

Memorandum

CDBG Policy Guidance

Date: August 21, 2015

Policy: 15-02

SC Department of Commerce, Grants Administration, 1201 Main Street, Suite 1600, Columbia, SC 29201
www.cdbgSC.com

Subject: Environmental Reviews - Wetlands Delineations
Resource: *SC CDBG Implementation Manual*

Documenting the presence/absence of jurisdictional and non-jurisdictional wetlands is required as part of a CDBG environmental review per Executive Order 11990. In addition, documenting whether a wetlands permit is needed is required by the Clean Water Act. Determining the presence/absence of jurisdictional wetlands and if permitting is required is generally accomplished by contacting the US Army Corps of Engineers (USACE) Regulatory Division. The most definitive way to determine the presence/absence of jurisdictional and non-jurisdictional wetlands is to conduct a wetland delineation.

The USACE requires that a “Jurisdictional Determination Request” be submitted for most CDBG projects and the Responsible Entity (RE) must either provide a wetland delineation or request that the USACE conduct a delineation. In order to reduce review time, the SC Department of Commerce and the USACE recommend that wetland delineations be performed by a consultant/qualified professional instead of requesting that the USACE conduct the delineation. Any specific questions about delineations and the USACE submittal requirements should be directed to the appropriate USACE office for your region.

Further guidance has been obtained from the South Carolina HUD environmental representative, Mr. Lenwood Smith, regarding wetland delineations and contact with the USACE for purposes of the CDBG environmental review:

- If a qualified professional provides a scientifically defensible report (delineation) indicating no wetlands are present (jurisdictional or non-jurisdictional), consultation with the USACE is not necessary. For a report to be defensible, it must outline the process used for determining the presence/absence of jurisdictional and non-jurisdictional wetlands, provide a description of all ecological communities on the site, and provide the investigator’s qualifications. This does not relieve the Grantee from potential compliance issues with the USACE, so Grantees may still wish to contact the USACE.
- If a qualified professional provides a scientifically defensible report (delineation) indicating either jurisdictional or non-jurisdictional wetlands **are present**, then consultation with the USACE regarding permitting (for jurisdictional wetlands) and mitigation is still required. Per Executive Order 11990, the Eight-Step process will likely be required as well.
- The USACE does not regulate non-jurisdictional wetlands and may not address these in their correspondence. However, the presence/absence of non-jurisdictional wetlands must be addressed in the environmental review. Therefore, a scientifically defensible report (delineation) is the most definitive way to document the presence/absence of non-jurisdictional wetlands.

The Grantee is ultimately responsible for compliance with all environmental regulations and permitting requirements. This information is provided for guidance only and is not a substitute for a thorough knowledge of State and Federal laws and regulations.

If you have any questions, please contact Keely McMahan or Lisa Kalsbeck at 803-734-0429. Environmental forms and documents are available at www.cdbgSC.com.

This policy memorandum updates the Community Development Block Grant Program and becomes effective immediately unless otherwise stated. The program documents located on the SC Department of Commerce website have the most up to date policies of the CDBG program.
