

CHAPTER A:

ENVIRONMENTAL REVIEW

OVERVIEW OF THE ENVIRONMENTAL REVIEW PROCESS/REQUIREMENTS

1	ENVIRONMENTAL IMPACT STATEMENT	ENVIRONMENTAL ASSESSMENT	CATEGORICALLY EXCLUDED	CE converted to EXEMPT / AGGREGATE or EXEMPT	
	Contact TNECD	Statutory Worksheet (Exhibit A-3)	Statutory Worksheet (Exhibit A-3) Document Finding of Categorical Exclusion/Map or CE converted to E →	Certification of Exemption (Exhibit A-16)	Addendum of Validity (Exhibit 18)
		NEPA Environmental Assessment Checklist, Text/Map (Exhibit A-6)			
		Floodplain	Not in Floodplain	Floodplain	Not in Floodplain
2		Publish/ Distribute ENPR (Exhibit A-10) 15 Days		Publish/ Distribute ENPR (Exhibit A-10) 15 Days	
		Publish/ Distribute FNPE (Exhibit A-11) Concurrent Notice (Exhibit A-12) 15 Days	Publish/ Distribute Concurrent Notice (Exhibit A-12) 15 Days	Publish/ Distribute FNPE (Exhibit A-11) NOI/RROF (Exhibit A-13) 7 Days	Publish/ Distribute NOI/RROF (Exhibit A-13) 7 Days
3		Submit Original ERR to TNECD 15 Days	Submit Original ERR to TNECD 15 Days	Submit Original ERR to TNECD	
4		TNECD send Letter of Removal of Environmental Condition (LOREC)	TNECD send Letter of Removal of Environmental Condition (LOREC)	TNECD send Letter of Removal of Environmental Condition (LOREC)	

A.1 GLOSSARY

Categorically Excluded Not Subject To Federal Environmental Regulations (CENST) - TN CDBG does not use this category, currently.

Categorically Excluded Not Subject To Federal environmental regulations projects are activities that the Department of Housing and Urban Development has determined will not alter any conditions that would require a review or compliance under the environmental Federal laws and authorities. These projects are still required to comply with other Federal requirements.

Categorically Excluded Subject to Federal Environmental Regulations (CES)

Categorically Excluded Subject to Federal environmental regulations projects are excluded from NEPA reviews, but are still subject to other Federal environmental laws and authorities.

Certifying Officer (CO)

The *Certifying Officer* refers to the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities 24 CFR § 58.13. This is typically the mayor.

Concurrent Notice

The *Concurrent Notice* includes the Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF).

Consultation

Consultation means the process of seeking, discussing and considering the views of other participants, and where feasible, seeking agreement with them regarding matters arising in the section 106 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Program as pursuant to the National Historic Preservation Act" provide further guidance on consultation.

Department of Economic and Community Development (TNTNECD)

The *Department of Economic and Community Development* is the Tennessee authority that administers the Department of Housing and Urban Development (HUD) grants for the Community Development Block Grant (CDBG) program.

Environmental Assessment (EA)

The *Environmental Assessment* is an environmental review which requires a more detailed analysis than for projects that are exempt or categorically excluded.

Environmental Impact Statement (EIS)

The *Environmental Impact Statement* is the most detailed level of analysis.

Early Notice and Public Review (ENPR)

The *Early Public Notice* is the first notice which is required for all projects located in a floodplain and is published prior to any other notice. This notice must be sent to all interested parties identified on the distribution list.

Environmental Review Record (ERR)

The *Environmental Review Record* contains all documents, public notices, and written determinations issued during the environmental review process.

Finding of No Significant Impact (FONSI)

The *Finding of No Significant Impact* is published and sent to all interested parties on projects that require an environmental assessment. It is included in the Concurrent Notice.

Historic Property

Historic property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

Letter of Removal of Environmental Condition (LOREC)

The *Letter of Removal of Environmental Condition* will be sent to the recipient after the environmental requirements have been satisfied.

