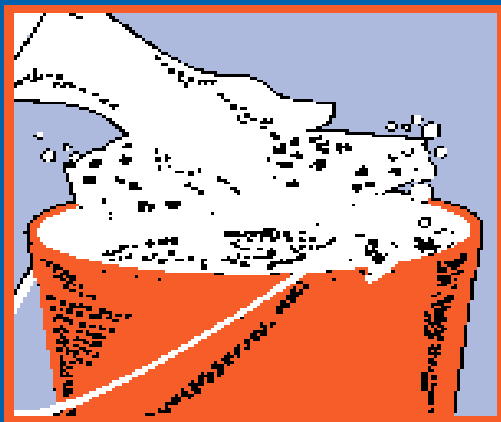
Date: _____

Unit Address: _____

Attempted Delivery Dates and Times: _____



Protect Your Family From Lead In Your Home



 **EPA** United States
Environmental
Protection Agency



United States
Consumer Product
Safety Commission



United States
Department of Housing
and Urban Development

Available on-line at: <http://www.epa.gov/lead/pubs/leadprot.htm>

Simple Steps To Protect Your Family From Lead Hazards

If you think your home has high levels of lead:

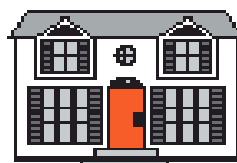
- ◆ Get your young children tested for lead, even if they seem healthy.
- ◆ Wash children's hands, bottles, pacifiers, and toys often.
- ◆ Make sure children eat healthy, low-fat foods.
- ◆ Get your home checked for lead hazards.
- ◆ Regularly clean floors, window sills, and other surfaces.
- ◆ Wipe soil off shoes before entering house.
- ◆ Talk to your landlord about fixing surfaces with peeling or chipping paint.
- ◆ Take precautions to avoid exposure to lead dust when remodeling or renovating (call 1-800-424-LEAD for guidelines).
- ◆ Don't use a belt-sander, propane torch, high temperature heat gun, scraper, or sandpaper on painted surfaces that may contain lead.
- ◆ Don't try to remove lead-based paint yourself.



Recycled/Recyclable
Printed with vegetable oil based inks on recycled paper
(minimum 50% postconsumer) process chlorine free.

Are You Planning To Buy, Rent, or Renovate a Home Built Before 1978?

Many houses and apartments built before 1978 have paint that contains high levels of lead (called lead-based paint). Lead from paint, chips, and dust can pose serious health hazards if not taken care of properly.



OWNERS, BUYERS, and RENTERS are encouraged to check for lead (see page 6) before renting, buying or renovating pre-1978 housing.

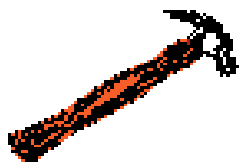
Federal law requires that individuals receive certain information before renting, buying, or renovating pre-1978 housing:



LANDLORDS have to disclose known information on lead-based paint and lead-based paint hazards before leases take effect. Leases must include a disclosure about lead-based paint.



SELLERS have to disclose known information on lead-based paint and lead-based paint hazards before selling a house. Sales contracts must include a disclosure about lead-based paint. Buyers have up to 10 days to check for lead.



RENOVATORS disturbing more than 2 square feet of painted surfaces have to give you this pamphlet before starting work.

IMPORTANT!

Lead From Paint, Dust, and Soil Can Be Dangerous If Not Managed Properly

- FACT:** Lead exposure can harm young children and babies even before they are born.
- FACT:** Even children who seem healthy can have high levels of lead in their bodies.
- FACT:** People can get lead in their bodies by breathing or swallowing lead dust, or by eating soil or paint chips containing lead.
- FACT:** People have many options for reducing lead hazards. In most cases, lead-based paint that is in good condition is not a hazard.
- FACT:** Removing lead-based paint improperly can increase the danger to your family.

If you think your home might have lead hazards, read this pamphlet to learn some simple steps to protect your family.

Lead Gets in the Body in Many Ways

Childhood lead poisoning remains a major environmental health problem in the U.S.

Even children who appear healthy can have dangerous levels of lead in their bodies.

People can get lead in their body if they:

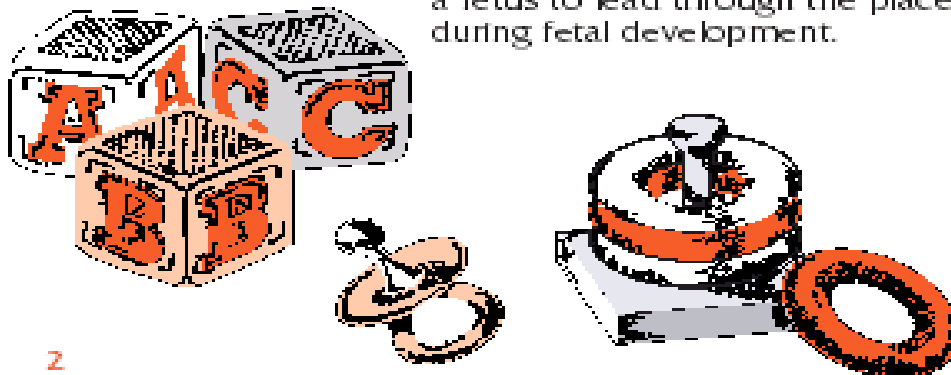
- ◆ Breathe in lead dust (especially during renovations that disturb painted surfaces).
- ◆ Put their hands or other objects covered with lead dust in their mouths.
- ◆ Eat paint chips or soil that contains lead.

