



Environmental Review

Goals for the course...



- ▶ Overview of Part 58
- ▶ Updates for 2020
- ▶ Phase I and Phase II Guidance
- ▶ Answer your questions!!!

The Tools...

- ▶ HUD Exchange
<https://www.hudexchange.info/programs/environmental-review/>
- ▶ WISER
- ▶ State CDBG Implementation Manual and staff



Purpose ...

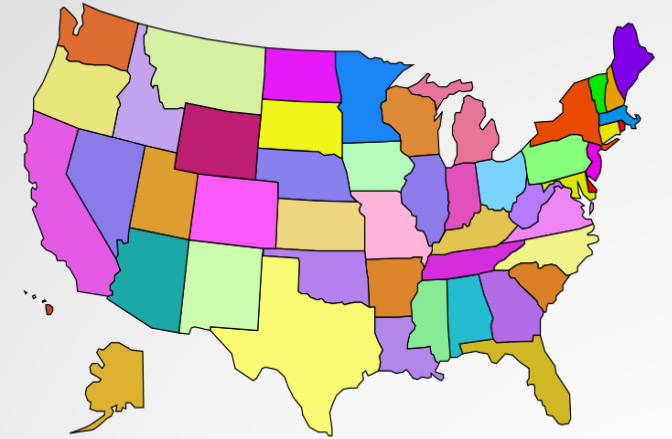
- ▶ Analyze the effect the proposed project will have on the human and the natural environment prior to committing funds
- ▶ Comply with federal environmental laws and authorities
- ▶ Avoid or minimize possible adverse impacts effects
- ▶ Consider alternatives
- ▶ Involve and Notify the public

Who ...is Responsible?

58.4

Grant to a **State** (CDBG/HOME/Disaster)

- ▶ Sub-recipient is unit of local government/RE:
 - LG must assume ER responsibility
 - State becomes HUD
- ▶ Sub-recipient is non-profit, developer:
 - State is responsible entity
 - Must submit RROF to HUD



RE responsibilities

- ▶ Designate two roles:
 - Certifying Official (CO) which is CEO of recipient or someone designated by governing body resolution
 - Environmental Officer (EO) prepares the review
- ▶ Set up file with all ER info = ERR (see 58.38)
 - Description of project and activities
 - Forms & checklists
 - Written determinations & mitigating actions
 - Notices & public comments
- ▶ Submit to the SCDOC for review: sc-cdbg@sccommerce.com

Related Laws and Authorities

24 CFR Part 58.5

- ▶ Historic Properties
- ▶ Floodplain Management & Wetland Protection
- ▶ Coastal Zone Management
- ▶ Sole Source Aquifers
- ▶ Endangered Species
- ▶ Wild & Scenic Rivers
- ▶ Air Quality
- ▶ Farmlands Protection
- ▶ HUD Environmental standards
- ▶ Environmental Justice



Other Requirements

24 CFR Part 58.6

- ▶ Flood Insurance
- ▶ Coastal Barriers
- ▶ Runway Clear Zones



South Carolina
Department of Commerce
Just right for business.



When...do you start the review?

► Limitations on activities pending clearance 58.22

- ✓ Project becomes “federal” as soon as an application is submitted
- ✓ Prohibits grant recipients/**partners** from committing HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of the ER.
- ✓ “Choice-limiting actions” prohibit physical activity, including acquisition, rehabilitation, demolition, and construction, as well as contracting/bidding for or committing to any of these actions.
- ✓ Do **NOT** commit/expend funds prior to receiving state approval **IF** the project would have an adverse environmental impact or limit the choice of reasonable alternatives

When...do you start the review?

- ▶ Limitations on activities pending clearance **58.22**
 - ✓ Does not apply to undertakings or commitments of non-federal funds before a project participant has applied for HUD funding.
 - ✓ A party may begin a project in good faith as a **private project** and is not precluded from later deciding to apply for federal assistance.
 - ✓ However, when the party applies for federal assistance, it will need to cease further choice-limiting actions on the project until the environmental review process is complete.