National Environmental Policy Act (NEPA)

The *National Environmental Policy Act* establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment and provides a process for implementing these goals within the federal agencies.

Final Notice and Public Explanation (FNPE)

The *Notice of Explanation* is the second notice required for all projects located in a floodplain. It can be published concurrently with other publications 15 days after the Early Public Notice is published. This notice must also be sent to all interested parties.

Notice of Intent to Request a Release of Funds (NOI/RROF)

The *Notice of Intent to Request a Release of Funds* is published and sent to all interested parties on projects that are categorically excluded or require an environmental assessment. It is also included in the Concurrent Notice.

Notice of Release of Contract Conditions (NORCC)

The *Notice of Release of Contract Conditions* is received after environmental conditions and contract conditions have been satisfied.

Responsible Entity

The *Responsible Entity (RE)* means: (i) with respect to environmental responsibilities under programs listed in 24 CFR § 58.1(b)(1), (2), (3), (4), and (5), a recipient under the program.

Request for Release of Funds and Certification (RROFC)

The *Request for Release of Funds and Certification* certifies that all environmental activities have been covered or adhered to. The Request for Release of Funds and Certification, along with the ERR and proof of publication of the appropriate notice(s), must be sent to the Department of Economic and Community Development.

State Historic Preservation Officer (SHPO)

The *State Historic Preservation Officer* means the official appointed or designated pursuant to section 101(b)(1) of the act to administer the State historic preservation program or a representative designated to act for the State historic preservation officer.

Tribal Historic Preservation Office (THPO)

The *Tribal Historic Preservation Office or Officer* means the tribal office/official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with section 101(d)(2) of the act.

A.2 ENVIRONMENTAL OVERVIEW

In order to proceed with a CDBG award, it must be implemented in compliance with the National Environmental Policy Act (NEPA) and the environmental requirements of other Federal laws covering historic properties, noise, air quality, floodplains, wetlands, water quality, solid waste management, man-made hazards, farmlands protection, wild and scenic rivers, coastal areas, endangered species and environmental justice.

Environmental responsibilities have both legal and financial ramifications. As part of the grantee assurances, the mayor or county mayor/executive must assume the role of the responsible Certifying Officer (CO) under the provisions of NEPA. This person is the environmental CO and must sign all environmentally related material. This means that if someone brings suit against a project in Federal court on environmental grounds, the mayor or county mayor/executive acting as the environmental CO, will be named as the responsible party.

Communities cannot obligate or expend block grant funds until the environmental requirements have been completed and all contract conditions satisfied. After the environmental requirements have been completed, the community will receive a Letter of Removal of Environmental Conditions (LOREC).

Even after receipt of this letter stating environmental requirements have been completed, funds cannot be obligated or expended until all contract conditions have been satisfied and the community receives a Final Notice of Release of Contract Conditions (refer to Financial Chapter B).

Any and all public comments must be considered before the Request for Release of Funds. The comments should be submitted to the State with the response that was given to the concerned citizen(s).

A. 2. a. Activities Prior to Receipt of Final Notice of Release of Contract Conditions:

The only tasks that may be undertaken prior to receiving the LOREC are the following exempt activities:

1. Eligible administrative costs
2. Engineering design
3. Environmental review

In order to follow all the requirements, rules, regulations, etc., an Environmental Review Record (ERR) must be maintained. The ERR describes the project and its environmentally related activities, and contains all original documents, public notices and written determinations issued during the environmental review process. A copy of the ERR must be available at the city or county for public review, and another ERR must be sent to the State.

A.2.b. Time Frame for submittal of Environmental Review Records

- **Exempt project ERR is due to ECD 15 days after award announcement.**
- **Categorically Excluded converting to Exempt project ERR is due 45 days after award announcement.**
- **Categorically Excluded project ERR is due 60 days after award announcement.**
- **Environmental Assessment project ERR is due 90 days after award announcement.**

If an incomplete ERR is received, the State's 15-day comment period will not begin until all required information is received.

The following link can be used to calculate wait times and comment periods.