Lead is even more dangerous to children under the age of 6:

- ◆ At this age children's brains and nervous systems are more sensitive to the damaging effects of lead.
- ◆ Children's growing bodies absorb more lead.
- ◆ Babies and young children often put their hands and other objects in their mouths. These objects can have lead dust on them.

Lead is also dangerous to women of childbearing age:

- ◆ Women with a high lead level in their system prior to pregnancy would expose a fetus to lead through the placenta during fetal development.



Lead's Effects

It is important to know that even exposure to low levels of lead can severely harm children.

In children, lead can cause:

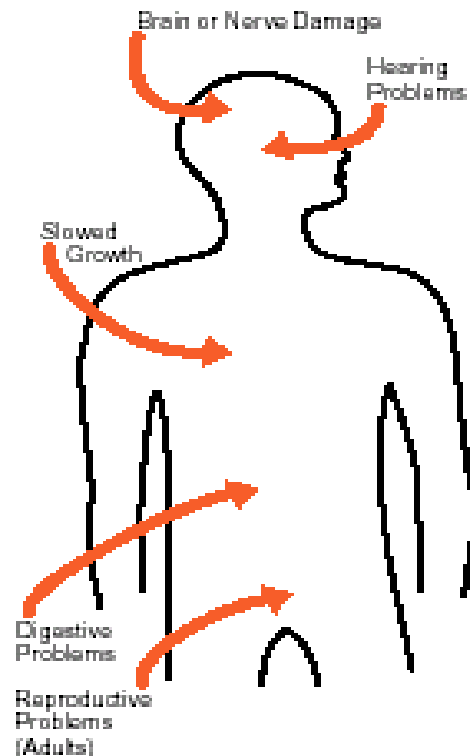
- ◆ Nervous system and kidney damage.
- ◆ Learning disabilities, attention deficit disorder, and decreased intelligence.
- ◆ Speech, language, and behavior problems.
- ◆ Poor muscle coordination.
- ◆ Decreased muscle and bone growth.
- ◆ Hearing damage.

While low-lead exposure is most common, exposure to high levels of lead can have devastating effects on children, including seizures, unconsciousness, and, in some cases, death.

Although children are especially susceptible to lead exposure, lead can be dangerous for adults too.

In adults, lead can cause:

- ◆ Increased chance of illness during pregnancy.
- ◆ Harm to a fetus, including brain damage or death.
- ◆ Fertility problems (in men and women).
- ◆ High blood pressure.
- ◆ Digestive problems.
- ◆ Nerve disorders.
- ◆ Memory and concentration problems.
- ◆ Muscle and joint pain.



**Lead affects
the body in
many ways.**

Where Lead-Based Paint Is Found

In general, the older your home, the more likely it has lead-based paint.

Many homes built before 1978 have lead-based paint. The federal government banned lead-based paint from housing in 1978. Some states stopped its use even earlier. Lead can be found:

- ◆ In homes in the city, country, or suburbs.
- ◆ In apartments, single-family homes, and both private and public housing.
- ◆ Inside and outside of the house.
- ◆ In soil around a home. (Soil can pick up lead from exterior paint or other sources such as past use of leaded gas in cars.)

Checking Your Family for Lead

Get your children and home tested if you think your home has high levels of lead.

To reduce your child's exposure to lead, get your child checked, have your home tested (especially if your home has paint in poor condition and was built before 1978), and fix any hazards you may have. Children's blood lead levels tend to increase rapidly from 6 to 12 months of age, and tend to peak at 18 to 24 months of age.

Consult your doctor for advice on testing your children. A simple blood test can detect high levels of lead. Blood tests are usually recommended for:

- ◆ Children at ages 1 and 2.
- ◆ Children or other family members who have been exposed to high levels of lead.
- ◆ Children who should be tested under your state or local health screening plan.

Your doctor can explain what the test results mean and if more testing will be needed.

Identifying Lead Hazards

Lead-based paint is usually not a hazard if it is in good condition, and it is not on an impact or friction surface, like a window. It is defined by the federal government as paint with lead levels greater than or equal to 1.0 milligram per square centimeter, or more than 0.5% by weight.

Deteriorating lead-based paint (peeling, chipping, chalking, cracking or damaged) is a hazard and needs immediate attention. It may also be a hazard when found on surfaces that children can chew or that get a lot of wear-and-tear, such as:

- ◆ Windows and window sills.
- ◆ Doors and door frames.
- ◆ Stairs, railings, banisters, and porches.