Options & Conditional Commitments

- Under certain conditions, can enter into Option agreements, provide a statement of conditional funding or enter into a non-legally binding agreement (**check with State prior to execution**).
- May proceed with exempt/CENST activities such as planning, studies, administration, etc.
- HUD Guidance Memo:
<http://www.hudexchange.info/resource/5032/hud-memo-guidance-on-options-and-conditional-contracts-for-purchase-of-real-property-for-environmental-reviews-conducted-by-a-responsible-entity-under-24-cfr-58/>



Poll Question:

Can the business purchase the site with non-CDBG funds?

- ❖ Yes
- ❖ No

- ▶ Anytown, SC applied for a State CDBG Grant to install water and sewer lines to serve a new business that will locate in a new Industrial Park.
- ▶ The business wants to purchase the property where they will locate in the Industrial Park but the environmental review has not been completed yet.
- ▶ The business decides to go ahead and purchase the property using non-HUD funds to ensure they don't lose the site.

Getting it done...

Steps in the Environmental Review

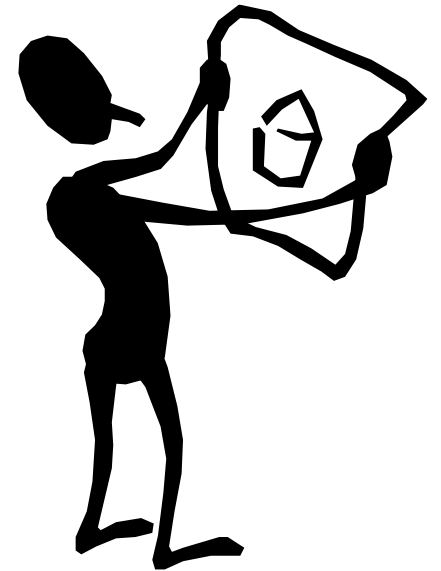
1. Define the project
2. Aggregate activities/project
3. Determine Level of Review
4. Conduct the Review
5. Public Notice Process
6. Receive approval from the State



Step 1:

Define the Project

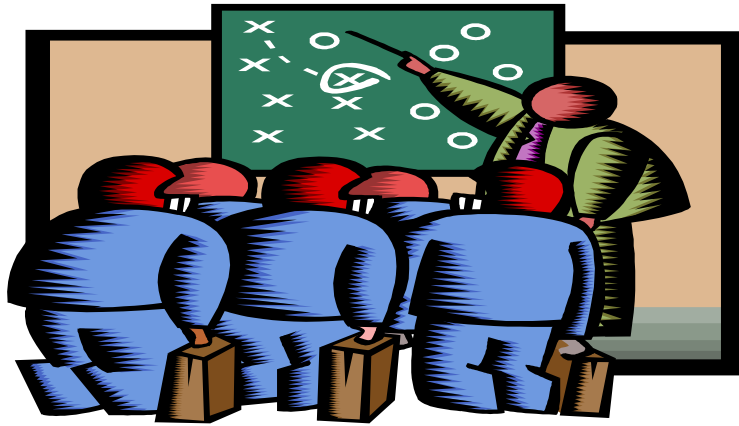
- ▶ Describe Activities in Writing
- ▶ Include all activities and funding sources (**HUD and non-HUD**)
- ▶ Time frame (1–5 years)
- ▶ Include maps with site boundary *clearly* marked



Step 2:

Aggregation 58.32

- ▶ Must group together and evaluate as a **single project** all individual activities which are related either on a geographical or functional basis...



Tiering

- ▶ Process used for projects with scattered and/or unspecified sites
- ▶ Helps eliminate duplication and focus on factors that are “ripe for decision”
- ▶ Most commonly used for single-family rehabs and demolition projects
- ▶ Consists of two stages:
 - Broad Level of Review
 - Site Specific Review

Poll Question: Is this a violation?