<http://www.timeanddate.com/date/dateadd.html>

A.3 ENVIRONMENTAL REVIEW PROCESS

The environmental review process can be divided into four basic steps (see chart on page 3).

First Step: To determine into which of the five environmental review categories your project should be placed based on the definition of each category. Projects may be categorized into one of the following NEPA categories:

1. Environmental Impact Statement (EIS)
2. Environmental Assessment (EA)
3. Categorically Excluded Subject to Federal Environmental Laws (CES)
4. Categorically Excluded Converting to Exempt
5. Exempt

Not currently used: Categorically Excluded not Subject to Federal Environmental Laws (CENST) A-30

Second Step: To complete all of the environmental requirements based on the category selected in the first step. The grantee must maintain a written record of the environmental review undertaken for each project. This document shall be designated the Environmental Review Record (ERR) and shall contain all original documents, public notices, and written determinations issued during the environmental review process. The ERR must be available for public review.

Third Step: To submit the **entire** ERR to the Department of Economic and Community Development (TNECD). At that time, TNECD will review the ERR for completeness and compliance, and initiate a 15-day comment period so that interested parties may respond to the project.

Fourth Step: TNECD issuance of the LOREC. However, no obligation or spending of money to implement the project can occur until the Final Notice of Removal of Contract Conditions (FNORCC) has been issued.

A.4 ENVIRONMENTAL IMPACT STATEMENTS

An Environmental Impact Statement (EIS) is required under any of the following circumstances:

1. The project is determined to have a potentially significant impact on the human environment;
2. The project would provide a site(s) for hospitals and nursing homes containing a total of 2,500 or more beds;
3. The project would remove, demolish, convert, or substantially rehabilitate 2,500 or more existing housing units; or
4. The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units.

If any of the above conditions are met, the recipient should immediately contact TNECD for assistance.

A.5 ENVIRONMENTAL ASSESSMENT PROJECTS

DUE TO ECD 90 DAYS AFTER AWARD ANNOUNCEMENT

Projects that involve new construction or substantial improvements to existing facilities will require an Environmental Assessment (EA). Examples of these projects include:

1. New Construction
 - New building on vacant site
 - Water/sewer line construction to an area not serviced
 - New water storage tank
2. Substantial Improvements
 - Doubling the size of an existing building
 - Increasing employment by more than 20%
 - Changing the land use
 - Increasing the capacity of public facilities by more than 20%

- Major rehabilitation

Environmental Assessment Requirements

Early in the environmental assessment of a project, the grantee must initiate coordination and consultation with concerned Federal Agencies and with designated State Agencies responsible for administering State programs. The grantee must also complete all procedures and take other actions required under the provisions of applicable laws. Any such actions shall be integrated into the EA as compliance documentation.

EA projects require completion of the following:

A. 5. a. Environmental Assessment Narrative - A-2

The primary purpose of the Narrative is to discuss in detail any adverse impacts and mitigating measures that were identified in the Environmental Assessment Checklist. The following areas are included on the form:

- I. Grant Data – items such as project identification, preparer, project name/location, cost, administrating agency, contact person, etc.
- II. Conditions for Approval and FONSI
- III. Statement of Need for Proposal
- IV. Description of the Proposal – Alternatives to the project **MUST** be listed. Positives and negatives should be listed with each alternative including a no action alternative.
- V. Existing Conditions and Trends

A. 5. b. Project Area Map(s)

A project map(s), indicating the location of the project site(s), must be included in the ERR. The Federal Emergency Management Agency (FEMA), Flood Boundary maps, and/or FIRM maps must also be included in the ERR. The project site must be marked/outlined on the map(s).

A. 5. c. Statutory Worksheet - A-3

The Statutory Worksheet (Exhibit A-3) documents compliance with Federal laws, regulations and Executive Orders. It includes a listing of applicable statutes and regulations by fourteen areas of compliance. A specific source must be documented for each area. Exhibit A-4 gives direction on who to consult and how to complete the Statutory Worksheet, as well as the HUD thresholds for each category. All documentation should be included in the ERR.