Lead dust can form when lead-based paint is scraped, sanded, or heated. Dust also forms when painted surfaces bump or rub together. Lead chips and dust can get on surfaces and objects that people touch. Settled lead dust can re-enter the air when people vacuum, sweep, or walk through it. The following two federal standards have been set for lead hazards in dust:

- ◆ 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) and higher for floors, including carpeted floors.
- ◆ 250 $\mu\text{g}/\text{ft}^2$ and higher for interior window sills.

Lead in soil can be a hazard when children play in bare soil or when people bring soil into the house on their shoes. The following two federal standards have been set for lead hazards in residential soil:

- ◆ 400 parts per million (ppm) and higher in play areas of bare soil.
- ◆ 1,200 ppm (average) and higher in bare soil in the remainder of the yard.

The only way to find out if paint, dust and soil lead hazards exist is to test for them. The next page describes the most common methods used.

Lead from paint chips, which you can see, and lead dust, which you can't always see, can both be serious hazards.

Checking Your Home for Lead

Just knowing that a home has lead-based paint may not tell you if there is a hazard.



You can get your home tested for lead in several different ways:

- ◆ A paint **inspection** tells you whether your home has lead-based paint and where it is located. It won't tell you whether or not your home currently has lead hazards.
- ◆ A **risk assessment** tells you if your home currently has any lead hazards from lead in paint, dust, or soil. It also tells you what actions to take to address any hazards.
- ◆ A combination risk assessment and inspection tells you if your home has any lead hazards and if your home has any lead-based paint, and where the lead-based paint is located.

Hire a trained and certified testing professional who will use a range of reliable methods when testing your home.

- ◆ Visual inspection of paint condition and location.
- ◆ A portable x-ray fluorescence (XRF) machine.
- ◆ Lab tests of paint, dust, and soil samples.

There are state and federal programs in place to ensure that testing is done safely, reliably, and effectively. Contact your state or local agency (see bottom of page 11) for more information, or call **1-800-424-LEAD (5323)** for a list of contacts in your area.

Home test kits for lead are available, but may not always be accurate. Consumers should not rely on these kits before doing renovations or to assure safety.

What You Can Do Now To Protect Your Family

If you suspect that your house has lead hazards, you can take some immediate steps to reduce your family's risk:

- ◆ If you rent, notify your landlord of peeling or chipping paint.
- ◆ Clean up paint chips immediately.
- ◆ Clean floors, window frames, window sills, and other surfaces weekly. Use a mop or sponge with warm water and a general all-purpose cleaner or a cleaner made specifically for lead. REMEMBER: NEVER MIX AMMONIA AND BLEACH PRODUCTS TOGETHER SINCE THEY CAN FORM A DANGEROUS GAS.
- ◆ Thoroughly rinse sponges and mop heads after cleaning dirty or dusty areas.
- ◆ Wash children's hands often, especially before they eat and before nap time and bed time.
- ◆ Keep play areas clean. Wash bottles, pacifiers, toys, and stuffed animals regularly.
- ◆ Keep children from chewing window sills or other painted surfaces.
- ◆ Clean or remove shoes before entering your home to avoid tracking in lead from soil.
- ◆ Make sure children eat nutritious, low-fat meals high in iron and calcium, such as spinach and dairy products. Children with good diets absorb less lead.



Reducing Lead Hazards In The Home

Removing lead improperly can increase the hazard to your family by spreading even more lead dust around the house.

Always use a professional who is trained to remove lead hazards safely.



In addition to day-to-day cleaning and good nutrition:

- ◆ You can **temporarily** reduce lead hazards by taking actions such as repairing damaged painted surfaces and planting grass to cover soil with high lead levels. These actions (called “interim controls”) are not permanent solutions and will need ongoing attention.
- ◆ To **permanently** remove lead hazards, you should hire a certified lead “abatement” contractor. Abatement (or permanent hazard elimination) methods include removing, sealing, or enclosing lead-based paint with special materials. Just painting over the hazard with regular paint is not permanent removal.

Always hire a person with special training for correcting lead problems—someone who knows how to do this work safely and has the proper equipment to clean up thoroughly. Certified contractors will employ qualified workers and follow strict safety rules as set by their state or by the federal government.

Once the work is completed, dust cleanup activities must be repeated until testing indicates that lead dust levels are below the following:

- ◆ 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) for floors, including carpeted floors;
- ◆ 250 $\mu\text{g}/\text{ft}^2$ for interior windowsills; and
- ◆ 400 $\mu\text{g}/\text{ft}^2$ for window troughs.

Call your state or local agency (see bottom of page 11) for help in locating certified professionals in your area and to see if financial assistance is available.