A. Yes

B. No



- ▶ Anytown, SC applied for a State CDBG Grant for the installation of water and sewer lines to serve a new Paper Mill that will create at least 51% LMI jobs.
- ▶ The GA started the ER and determined it only has to cover the installation of the water and sewer lines as there are no HUD funds in the construction of the Industrial Park.

Step 3:

Levels of Review

Exempt/ Categorically Excluded **not** subject to 58.5

Categorically Excluded subject to 58.5

Environmental Assessment (EA)

Environmental Impact Statement (EIS)

Exempt Activities

58.34(a)

- ▶ Environmental, planning & design costs
- ▶ Information & financial services
- ▶ Administrative/management activities
- ▶ Public services (no physical impact)
- ▶ Inspections
- ▶ Purchase of tools/insurance
- ▶ Technical assistance & training
- ▶ **Temporary assistance for imminent threats**
- ▶ Payment of principal and interest



Categorically Excluded Not subject to 58.5...58.35(b)

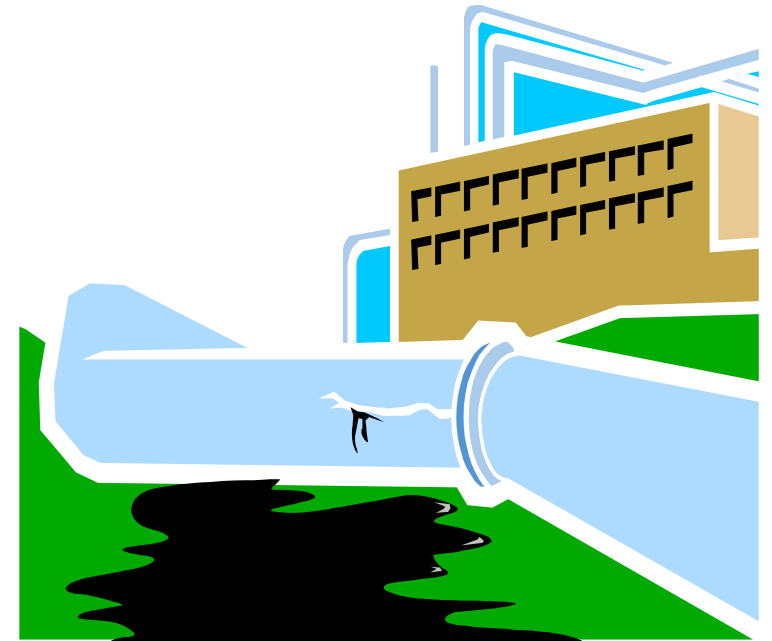
- ▶ Tenant-based Rental assistance
- ▶ Most Supportive Services
- ▶ Operating costs (utilities/supplies/**maintenance**)
- ▶ ED costs (non-construction)
- ▶ Pre-development costs (legal, consulting fees)
- ▶ Down payment assistance for existing dwellings
- ▶ Supplemental Assistance



Categorically Excluded subject to 58.5...

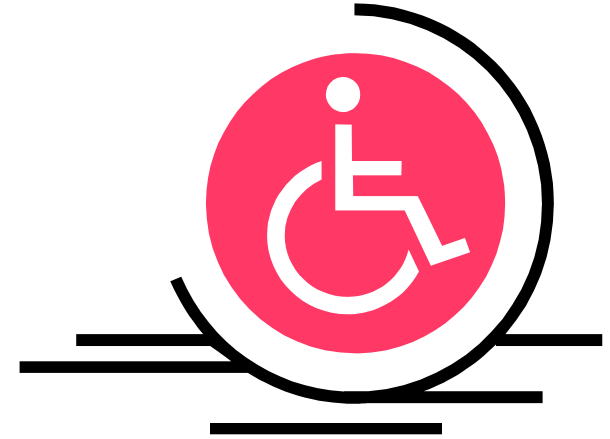
58.35(a)(1)