A.5. d. Historic Preservation Office Letters (SHPOs & THPOs)

Most properties will require a consult with the State Historic Preservation Officer (SHPO) to ensure that the project's activities will not damage sites of significant historical importance. If SHPO is consulted, Tribal Historic Preservation Offices requesting to be consulting parties must be consulted. A SHPO letter and THPO letter/email is the **only** acceptable documentation. All correspondence with TN SHPO should be done by **HARD COPIES**. It is suggested (*although not required*) that all correspondence with SHPO/THPO be accompanied by some form of delivery confirmation or certified mail to prove the SHPO/THPO did receive the consult letter and failed to respond within the thirty/thirty-five day comment period.

State of Tennessee SHPO contact information:
Mr. Patrick McIntyre, Jr., Executive Director, SHPO
ATTN: Section 106 Review and Compliance
2941 Lebanon Road
Nashville, TN 37243-0442
Phone: 615-532-1550
Fax: 615-532-1549
E-mail: patrick.mcintyre@tn.gov

Exhibits A-20 and A-21 give directives and specific information for THPO and Consulting Agency requirements. A-22 is a sample Tribal Invitation to Consult.

REVIEW THESE EXHIBITS AND ABIDE BY ALL DIRECTIONS CONCERNING TRIBAL CONSULTATION OR YOU COULD BE LIABLE.

A. 5. e. NEPA Environmental Assessment Checklist - A-6

The Environmental Assessment Checklist (A-6) contains thirty-six (36) specific impact categories within seven major areas. The seven impact areas represent categories with related and overlapping issues. Some of these areas are also included on the Statutory Worksheet.

A project may be in compliance with the laws, regulations and Executive Orders stipulated on the Statutory Worksheet yet still have an impact on the environment as listed on the NEPA Environmental Assessment Checklist. For example, no statutes or regulations pertaining to Air Quality may be present on the Statutory Checklist; however, during construction, short-term dust levels may need proper mitigation. The appropriate code (1-5) should be listed on the NEPA Environmental Assessment Checklist with reference to supporting documentation that is included in the ERR.

If code 3 and/or 5 is listed, please call the ECD environmental person to discuss.

Information to include in the “Source of Documentation” column would be: the name of person giving consult, their title, their agency, the date contacted and their assessment. The required experts to consult are listed on the A-7. **Only use the experts listed on Exhibit A-7 as contacts for each category.** TNECD has to approve any other contacts.

REFER TO THE A-7 FOR A LISTING OF “EXPERTS TO CONTACT” FOR EACH CATEGORY of the A-6.

State and Local requirements/regulations are considered in these consultations.

In the Summary section of the A-6, #1. Alternatives to the Proposed Action, **ALTERNATIVES TO THE PROJECT MUST BE LISTED.** Positives and negatives (short and long-term, concentrated and dispersed), as well as increased cost, loss of life, property, income, vital services, etc. listed with each alternative should be.

A. 5. f. PUBLICATIONS

EA projects require publication in the grantee's local newspaper* in order to inform the public of the environmental requirements for the proposed project. Required notices must be published a minimum of one time. The number of notices and the amount of time required for the local comment period depend on whether or not the project is located in a floodplain. Sample calendars are listed in Exhibit A-9.

When photocopies of publications rather than original publications are included in the ERR, an original publisher's affidavit must be submitted in order to verify the actual date of publication.

- * Grantees may post the notices in public places and mail to interested parties. If posting, the Concurrent Notice must be made available for 18 days. Also, posting must occur in a minimum of five (5) public places.
- * A memo on letterhead must be placed in the ERR giving details of the posting: date of posting, list of places posted with their addresses, copy of the posting must be included.
- * **However, grantees may NOT post for floodplain projects. Floodplain projects must be published.**

A. 5. f. 1. Publications for EA Projects not located in a Floodplain

For projects not located in a floodplain, the grantee must publish the Concurrent Notice which is followed by a fifteen day local comment period. Publication dates must succeed the dates of the Statutory Worksheet, NEPA Environmental Assessment Checklist, and EA Narrative.