Remodeling or Renovating a Home With Lead-Based Paint

Take precautions before your contractor or you begin remodeling or renovating anything that disturbs painted surfaces (such as scraping off paint or tearing out walls):

- ◆ **Have the area tested for lead-based paint.**
- ◆ **Do not use a belt-sander, propane torch, high temperature heat gun, dry scraper, or dry sandpaper** to remove lead-based paint. These actions create large amounts of lead dust and fumes. Lead dust can remain in your home long after the work is done.
- ◆ **Temporarily move your family** (especially children and pregnant women) out of the apartment or house until the work is done and the area is properly cleaned. If you can't move your family, at least completely seal off the work area.
- ◆ **Follow other safety measures to reduce lead hazards.** You can find out about other safety measures by calling 1-800-424-LEAD. Ask for the brochure "Reducing Lead Hazards When Remodeling Your Home." This brochure explains what to do before, during, and after renovations.

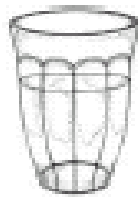
If you have already completed renovations or remodeling that could have released lead-based paint or dust, get your young children tested and follow the steps outlined on page 7 of this brochure.



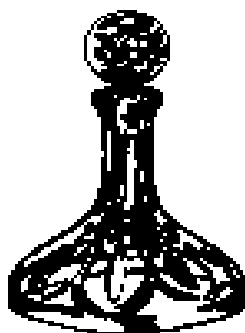
If not conducted properly, certain types of renovations can release lead from paint and dust into the air.



Other Sources of Lead



While paint, dust, and soil are the most common sources of lead, other lead sources also exist.

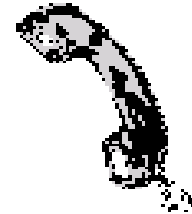


- ◆ **Drinking water.** Your home might have plumbing with lead or lead solder. Call your local health department or water supplier to find out about testing your water. You cannot see, smell, or taste lead, and boiling your water will not get rid of lead. If you think your plumbing might have lead in it:
 - Use only cold water for drinking and cooking.
 - Run water for 15 to 30 seconds before drinking it, especially if you have not used your water for a few hours.
- ◆ **The job.** If you work with lead, you could bring it home on your hands or clothes. Shower and change clothes before coming home. Launder your work clothes separately from the rest of your family's clothes.
- ◆ Old painted **toys** and **furniture**.
- ◆ Food and liquids stored in **lead crystal** or **lead-glazed pottery or porcelain**.
- ◆ **Lead smelters** or other industries that release lead into the air.
- ◆ **Hobbies** that use lead, such as making pottery or stained glass, or refinishing furniture.
- ◆ **Folk remedies** that contain lead, such as "greta" and "azarcon" used to treat an upset stomach.

For More Information

The National Lead Information Center

Call **1-800-424-LEAD (424-5323)** to learn how to protect children from lead poisoning and for other information on lead hazards. To access lead information via the web, visit **www.epa.gov/lead** and **www.hud.gov/offices/lead/**.



EPA's Safe Drinking Water Hotline

Call **1-800-426-4791** for information about lead in drinking water.

Consumer Product Safety Commission (CPSC) Hotline

To request information on lead in consumer products, or to report an unsafe consumer product or a product-related injury call **1-800-638-2772**, or visit CPSC's Web site at: **www.cpsc.gov**.



Health and Environmental Agencies

Some cities, states, and tribes have their own rules for lead-based paint activities. Check with your local agency to see which laws apply to you. Most agencies can also provide information on finding a lead abatement firm in your area, and on possible sources of financial aid for reducing lead hazards. Receive up-to-date address and phone information for your local contacts on the Internet at **www.epa.gov/lead** or contact the National Lead Information Center at **1-800-424-LEAD**.

For the hearing impaired, call the Federal Information Relay Service at **1-800-877-8339** to access any of the phone numbers in this brochure.

EPA Regional Offices

Your Regional EPA Office can provide further information regarding regulations and lead protection programs.

EPA Regional Offices

Region 1 (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont)

Regional Lead Contact
U.S. EPA Region 1
Suite 1100 (CPT)
One Congress Street
Boston, MA 02114-2023
1 (888) 372-7341

Region 2 (New Jersey, New York, Puerto Rico, Virgin Islands)

Regional Lead Contact
U.S. EPA Region 2
2890 Woodbridge Avenue
Building 209, Mail Stop 225
Edison, NJ 08837-3679
(732) 321-6671

Region 3 (Delaware, Maryland, Pennsylvania, Virginia, Washington DC, West Virginia)

Regional Lead Contact
U.S. EPA Region 3 (3WC33)
1650 Arch Street
Philadelphia, PA 19103
(215) 814-5000

Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Regional Lead Contact
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-8998

Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Regional Lead Contact
U.S. EPA Region 5 (DT-8)
77 West Jackson Boulevard
Chicago, IL 60604-3666
(312) 886-6003

Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Regional Lead Contact
U.S. EPA Region 6
1445 Ross Avenue, 12th Floor
Dallas, TX 75202-2733
(214) 665-7577

Region 7 (Iowa, Kansas, Missouri, Nebraska)

Regional Lead Contact
U.S. EPA Region 7
(ARTD-RALI)
901 N. 5th Street
Kansas City, KS 66101
(913) 551-7020

Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Regional Lead Contact
U.S. EPA Region 8
999 18th Street, Suite 500
Denver, CO 80202-2466
(303) 312-6021

Region 9 (Arizona, California, Hawaii, Nevada)

Regional Lead Contact
U.S. Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 947-4164

Region 10 (Alaska, Idaho, Oregon, Washington)

Regional Lead Contact
U.S. EPA Region 10
Toxics Section WCM-128
1200 Sixth Avenue
Seattle, WA 98101-1128
(206) 553-1985

CPSC Regional Offices

Your Regional CPSC Office can provide further information regarding regulations and consumer product safety.