- ▶ Public Facilities:
 - Acquisition
 - Repair
 - Reconstruction
 - Improvement
- ▶ If facility is in place
- ▶ 20% or less change in size or capacity
- ▶ Ex: replacement of water and sewer lines, reconstruction of curbs and sidewalks (**does not apply to buildings**)



Categorically Excluded subject to 58.5 ...58.35(a)(2)

- ▶ **Special** Projects for removal of:
 - Material
 - Architectural Barriers
- ▶ That restrict mobility and accessibility to elderly and handicapped individuals
 - (Example: curbs cuts, wheelchair ramps)



Categorically Excluded subject to 58.5...58.35(a)(3)(i)

- ▶ Rehab of **single-family** properties when:
 - Density not increased beyond four units on any one site **and**
 - No change in land use



Categorically Excluded subject to 58.5...58.35(a)(3)(ii)



- ▶ Rehab of **multi-family** residential when:
 - Unit density not changed by more than 20%
 - No change in land use
 - Cost is less than 75% of replacement after rehab

Categorically Excluded subject to 58.5...58.35(a)(3)(iii)

- ▶ Rehab of **Non-residential** when:
 - Less than 20% change in size or capacity
 - No change in land use

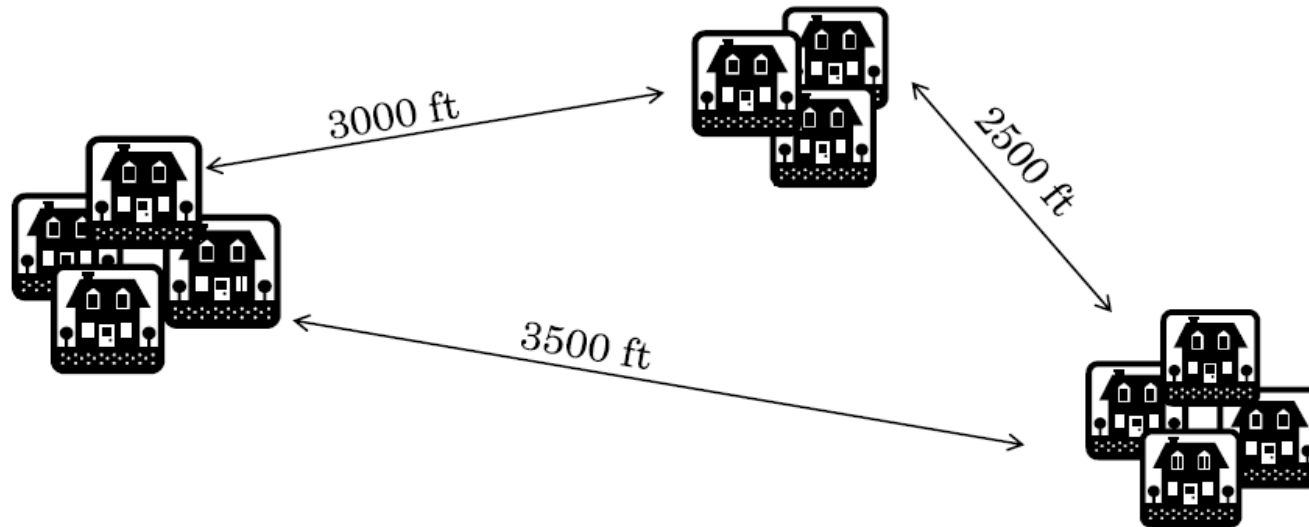


Categorically Excluded subject to 58.5...58.35(a)(4)(i)

1. An **individual action** on up to 4 dwelling units on any one site or...
2. A project of five or more units
 - more than 2,000 ft apart
 - developed on scattered sites
 - no more than 4 units on any one site

Categorically Excluded subject to 58.5

- Individual action on up to 4 dwelling on any one site or 5+ units on scattered sites when 2000+ ft. apart



Poll Questions:

What level of review would you complete for this project?