A. 5. f. 2. Publications for EA Projects located in a Floodplain

If the project is located **within a floodplain or a wetland**, the grantee must document completion of the HUD 8-Step Process.

Notification to HUD/FEMA occurs when the ERR preparer publishes the Early Notice and Public Review and sends a copy to the required distribution list FEMA contact.

Documentation of the 8-Step Process is accomplished by completing Exhibit A-5. The 8-Step Process is as follows:

1. Determine whether the action is located in a 100-year floodplain (or a 500-year floodplain for critical actions)
2. Notify the public for early review of the proposal and involve the affected and interested public in the decision making process - publish the Early Notice and Public Review (EN&PR Exhibit A-10) and allow fifteen days for public comment
3. Identify and evaluate practicable alternatives
4. Identify potential direct and indirect impacts associated with floodplain development
5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the floodplain and to restore, and preserve the values of the floodplain
6. Reevaluate the alternatives
7. Determination of no practicable alternative - the Final Notice and Public Explanation (FN&PE Exhibit A-11) may be published and run concurrently with the Concurrent

Notice (Exhibit A-12). A 7 day comment period is required for the FN&PE Exhibit A-11, while a 15 day local comment period is required for the Exhibit A-12.

8. Implement the proposed action

A. 5. g. Distribution List

Whenever **any notice is published in the paper**, a copy with a cover memo must be sent to all interested parties **on or immediately before the date of publication**. These include, but are not limited to, those agencies listed on the Distribution List (Exhibit A-14). The Distribution List and copies of all the cover memos must also be included in the ERR as proof that the agencies on the Distribution List were sent the required notices.

A. 5. h. Flood Insurance

If the project is located in a floodplain and involves the construction or improvement to a structure, the grantee must have flood insurance. Documentation to prove this must be included in ERR.

A. 5. i. Request for Release of Funds (RROF) and Certification

The Request for Release of Funds and Certification (Exhibit A-17) must be completed and signed by the grantee's Certifying Official (CO). This form certifies that the CO has complied with all Federal/State regulations in the environmental review process. The grantee must take into account any comments from the public or agencies in response to the published notices prior to completing this form. The original copy must be included in the ERR.

After all of the above activities have been completed, the ERR should be submitted to TNECD. The Environmental Review Requirements Checklist (Exhibit A-1) should be completed by the grantee to ensure that all necessary forms have been included in the ERR.

Upon receipt of a **complete** Environmental Review Record containing all the required information at TNECD, the fifteen day public comment period for the State will begin. After the completion of this period, TNECD will send the LOREC to the grantee.

** Often listed on the LOREC will be clearance conditions required by various agencies. An **A-30 Clearance of LOREC Notations for P&S Approval** is found in the Exhibits. If the LOREC has notations, this completed form must accompany any plans and specifications (P&S) submitted to TNECD before review of P&S can be completed.*

A.6 CATEGORICALLY EXCLUDED PROJECTS SUBJECT TO FEDERAL ENVIRONMENTAL LAWS

DUE TO ECD 60 DAYS AFTER AWARD ANNOUNCEMENT

Categorical exclusion refers to a category of activities for which no Environmental Impact Statement (EIS) or Environmental Assessment (EA) and finding of no significant impact under

the National Environmental Policy Act (NEPA) is required. Three types of categorically excluded projects exist – those subject to federal environmental laws (CES), those converting to Exempt status, and those not subject to federal environmental laws (CENST). *Tennessee CDBG does not currently use the CENST category.*

A.6.a. Categorically Excluded Projects Subject to Federal Environmental Laws

Projects not subject to NEPA requirements, but bound by other regulatory considerations and compliances are termed Categorically Excluded Subject to Federal Environmental Regulations (CES). These projects include:

1. Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements 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).
2. Special projects directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly and handicapped persons.
3. Rehabilitation of buildings and improvements
 - a. Residential, multi-family buildings
 - i. Unit density is not increased by more than 20 percent;
 - ii. The project does not involve changes in land use from residential to non-residential or from one class of residential to another (e.g. from single family attached dwellings to high-rise multiple dwelling units; and
 - iii. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - b. Commercial and industrial (non-residential) rehabilitation activities
 - i. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - ii. 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 up to four dwelling units where a maximum of four units are on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between. A project of five or more units when the units are more than 2,000 feet apart and developed on scattered sites.
5. Acquisition/disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired/disposed of will be retained for the same use.
6. Combinations of the above activities.