Eastern Regional Center
Consumer Product Safety Commission
201 Varick Street, Room 903
New York, NY 10014
(212) 620-4120

Western Regional Center
Consumer Product Safety Commission
1301 Clay Street, Suite 610-N
Oakland, CA 94612
(510) 637-4050

Central Regional Center
Consumer Product Safety Commission
230 South Dearborn Street, Room 2944
Chicago, IL 60604
(312) 353-8260

HUD Lead Office

Please contact HUD's Office of Healthy Homes and Lead Hazard Control for information on lead regulations, outreach efforts, and lead hazard control and research grant programs.

U.S. Department of Housing and Urban Development
Office of Healthy Homes and Lead Hazard Control
451 Seventh Street, SW, P-3206
Washington, DC 20410
(202) 755-1785

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U.S. EPA Washington DC 20460
U.S. CPSC Washington DC 20207
U.S. HUD Washington DC 20410

EPA747-K-99-001
June 2003

EXHIBIT 2-Y1

NOTICE OF LEAD-BASED PAINT INSPECTION

Address/location of property or structure(s) this summary notice applies to:

Lead-based paint inspection description:

Date(s) of inspection: _____

Summary of inspection results: (Check all that apply.)

- (a) _____ No lead-based paint was found.
(b) _____ Lead-based paint was found.
(c) _____ A brief summary of the findings of the inspection is provided below
(required if lead-based paint is found).

Summary of where lead-based paint was found: (List at least the housing unit numbers and common areas (for multifamily housing), and building components (including type of room or space, and the material underneath the paint).)

(Attach more sheets, if required.)

NAME (Contact person for more information about the Inspection)

Organization

Address

Phone Number

NAME (Person who prepared this Notice of Inspection)

Organization

Address

Phone Number

EXHIBIT 2-Y2

Notice Of Lead-Based Paint Risk Assessment

Address/location of property or structure(s) this summary notice applies to:

Lead-based paint risk assessment description:

Date(s) of risk assessment: _____

Summary of risk assessment results (Check all that apply):

- (a) _____ No lead-based paint hazards were found.
(b) _____ Lead-based paint hazards were found.
(c) _____ A brief summary of the findings of the risk assessment is provided below
(required if any lead-based paint hazards were found).

Summary of types and locations of lead-based paint hazards:

(List at least the housing unit numbers and common areas (for multifamily housing), bare soil locations, dust-lead locations, and/or building components (including type of room or space, and the material underneath the paint), and types of lead-based paint hazards found.)

NAME (Contact person for more information about the risk assessment)

Organization

Address

Phone Number

NAME (Person who prepared this Notice of Risk Assessment)

Organization

Address

Phone Number

EXHIBIT 2-Y3

Notice Of Lead Hazard Evaluation Or Presumption

Notice that lead-based paint or lead-based paint hazards are presumed to be present at (provide address/location of property or structure(s):

Type of presumption: (Check all that apply.)

- (a) _____ Lead-Based paint is presumed to be present
- (b) _____ Lead-Based paint hazard(s) is (are) presumed to be present.

Summary of presumption: (List at least the housing unit numbers and common areas (for multifamily housing), bare soil locations, dust-lead locations, and/or building components (including type of room or space, and the material underneath the paint), and types of lead-based hazards presumed to be present.)

NAME (Contact person for more information about the presumption)

Organization

Address

Phone Number

NAME (Person who prepared this Notice of Presumption)

Organization

Address

Phone Number

EXHIBIT 2-Y4

Notice Of Lead Hazard Reduction

Notice of completion of lead-based paint hazard reduction activity at (provide address/location of property or structure):

Hazard reduction activity start date: _____

Hazard reduction activity end date: _____

Summary of presumption: (List at least the housing unit numbers and common areas (for multifamily housing), bare soil locations, dust-lead locations, and/or building components (including type of room or space, and the material underneath the paint), and types of hazard reduction activities performed at the locations listed.)

Dates of clearance testing and/or soil analyses: _____

Locations of building components with lead-based paint remaining in the rooms, spaces or areas where activities were conducted: _____

Summary of results of clearance testing and soil analyses:

- (a) _____ No clearance testing was performed.
- (b) _____ Clearance testing showed clearance was achieved.
- (c) _____ Clearance testing showed clearance was not achieved.

NAME (Contact person for more information about hazard reduction)

Organization

Address

Phone Number

NAME (Person who prepared this Summary Notice)

Organization

Address

Phone Number

EXHIBIT 2-Z

ASBESTOS REGULATIONS

<http://deq.mt.gov/Asbestos/default.mcpix>

This article taken from the Fall 2003 edition of *Big Sky Clearwater*, published by the Montana Department of Environmental Quality (DEQ), discusses some of the asbestos regulations that relate to public and commercial building owners; it also provides some ways of dealing with asbestos containing materials (ACM).