- A. Exempt
- B. CENST
- C. CEST
- D. EA
- E. EIS

Could you complete a Tiered Review?

- A. Yes
- B. No

- ▶ Anytown, SC has applied for a State CDBG grant for the demolition of several dilapidated structures (residential) scattered throughout the City.



Categorically Excluded subject to 58.5...58.35(a)(5)

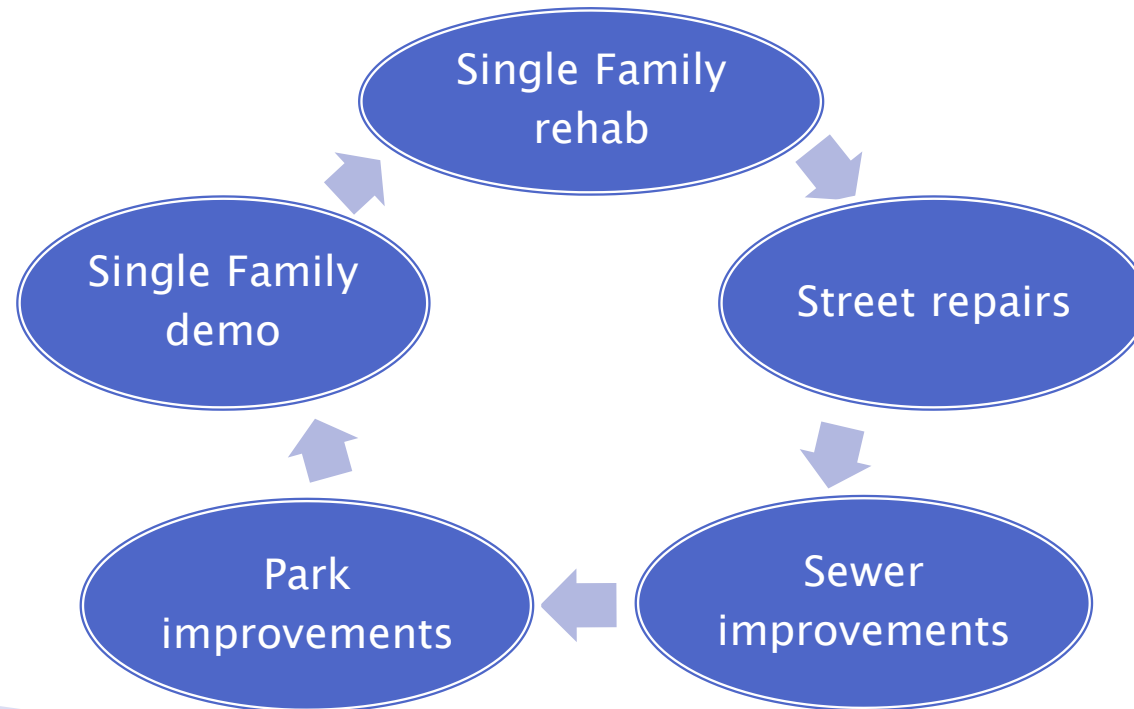
- ▶ Acquisition (including **leasing**) or
- ▶ Disposition of **existing** structure or vacant land...
- ▶ **IF...** property will be used for the same use



Categorically Excluded subject to 58.5...

58.35(a)(6)

- ▶ Any **combination** of Categorically Excluded activities as long as they all meet the criteria in 58.35(a).



Environmental Assessment Activities

24 CFR Part 58.36

- ▶ Project activities that are...
 - Not categorically excluded
 - Involve change in Land Use
 - Major rehab of multifamily
 - New Construction/Demolition > than 4 SF together



Environmental Impact Statement (EIS)...