A.6.b. Rehabilitation work is considered CES unless

1. There is an increase in the ‘footprint’
2. There is any new construction
3. Capacity is increased by over 20% (i.e. changing from 6” to 10” pipe)
4. Land/facility use is changing

If any of these conditions exist, the project will need an Environmental Assessment

A.6.c. Categorically Excluded Project Requirements

If the CES project is not in a floodplain and no compliance is triggered on the Statutory Worksheet (A-3), the project may convert to Exempt and publication and RROF are not required. The following is required ERR documentation:

1. A-1 Requirement Checklist
2. Project Area Map
3. The Statutory Worksheet (A-3) with documentation
4. SHPO/THPO letters, as well as any additional Tribal consults
5. Certification and Checklist for Exempt Status (A-16), checking box 12

If the project is determined to be CES and compliance activities are required by the Statutory Checklist, the following is required ERR documentation:

1. A-1 Requirement Checklist
2. Project Area Map
3. The Statutory Worksheet (A-3) with documentation
4. SHPO/THPO letters, as well as any additional Tribal consults
5. Flood plain notices and 8-Step Process documentation, if necessary
6. Publication(s)
7. Distribution List(s)
8. NOI/RROF

A.6.d. Publications for CES Projects not located in a Floodplain

For projects not located in a floodplain, the grantee must publish the Notice of Intent to Request Release of Funds (NOI/RROF) (A-13) which is followed by a seven day local comment period. Publication dates must succeed the date of the Statutory Worksheet.

- * Grantees may post the notices in public places and mail to interested parties. If posting, the NOI must be made available for 10 days, while the FONSI must be made available for 18 days. Also, posting must occur in a minimum of five (5) public places.
- * A memo on letterhead must be placed in the ERR giving details of the posting: date of posting, list of places posted with their addresses, copy of the posting must be included.
- * **However, grantees may NOT post for floodplain projects. Floodplain projects must be published.**

A.6.e. Publications for CES Projects located in a Floodplain

If the project is located within a floodplain, the grantee must document completion of the HUD 8-Step Process.

Notification to HUD/FEMA occurs when the ERR preparer publishes the Early Notice and Public Review and sends a copy to the required distribution list FEMA contact.

Documentation of the 8-Step Process is accomplished by completing Exhibit A-5. The 8-Step Process is as follows:

1. Determine whether the action is located in a 100-year floodplain (or a 500-year floodplain for critical actions)
2. Notify the public for early review of the proposal and involve the affected and interested public in the decision making process - publish the Early Notice and Public Review (EN&PR A-10) and allow fifteen days for public comment
3. Identify and evaluate practicable alternatives
4. Identify potential direct and indirect impacts associated with floodplain development
5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the floodplain and to restore, and preserve the values of the floodplain
6. Reevaluate the alternatives
7. Determination of no practicable alternative - Determination of no practicable alternative - the Final Notice and Public Explanation (FN&PE Exhibit A-11) may be published and run concurrently with the NOI/RROF (Exhibit A-13). A seven day comment period is required for these publications.
8. Implement the proposed action

A.6.f. Distribution List

Whenever any notice is published in the paper, a copy with a cover memo must be sent to all interested parties **on or immediately before the date of publication**. These include, but are not limited to, those agencies listed on the Distribution List (Exhibit A-14). The Distribution List and copies of all the cover memos must also be included in the ERR as proof that the agencies on the Distribution List were sent the required notices.

A.6.g. Flood Insurance

If the project is located in a floodplain and involves the construction or improvement to a structure, the grantee must have flood insurance. Documentation to prove this must be included in ERR.