For additional information, contact the *Montana DEQ Asbestos Control Program*:
(406) 444-5300

<http://deq.mt.gov/Asbestos/default.mcpix>

and

<http://svc.mt.gov/deq/mail/AsbestosMail.asp>

Please note: Various asbestos regulations apply to each asbestos situation. Asbestos regulations that apply to public and commercial buildings differ from those that apply to schools, single-family dwellings, and other buildings. The intent of asbestos regulations is to prevent asbestos releases and exposures.

As a Public or Commercial Building Owner, What Asbestos Regulations Govern My Asbestos and Me?

In Montana, activities involving asbestos in commercial buildings are governed by one or more regulatory authorities, such as State of Montana DEQ, Federal EPA, and OSHA; in many cases jurisdictions and regulations overlap.

The Asbestos Control Program of the Department of Environmental Quality (DEQ) regulates and permits asbestos abatement projects, accredits asbestos-related occupations, provides compliance assistance, and administers certain sections of the Environmental Protection Agency's National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation. The Asbestos Control Program regulates asbestos abatement activities involving three (3) or more square or linear feet of ACM. Asbestos abatement activities must be permitted through the Asbestos Control Program and must be conducted by accredited asbestos personnel following proper asbestos abatement, transportation, and disposal procedures.

Most of the asbestos activity in Montana involves building renovation and demolition activities. The NESHAP has a specific standard that addresses building renovations and demolitions; 40 CFR 61.145. In order to determine which requirements apply to a building owner or contractor of a renovation or demolition, an asbestos inspection is required. An asbestos inspection not only locates, quantifies, and assesses the condition of asbestos, it also provides information as to whether an asbestos containing material is regulated and regulated by which authority. According to EPA and Asbestos Control Program regulations, an accredited asbestos inspector must perform the asbestos inspection. Typically, samples of suspect asbestos containing materials are collected by the inspector for laboratory analysis. Sample analytical costs range from \$15-30/sample. Asbestos Control Program regulations require sample analysis be done by a laboratory approved by the National Institute of Standards and Technology (NIST). In some cases it can be assumed a material contains asbestos, saving an owner some money.

The [Montana DEQ] Asbestos Control Program maintains a list of accredited and approved
Community Development Block Grant (CDBG) Program
Montana Department of Commerce

CDBG / NSP Administration Manual
October 2013

asbestos inspectors and laboratories available for your reference. Contact them for specific cost and inspection information.

In a demolition or renovation where regulated ACM is identified by the asbestos inspection, the regulated ACM would need to be removed by an accredited asbestos abatement contractor following proper abatement procedures under an asbestos abatement project permit issued by the Asbestos Control Program. The building owner or abatement contractor would apply for the permit using a form available from the Asbestos Control Program called the "Montana Asbestos Abatement Project Permit Application and NESHAP Demolition/Renovation Notification." A permit fee based on the asbestos abatement contract volume would apply. A seven (7) or ten (10) day notification period, depending on the asbestos abatement contract volume, would also apply.

In a demolition where no regulated ACM is identified by the asbestos inspection, the owner or demolition contractor must notify the Asbestos Control Program of the demolition using the same form as above, "Montana Asbestos Abatement Project Permit Application and NESHAP Demolition/Renovation Notification." No fee applies to demolition notifications where no regulated ACM is identified; however, a ten (10) day notification period is required.

In a renovation where no ACM is identified by the asbestos inspection, no notification to the Asbestos Control Program is required!

Even though the Asbestos Control Program is delegated by EPA to administer the NESHAP, EPA is also active in Montana regulating asbestos on Indian Reservations, in private and public kindergarten through twelfth grade schools, and other buildings. Montana is part of EPA's Region VIII including North and South Dakota, Wyoming, Utah, and Colorado.

Another asbestos authority is Federal OSHA (Occupational Safety and Health Administration). OSHA regulates worker safety and health as they relate to asbestos in the general and construction industries. Prior to initiating construction activities, OSHA's asbestos standard also requires an asbestos inspection as part of its hazard communication requirement. The Asbestos Control Program's regulations have adopted by reference some of OSHA's asbestos regulations; however, for more complete information on OSHA's regulatory requirements, contact OSHA's office in Billings at (800) 488-7087.

City or county governments such as local building permitting offices or local environmental health or sanitarian's office may also have asbestos requirements, contact them before initiating demolition or renovation work. City or county governments issue building permits for general renovation/demolition activities; however, don't be tricked assuming that permit will satisfy the Asbestos Control Programs asbestos abatement permit and demolition/renovation notification requirements.

A final asbestos authority is the landfill. Prior to initiating asbestos work, contact your local landfill and learn about their asbestos disposal requirements. In many cases landfills do not accept ACM and the last place you want to learn that is at a landfill's gate. According to State of Montana Refuse Disposal Rules and the Asbestos Control Program regulations, asbestos must be disposed of in a State-approved Class II landfill.

