

PROTOCOL

This protocol defines the information to be supplied by EZ grantees to the HUD field office for the HUD EZ Empowerment Zones Program in accord with the grantee's environmental assurance and the project agreement. The grantee's information will help HUD to complete the environmental review processing required by 24 CFR Part 50 -- "Protection and Enhancement of Environmental Quality." Grantees must not acquire, rehabilitate, convert, lease, repair or construct property, nor commit HUD or nonfederal funds for these program activities with respect to any eligible property, until the grantee receives HUD environmental approval of the property from the CPD Division Director in the field office in which the EZ project is located. Where grantees propose more than one property, grantees are to aggregate properties into a single group (or even a neighborhood area) so that the HUD environmental review and approval may be completed under a single evaluation by the HUD field office. The protocol provides specific questions for the grantee to answer for each property proposed for the EZ project. In addition, the protocol provides resources related to each question. These questions should be applied to an entire neighborhood area if the grantee proposes to use the funds to benefit the neighborhood area.

Questions

- #1 Is the property located within designated coastal barrier resources?
- #2 Is the property contaminated by toxic chemicals or radioactive materials?
- #3 Is the property located within a flood hazard area or designated wetland?
- #4 Is the property within an area requiring flood insurance?
- #5 Is the property located within an airport runway clear zone?
- #6 Is the property listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, an historic district; or is a property whose area of potential effect includes a historic district or property?
- #7 Is the property located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature?
- #8 Is the site noise-impacted?
- #9 Is the project consistent with the coastal zone management plan?
- #10 Does the project affect a sole source aquifer?
- #11 Does the project affect endangered species?

#12 Does the project affect listed wild and scenic rivers?

#13 Does the project affect prime and unique farmland, or other farmland of statewide or local significance?

#14 Is the project located within a "non-attainment" or "maintenance" area identified in the air quality State Implementation Plan?

#15 Is the project located in a neighborhood or community where the proposed action is likely to raise environmental justice issues?

#16 Does the grantee propose: (i) acquisition of land for development of more than four housing units on a site, **or** of five or more units of housing where the housing sites are 2,000 feet or less apart; (ii) infrastructure; (iii) new construction other than for residential activities excluded under 50.20(a)(3); (iv) major rehabilitation of existing structures in accordance with 50.20(a)(2) that involves any of the following conditions: (a) in the case of residential buildings, an increase in the unit density of more than 20 percent; (b) changes in land use (from non-residential to residential or from residential to non-residential); or (c) estimated cost of rehabilitation that is 75 percent or more of the total estimated cost of replacement after rehabilitation; or (v) any other activity not categorically excluded under 50.20(a)?

Resources for Supporting Documentation

EZ grantees may wish to contact their local or county planning agency or local community development agency, and request the agency's help in developing the information or have the agency staff prepare a letter with their answers (i.e., findings) to the above questions. Instead or in addition, grantees may wish to use EZ administrative funds to help pay for Responsible Entity (RE) staff services or private consultants who would obtain and supply the information or support grantees in supplying information to the HUD Field Office. Most of the information necessary to prepare the response to these questions is readily available to grantees from their local or county planning agency, local community development agency or building permit official.

The EZ grantee's written response should include a city or county map that shows the location of the property or project area as well as photos showing the north, east, south, and west perspectives from the property or the project area, and the dates the photos were taken. Because the most time consuming item is the letter (see below) from the State Historic Preservation Officer (SHPO), grantees are encouraged to contact the SHPO **as early as possible**.

Each question below is numbered as it appears in section G of Appendix B.

Question #1: Is the property located within designated coastal barrier resources?

Threshold: Grantees are **prohibited** by the Coastal Barrier Resources Act, as amended, (16 U.S.C. 3501 et seq.) from using Federal financial assistance for properties in their EZ Program if the properties are located within designated coastal barriers of the Atlantic Ocean, Gulf of Mexico, or the Great Lakes.

Documentation: Grantees are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee states that its program operates in an area or community that does not contain any shores along the Atlantic Ocean, the Gulf of Mexico, or the Great Lakes.

B. For a grantee whose program operates in an area or community that does contain shores along the Atlantic Ocean, the Gulf of Mexico, or the Great Lakes, the grantee provides HUD with a finding made by a qualified source based upon the official map issued by the Department of the Interior or the flood insurance rate maps (FIRM) issued by the Federal Emergency Management Agency stating that the grantee's proposed property or project is not located within designated coastal barrier resources. The map panel number must be cited.

Example: The finding is that the coastal property is not located within designated coastal barrier resources as shown on FIRM map for Cameron County, TX, community-panel number 480101 0005 A, map revised March 18, 1991.

Question #2: Is the property contaminated by toxic chemicals or radioactive materials?