24 CFR Part 58.37

- ▶ Completed for...
 - Controversial Projects
 - Findings of Significant Impacts (FOSI)
 - Large projects (2,500 or more units)
 - Projects with Unacceptable Noise Levels



Step 4: Conducting the Review



Exempt and CENST projects...

58.34 and 58.35(b)



- ▶ Complete form and document **compliance with 58.6**
- ▶ SIGN and DATE
- ▶ Submit completed form to State
- ▶ No RROF required but...
- ▶ Cannot spend funds until approval from State is received

CEST and EA's: Completing the Form

- Include **detailed** project description including all funding sources and site maps
- Explanation of the purpose & need for the project
- Summary of existing environmental conditions & trends
- All 58.5 and 58.6 laws and authorities supporting documentation (historic preservation, tribal consultation, wetlands, floodplains, etc.)
- Use the “SC Documentation Sources for HUD ERs” @ <https://www.cdbgsc.com/manage-grants/forms-environmental> & the HUD Exchange ER site: <https://www.hudexchange.info/programs/environmental-review/>
- Indicate whether mitigation required (“Y” or “N”)
- Provide credible, traceable & supportive source documentation
- Complete necessary reviews/consultation & obtain/note permits or approvals
- Clearly note citations, dates/names/titles of contacts, page references & attach additional info

CEST reverting to an Exemption

- When complete, make a Determination:
 - ✓ If determination is the project will NOT affect *any* of the areas covered by the laws/authorities, the activity converts to exempt
 - Complete the form, obtain CO signature & submit to Grant Administrator



CEST – Compliance required

- If the project **will** require compliance with any 58.5 laws and authorities(even if mitigated):
 - ✓ Obtain CO signature on form
 - ✓ Publish “Notice of Intent to Request Release of Funds” (NOIRROF) for required comment period (more later)
 - ✓ Send NOI/RROF to various agencies & interested parties
 - ✓ Address any comments that are received
 - ✓ Finalize the ERR
 - ✓ Obtain CO signature on RROF
 - ✓ Submit required information to GA (hard & e-copy of full ERR)

Preparing the EA 58.40

- ▶ Several sections are the same as the CEST form:
 - Project Information
 - Funding Information
 - Part 58.5 & 58.6 Requirements Checklist
- ▶ Additional requirements for NEPA:
 - Land Development Factors
 - Community Facilities and Services Factors
 - Natural Features Factors
 - Socioeconomic Factors
 - Cumulative Impacts & Alternatives



EA Factors Checklist

Verifiable source documentation must be provided to support each determination of impact

- “NA” or “No impact” responses NOT acceptable

As with the Statutory Checklist,

- *Use the SC Documentation Sources for HUD ERs as guide!*
- Complete necessary reviews/consultation & obtain/note permits or approvals
- Clearly note citations, dates/names/titles of contacts, page references & attach additional information

Making a Finding

- ▶ If a Finding of No Significant Impact (FONSI), EA **must** be signed AND **dated** by Certifying Officer **before** completing the public notice process.
- ▶ Public Notice requires a Combined Notice (NOI and FONSI).
- ▶ If a Finding of Significant Impact (FOSI), then must complete an EIS or reject the project



Additional State Requirements for EAs

- ▶ All land disturbing activities impacting 5 or more acres are regulated by the Stormwater Management and Sediment Reduction Act including:
 - Water, sewer, and drainage projects
 - Street paving and parking lot development
 - Industrial development and site improvements
- ▶ CDBG recipients must indicate in the ERR whether or not compliance is required.
- ▶ Questions should be directed to Stormwater Management at DHEC

Step 5:

ER Notices

- ▶ Must have all current & correct information (GA & HUD provide samples)
- ▶ **COVID** – use suggested public notice requirements on HUD Exchange
- ▶ Publish in newspaper of general circulation or post in prominent public places
 - Floodplains/wetlands notices **must** be published – no posting allowed
- ▶ Comment period doesn't start until the day after it appears in paper or is posted
- ▶ Must send copies of notices to EPA and other agencies or persons that might have interest (see contact list in manual) & news media