Options: A Solution Exists!

At this point you may be scratching your head over asbestos regulations; however, rest assured that regulations exist to prevent asbestos exposure; they also may assist in limiting certain liabilities. As an owner of a commercial building that may contain asbestos, you have a few options. Armed with

an asbestos inspection telling you where ACM is located, one option is to leave the ACM in place. If you do not have plans to renovate or demolish your building, the option of leaving the ACM in place is economical. Providing the ACM is in good condition, not causing exposures, and not prone to damage, the ACM can be left in place, managed, and monitored periodically for damage.

A second option is to encapsulate the ACM. Encapsulation involves treating the ACM with a substance that surrounds or embeds asbestos fibers. There are commercially available encapsulants and mastics specifically manufactured for such applications.

Another option is enclosure. Enclosure involves installing an airtight, impermeable, and permanent barrier around the ACM to prevent the release of asbestos. Removal is another option involving the physical removal of the material. Removal may be the only option in building demolitions or renovations.

Encapsulation, enclosure, and removal fall into the definition of asbestos abatement. In Montana, asbestos abatement actions include encapsulation, enclosure, removal, repair, renovation, placement in new construction, demolition, transportation, and disposal of friable or potentially friable asbestos containing material. Abatement actions of three (3) or more square or linear feet of ACM must be permitted through the Asbestos Control Program.

As mentioned earlier, accredited asbestos personnel following proper abatement, transportation, and disposal procedures must perform abatement actions. The Asbestos Control Program has lists of accredited asbestos personnel available for your reference.

Asbestos regulations and abatement options can be confusing; however, we at the Montana DEQ Asbestos Control Program are available to discuss your asbestos issues, so before you deal with asbestos, contact us at the Asbestos Control Program for compliance assistance:

**Montana Department of Environmental Quality
Asbestos Control Program**

1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

Office Phone: 406-444-5300
Fax: 406-444-1374

<http://deq.mt.gov/Asbestos/default.mcp>
and
<http://svc.mt.gov/deq/mail/AsbestosMail.asp>

ASBESTOS CONSULTANTS/CONTRACTORS/LABORATORIES

ASBESTOS CONSULTANTS

ACM

Lyn Lang
P.O. Box 324
East Helena, MT
(406) 431-7457

ASPEN CONSULTING & ENGINEERING, INC.

Alice M. Santos
P.O. Box 4822
Helena, MT 59604
(406) 457-5188

CA-I

Norm Irish
2638 Rimrock Road
Billings, MT 59102
(406) 656-0718
Fax: (406) 656-6910

CASNE & ASSOCIATES, INC.

Ed Casne
P O Box 5957
Helena, MT 59604
(406) 443-1656
Fax: (406) 449-3845

EASTERN MONTANA ENVIRONMENTAL

Dave Hrubes
#1 Royal Avenue
Richey, MT 59259
(406) 773-5889
Fax: (406) 773-5554

FALLS ENVIRONMENTAL

Cheyenne Evanson
PO Box 313
Black Eagle, MT 59414
(406) 727-3578 office
(406) 590-1171 cell

INDUSTRIAL SAFETY & CONSULTING

Ralph DeLong
P O Box 9217
Helena, MT 59604
(406) 443-3369 or
(888) 844-3369
Fax: (406) 443-0733

MAXIM TECHNOLOGIES, INC.

Roger W. Herman, Jr.
600 South 25th Street
P O Box 30615
Billings, MT 59107
Voice: (406) 248-9161
Fax: (406) 248-9282

Roger Herman Jr
201 S. Wallace #B3A
Bozeman, MT 59715
(406) 582-8780-Bozeman
(406) 248-9161-Billings

Richard Leferink & Dave Simonson
303 Irene Street (59601)
P.O. Box 4699 (59604)
Helena, MT
(406) 443-5210
Fax: (406) 449-3729

Don May
2436 Dixon
P.O. Box 2730
Missoula, MT 59806
(406) 543-3045
Fax: (406) 543-3088

Peter Klevberg
1601 2nd Avenue North
Great Falls, MT 59401-3259
(406) 453-1641
Fax: (406) 771-0743

MCS ENVIRONMENTAL, MOUNTAIN LABS

Wade Johnston & Dan Bennett
5562 Alloy South
Missoula, MT 59808-9621
(406) 728-7755 or (800) 735-7095
Fax: (406) 728-7367

MORRISON MAIERLE

Tom Heinecke
1228 Whitefish Stage Rd.
Unit 3A
Kalispell, MT 59901
(406) 752-2216
Fax: (406) 752-2391

NORTHERN BUILDING INSPECTION SERVICE

Ken Whitaker
P O Box 333
Denton, MT 59430
(406) 567-2438

NORTHERN INDUSTRIAL HYGIENE

Kevin Oliver
100 North 27th Street, Suite 550
Billings, MT 59101
(406) 245-7766
Fax: (406) 254-1428

PIONEER ENGINEERING, INC.