--

A.7 CATEGORICALLY EXCLUDED PROJECTS, CONVERTED TO EXEMPT

Due to ECD 45 days after award announcement

Activities that are listed above and in 24 CFR § 58.35(a) (1)-(6) as categorical exclusions may be converted into exempt activities under the following conditions:

- a. The Grantee completes a compliance determination under the Federal laws and authorities cited in 24 CFR § 58.5 for the proposed activity.
- b. The Grantee concludes that no circumstances exist where any of the Federal laws and authorities requires compliance with its own review procedures.
- c. The Grantee documents its conclusions on the compliance review (Exhibit A-3). A project area map is generated. However, no public notices are published and no request for Release of Funds and Certification is submitted. The Grantee documents that the activity did not trigger compliance with any Federal laws and authorities and consequently, the activity was converted and is certified as an exempt activity (Exhibit A-16). All documents will be placed in the Environmental Review Record.
- d. No publications/comment periods are necessary for CE projects converting to Exempt projects. The ERR is still sent to TNECD with a completed A-1 for Environmental clearance.

A.8. CATEGORICALLY EXCLUDED PROJECTS NOT SUBJECT TO FEDERAL ENVIRONMENTAL LAWS (CENST)

Categorically Excluded Projects Not Subject to Federal Environmental Laws (CENST) are not currently utilized by TNECD.

A.9 EXEMPT PROJECTS

DUE TO ECD 15 DAYS AFTER AWARD ANNOUNCEMENT

Exempt projects do not require compliance with any Federal environmental laws or authorities. The basis for qualifying a project or activity as Exempt is the underlying activity. A project, if it consists solely of the activities listed in 24 CFR § 58.34, can be categorized as Exempt.

Purchase of equipment or vehicles falls under the 'purchase of tools' section. An A-16 is completed and sent to TNECD for project clearance. (#7 is checked)

A.10 ADOPTION OF ANOTHER AGENCY'S ENVIRONMENTAL IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT

If an Environmental Impact Statement (EIS) or Environmental Assessment (EA) has been prepared on the project for another agency, the grantee may adopt this document as part of the environmental review requirements under the Community Development Block Grant (CDBG) program. However, the following must also be included:

1. A copy of the previous EIS/EA
2. An addendum to the previous EIS/EA stating that it is still valid
3. Environmental Review Requirement Checklist (Exhibit A-1)
4. Statutory Worksheet (Exhibit A-3)
5. 8-Step Process, if necessary (A-5)
6. State Historic Preservation Office (SHPO) Letter
7. Tribal Historic Preservation Office (THPO) Letter, Additional Tribal Consults
8. Map(s)
9. Distribution List (Exhibit A-14) and accompanying letters
10. Documentation of flood insurance (if applicable)
11. Request for Release of Funds and Certifications (Exhibit A-17)

NOTE: The Concurrent Notice and the floodplain notices (if applicable) **must be** published even if a previous notice was published as part of the adopted EIS/EA. The time frame for public comment is the same as for EAs.

* If the project is not in a floodplain, grantees may post the notices in a public place and mail it to interested parties. If posting, the NOI/RROF A-13 must be made available for 10 days, while the Concurrent Notice A-12 must be made available for 18 days. A memo must be placed in the ERR giving details of the posting.

A.11 PROJECT SCOPE CHANGE

Re-evaluation of Environmental Review Record requiring an Addendum

If size, location, or scope of a project changes, environmental impact must be re-assessed and the ERR updated.

If the original scope of a project is changed, an ERR addendum must be completed. Situations that would require reassessment are:

1. Adding new activities not covered in original project scope (e.g., cost savings result in ability to extend water line beyond what was originally planned)
2. New circumstances and environmental conditions that may affect the project
3. Choosing an alternative approach or site not considered in the original assessments

If a change in the scope of the project occurs, the grantee must first request approval from TNECD. Once the scope change is approved, TNECD and the grantee will re-evaluate the original ERR based on the new information to determine whether the ERR is still applicable. If the original ERR is still valid, the grantee will submit an Addendum to the original ERR.