Timing of Notices

Notice	Method	Timing
FONSI	Published	15 days
FONSI	Posted	18 days
NOI/RROF	Published	7 days + 15 days for state
NOI/RROF	Posted	10 days + 15 days for state
Combined FONSI & NOI/RROF	Published	15 days for comment 15 days for objections
Floodplain Notice of Early Public Review	Published (required)	15 days
Floodplain Statement of Findings & Public Explanation	Published (required)	7 days

Step 6:

Notice of Removal of Environmental Conditions (NOREC)

- ▶ If no valid objections, RE will receive a **NOREC** from the State
- ▶ Project is not officially released until notification is received



Re-evaluation of Environmental Reviews

58.47

- If size, location, scope of project changes, project's environmental impact must be re-assessed & ERR updated. For example:
 - ✓ 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)
 - ✓ New circumstances & environmental conditions that may affect the project
 - ✓ Choosing an alternative approach or site not considered in the original assessment

What's New for 2020... SHPO Agreement

- ▶ Lists activities considered “General Exemptions”
 - Demo/Rehab/Repair of structures less than 50 years not listed in or eligible for the National Register (NR), not located in/adjacent to a NR Historic or eligible District, as recorded on SHPO's GIS
 - Rehab/Repair of structures older than 50 years not listed in the NR, adjacent to or in a NR or eligible District as recorded on SHPO's GIS when all replacement and repair are completed “in-kind”
 - Demolition/Repair to structures greater than 50 years of age determined ineligible for the NR in last 15 years
 - HVAC, plumbing, electrical, appliances, lighting fixtures, etc. provided no structural alterations
 - New construction within areas where there has been previous ground disturbance with no known historic properties listed on or eligible for the NR as recorded on SHPO's GIS
 - See Agreement for full listing of exemptions
- ▶ If archeological materials are encountered during construction, RE must stop work and contact SHPO

What's New for 2020... Demolition in Wetlands

- ▶ Clarification from HUD on Policy Memorandum 17-01
 - E.O. 11990 defines new construction as draining, dredging, channelizing, filling, diking, impounding, and related activities
 - Previous 2015 guidance indicated demolition activities did not constitute “new construction” per E.O. 11990
- ▶ Current guidance effective March 2019
 - Consider demolition activities as potential new construction activities per E.O. 11990
 - If in a developed area and no wetlands present per the NWI **AND** hydric soils are not present, no delineation is necessary
 - If NWI shows wetlands or hydric soils are present, a delineation should be conducted
 - Must provide copies of the NWI Map, Soil map **and** photos of the site verifying no wetlands present
 - Any questions contact SCDOC or HUD

NRCS Mapping Tool... Hydric Soils

USDA United States Department of Agriculture
Natural Resources Conservation Service

Web Soil Survey

Contact Us | Subscribe | Archived Soil Surveys | Soil Survey Status | Glossary | Preferences | Link | Logout | Help

Area of Interest (AOI) | Soil Map | **Soil Data Explorer** | Download Soils Data | Shopping Cart (Free)

View Soil Information By Use: All Uses

Printable Version | Add to Shopping Cart

Intro to Soils | **Suitabilities and Limitations for Use** | Soil Properties and Qualities | Ecological Sites | Soil Reports

Search

Suitabilities and Limitations Ratings

Open All | Close All

Building Site Development

Construction Materials

Disaster Recovery Planning

Land Classifications

Conservation Tree and Shrub Group

Ecological Classification ID

Ecological Classification Name

Farmland Classification

Hydric Rating by Map Unit

View Description | View Rating

View Options

Map ☒

Table ☒

Description of Rating ☒

Rating Options ☒

☐ Detailed Description

Advanced Options

View Description | View Rating

Irrigated Capability Class

Irrigated Capability Subclass

National Commodity Crop Productivity Index

NH Forest Soil Group

Nonirrigated Capability Class

Nonirrigated Capability Subclass

NRCS Ecological Site ID

NRCS Ecological Site Name

Soil Map

Legend

Scale (not to scale)