Walter Ware P.E.
409 Timmons
Box 756
Scobey, MT 59263
(406) 487-5170

303 Irene Street (59601)
P.O. Box 4699 (59604)
Helena, MT
(406) 443-5210
Fax: (406) 449-3729

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Peter Klevberg
1601 2nd Avenue North
Great Falls, MT 59401-3259
(406) 453-1641
Fax: (406) 771-0743

RESOURCE TECHNOLOGIES, INC.

Cal Zanella
601 Nikles Drive, Suite 14
Bozeman, MT 59715
(406) 585-8005
Fax: (406) 585-0069

TERRACON CONSULTANTS WESTERN, INC.

Merle Listoe & Rick Foust
2110 Overland Ave., Suite 124
Billings, MT 59102
(406) 656-3072
Fax: (406) 656-3578

"Y" ENVIRONMENTAL

Yon Malkuch
PO Box 433
Sheridan, WY 82801
(307) 672-3937
Fax: (307) 674-6334

ASBESTOS CONTRACTORS

BRICKLEY CONSTRUCTION CO., INC.

Bruce Ingraham & Jim Chelini
222 E. Park
Butte, MT 59701
(406) 723-7885
Fax: (406) 723-7886

ENVIROCON, INC.

Michael S. Stevenson
PO Box 16655
Missoula, MT 59808
(406) 523-1181

ENVIRONMENTAL CONTRACTORS

Frank Kolendich & Steve
Shroeder
P O Box 80107
Billings, MT 59108
(406) 652-6337
Fax: (406) 652-1724

Craig Foust & Steve Schaff
PO Box 459
Missoula, MT 59806
(406) 327-0271
Fax: (406) 327-0276

ENVIRONMENTAL MANAGEMENT SERVICES

Richard Galbraith
P.O. Box 4598
Helena, MT 59604
(406) 227-5614

FALLS ENVIRONMENTAL

Cheyenne Evanson
PO Box 313
Black Eagle, MT 59414
(406) 727-3578 office
(406) 590-1171 cell

INTERSTATE INSULATION AND CONTRACTING

Dallas Cranford, Owner
Randy Warnke, President
3010 Rimrock Road
Billings, MT 59102
(406) 655-3388

IRS ENVIRONMENTAL, INC.

Robert Reed & Carl Burnham
East 12415 Trent
Spokane, WA 99216
(509) 927-7867
Fax: (509) 928-3933

JACKS TECHNICAL ASSISTANCE, INC.

Jack Campbell
#4 Wood Court
Helena, MT 59601
(406) 443-1392

QUALITY URETHANE

Curt Bedwell
808 4th Avenue SW
Great Falls, MT 59404
(406) 727-8103
Fax: (406) 454-0731

SAFETECH, INC.

Leonard Cranford
4515 Rimrock Road
Billings, MT 59106
(406) 651-0011
Fax: (406) 651-027

SCOTT FITZPATRICK

PO Box 1729
Helena, MT 59624
(406) 439-1979

SPECIALTY CONTRACTORS, INC.

Lowell Thomson & Jim Gwinn
P O Box 998
Post Falls, ID 83834-9980
(509) 535-0666
Fax: (509) 536-9672

WESTERN STATES ABATEMENT

Dick Galbraith
P O Box 4598
Helena, MT 59604
(406) 227-5614
Fax: (406) 227-5606

Wayne Schwoob
P O Box 16105
Missoula, MT 59808-6105
(406) 543-4093
Fax: (406) 543-4872

LABORATORIES (PLM, PCM, TEM, SEM)

NORTHERN ANALYTICAL LABORATORIES, INC.

Kathy Smit
PO Box 30315/602 South 25th Street
Billings, MT 59107
(406) 254-7226
Fax: (406) 254-1389

BRAUN INTERTEC ENVIRONMENTAL, INC.

Beth Regan & Steve Felton
6875 Washington Avenue South
PO Box 39108
Minneapolis, MN 55439-0108
(612) 942-4828
Fax: (612) 942-4844

EMSL ANALYTICAL, INC

107 Hadden Avenue
Westmont, NJ 08108
(800) 220-3675

RESERVOIRS ENVIRONMENTAL SERVICES, INC.

Robert Dickson & Paul LoScalzo
1827 Grant Street
Denver, CO 80203
(303) 830-1986 or (800) 678-7374
Fax: (303) 863-9196

MCS ENVIRONMENTAL/MOUNTAIN LABS

Wade Johnston & Dan Bennett
5562 Alloy South
Missoula, MT 59808-9621
(406) 728-7755 or (800) 735-7095
Fax: (406) 728-7367



DISCLAIMER: This list is for informational purposes only. Asbestos-related work must be performed by state-accredited asbestos personnel. Prior to hiring an asbestos contractor, consultant, or laboratory verify that the personnel or lab are accredited. You may call the Program for such information at (406) 444-3490
Last Update: September 19, 2013 G:\AWM\Web Support\Asbestos\ACP_Cons_Cont_Lab_1st.doc