ERR Addendum Requirements

If the project is determined to need an addendum the following is required ERR documentation:

1. **Addendum of Validity** (A-18) – Project’s Certifying Officer (CO) must complete this form.
2. If applicable, acknowledgement that the NEPA EA Checklist (A-6) has been reviewed and is also still valid.
3. A description and map of the new project area
4. A current State Historic Preservation Office (SHPO) and Tribal Historic Preservation Office (THPO) letter, as well as additional Tribal consultations, related to the new project area.
5. A current Statutory Worksheet (A-3) related to the new project area.

The Environmental Review Requirements Checklist (A-1) column titled “Addendum”

If the original ERR is determined to no longer be applicable, the grantee must prepare a new ERR that includes all of the requirements for that type project.

A.12 AGGREGATE

Environmental Review Record utilized for concurrent years’ projects in the same area with the same scope where the project ERR is under 5 years old.

Grantees may reuse an ERR if it is under 5 years old, covers the same project area, and has the same scope. However, a charge cannot be made to the grant for completion of an ERR.

ERR Aggregate Requirements

1. An A-18 Addendum of Validity must be signed and dated by the Certifying Officer (CO).
2. A project map delineating the area to be worked
2. An RROF/Certification A-17 must also be submitted

**ENVIRONMENTAL REVIEW RECORDS ARE VALID
FOR FIVE (5) YEARS
FROM ORIGINAL CLEARANCE DATE**

A.11 LIST OF EXHIBITS

See TNECD CDBG Handbook webpage for the documents
<http://www.tn.gov/ecd/CDBG/Handbook.shtml>

A-1	ENVIRONMENTAL REVIEW REQUIREMENT CHECKLIST
A-2	ENVIRONMENTAL ASSESSMENT NARRATIVE OUTLINE
A-3	STATUTORY WORKSHEET
A-4	STATUTORY WORKSHEET DOCUMENTATION DIRECTIONS and HUD THRESHOLDS
A-5	8-STEP PROCESS DECISION MAKING CHECKLIST
A-6	NEPA ENVIRONMENTAL ASSESSMENT CHECKLIST
A-7	NEPA EA CHECKLIST DOCUMENTATION DIRECTIONS
A-8	HOLD
A-9	ALL CALENDARS FOR PUBLIC COMMENT PERIODS
A-10	EARLY NOTICE AND PUBLIC REVIEW
A-11	FINAL NOTICE AND PUBLIC EXPLANATION
A-12	CONCURRENT NOTICE
A-13	NOTICE OF INTENT TO REQUEST A RELEASE OF FUNDS
A-14	DISTRIBUTION LIST
A-15	HOLD
A-16	CERTIFICATION AND CHECKLIST FOR EXEMPT STATUS
A-17	REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION
A-18	ADDENDUM OF VALIDITY
A-19	HOLD
A-20	TRIBAL CONSULTATION UNDER THE NATIONAL HISTORIC PRESERVATION ACT
A-21	REQUIRED TRIBAL CONSULTATION BY TENNESSEE COUNTY
A-22	SAMPLE TRIBAL CONSULTATION LETTER
A-23	HOLD
A-24	HOLD
A-25	HOLD
A-26	FARMLAND PROTECTION CHECKLIST
A-27	EXPLOSIVE AND FLAMMABLE CHECKLIST
A-28	CLEAR ZONES AND ACCIDENT POTENTIAL ZONES – AIRPORTS CHECKLIST
A-29	TOXIC CHEMICALS AND RADIOACTIVE MATERIALS CHECKLIST
A-30	LOREC CLEARANCE FORM TO SEND WITH PLANS & SPECS
A-31	HOLD
A-32	HOLD
A-33	HOLD
A-34	HOLD
A-35	CERTIFICATION AND CHECKLIST FOR CATEGORICALLY EXCLUDED (NOT SUBJECT TO 24 CFR § 58.5) - Not currently used by TNECD