NRCS Mapping Tool... Hydric Soils

Tables – Hydric Rating by Map Unit – Summary By Map Unit

Summary by Map Unit – St. Johns County, Florida (FL109)

Summary by Map Unit – St. Johns County, Florida (FL109)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
3	Myakka-Myakka, wet, fine sands, 0 to 2 percent slopes	25	6.6	10.7%
5	St. Johns fine sand, depressional	100	13.5	21.8%
7	Immokalee fine sand	22	0.7	1.2%
9	Pomona fine sand	26	26.3	42.5%
41	Tomoka muck, frequently ponded, 0 to 1 percent slopes	100	4.5	7.3%
44	Sparr fine sand, 0 to 5 percent slopes	0	10.2	16.4%
Totals for Area of Interest			62.0	100.0%

Description – Hydric Rating by Map Unit

This rating indicates the percentage of map units that meets the criteria for hydric soils. Map units are composed of one or more map unit components or soil types, each of which is rated as hydric soil or not hydric. Map units that are made up dominantly of hydric soils may have small areas of minor nonhydric components in the higher positions on the landform, and map units that are made up dominantly of nonhydric soils may have small areas of minor hydric components in the lower positions on the landform. Each map unit is rated based on its respective components and the percentage of each component within the map unit.

What's New for 2020...

24 Part 51 Subpart C Revision

- ▶ HUD requirements for propane have been more stringent and costly than industry standards but have not been more protective
- ▶ According to National Fire Protection Association (NFPA) statistics, LP-gas is responsible for a small fraction of home fires in the US
- ▶ As a result, HUD revised the regulation to exempt LPG/propane containers up to 1,000 gallons that comply with industry standards at NFPA Code 58 (2017)
- ▶ The Final Rule does not modify coverage to other materials



What's New for 2020...

24 Part 51 Subpart C Revision

Environmental Review Record Documentation

Documentation that:

- AST contains propane/LPG
- AST is less than 1,000 gallons in capacity
- Citation to state or local code adopting NFPA 58 (2017) or later

If LPG/propane tank cannot be documented to meet all exception criteria, the ASD for the tank must be calculated using the ASD calculator.

What's New for 2020...

24 Part 51 Subpart C Revision

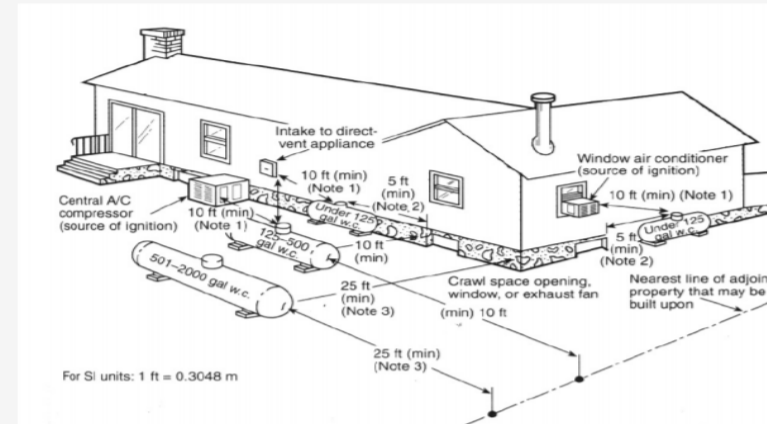
Knowledge Check 3

Question: Does NFPA 58 (2017) include any setback requirement for LPG tanks?

Answer:

- Tanks between 125 and 500 gallons must be at least ten feet apart from important buildings or property lines.
- Tanks between 501 and 1,000 gallons must be at least twenty-five feet apart.

These distances are sufficient to prevent structure fires from overheating the nearby tanks.



Questions