Threshold: HUD policy, as described in 50.3(i), provides that "(1) ... 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. (2) HUD environmental review of multifamily and non-residential properties shall include evaluation of previous uses of the site and other evidence of contamination on or near the site, to assure that occupants of proposed sites are not adversely affected by the hazards.....". HUD will not approve the provision of financial assistance to residential properties located on contaminated sites that are not found to meet the criterion in (1) above. Sites known or suspected to be contaminated by toxic chemicals or radioactive materials include, but are not limited to, sites which: (i) are listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) are located within 3,000 feet of a toxic or solid waste landfill site; or, (iii) have an underground storage tank (which is not for residential fuel).

Documentation: Grantees are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee provides HUD with a finding made by a qualified data source stating that the property proposed for use in the EZ program: (i) is not listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) is not located within 3,000 feet of a toxic or solid waste landfill site; (iii) does not have an underground storage tank (which is not a residential fuel tank); and (iv) is not known or suspected to be contaminated by toxic chemicals or radioactive materials.

B. The grantee states that the property: (i) is listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) is located within 3,000 feet of a toxic or solid waste landfill site; (iii) does have an underground storage tank (which is not a residential fuel tank); or (iv) is known or suspected to be contaminated by toxic chemicals or radioactive materials. For any of these conditions, the grantee must provide an American Society for Testing Materials (ASTM) Phase I report.

Question #3: Is the property located within a flood hazard area or designated wetlands?

Threshold: Projects located within a flood hazard area or designated wetland are subject to Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) respectively. HUD's implementing regulations at 24 CFR Part 55 -- "Floodplain Management," prescribe measures for protecting floodplains. HUD will require 30 to 60 days in most cases to perform the required processing. Generally, Part 55 does not apply to existing single-family properties proposed for acquisition or lease and located within the floodplain, provided (i) the existing property is not located within a floodway or coastal high hazard area; (ii) the existing property does not involve substantial improvement, which for flood hazard purposes is defined in 55.2(b)(8); (iii) in accordance with 55.12(b)(1), the community in which the property is located is in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24); and (iv) that the existing property does not involve a critical action.

Under the provisions of these Executive Orders, HUD must avoid financial support for covered activities, unless it can demonstrate that there are no practicable alternatives outside the floodplain or wetland. Where flood-free and wetland-free sites are available within the community or housing market area, these are considered practicable.

Floodplain properties covered under E.O. 11988 are properties located within a Special Flood Hazard Area (SFHA) or for critical actions, proper-ties within the 500-year floodplain. The critical action standard applies to the proposed use of EZ assistance to structures or facilities located within the 500-year floodplain, when the structures or facilities are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events (reference 24 CFR 55).

Documentation: Grantees are to select **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee provides HUD with a finding that the property is **not** located within the Special Flood Hazard Area or designated wetlands.

B. The grantee provides HUD with a finding that the property is located within the Special Flood Hazard Area or designated wetlands.

The response as to whether a property is located within a Special Flood Hazard Area or designated wetlands can be made as follows. To make a wetlands finding, the grantee would use maps issued by the Department of the Interior (DOI) for the National Inventory of Wetlands. To make a floodplain finding, the grantee would use maps issued by the Federal Emergency Management Agency (FEMA) for the National Flood Insurance Program. These findings should cite the map panel number of the official maps issued by DOI and FEMA on the basis of which the findings were made. For flood map information see the FEMA homepage [<http://www.fema.gov/nfip/fmapinfo.htm>].

Note: If the property is found to be located within a SFHA, please proceed to the next section on Flood Insurance Protection and document the requisite insurance amount and period of coverage. This is not

necessary if the project will consist of leasing or rental assistance involving an existing structure and does not assist repairs or rehabilitation.

Question #4: Is the property in a location requiring flood insurance?

Threshold: The Flood Disaster Protection Act of 1973 requires owners of HUD-assisted SFHA properties to purchase and maintain flood insurance protection as a condition of approval of any HUD financial assistance for proposed acquisition, rehabilitation, conversion, repair or construction. The statutorily-prescribed period and dollar amount of flood insurance is discussed below and is more stringent for grant assistance than for loan types of assistance. Grantees cannot be self-insurers under the National Flood Insurance Program. As noted above, leasing activities are not subject to this requirement unless repairs or rehabilitation is assisted with HUD funds.

Duration of Flood Insurance Coverage: The statutory period for such coverage may extend beyond project completion. For loans, loan insurance or guaranty, the coverage must be continued for the term of the loan. For grants and other non-loan forms of assistance, the coverage must be continued for the life of the property, regardless of transfer of ownership of such property. Section 102(a) the Flood Disaster Protection Act of 1973 (the Act) as amended mandates that "...The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property." (42 U.S.C. 4012a(a))

Dollar Amount of Flood Insurance Coverage: For loans, loan insurance or guaranty, the amount of coverage need not exceed the outstanding principal balance of the loan. For grants and other non-loan forms of assistance, the amount of coverage must be at least equal to the development or project cost (less estimated land cost, if any) or to the maximum limit of coverage made available by the Act with respect to the particular type of building involved (single family, other residential, or non-residential), whichever is less. The development or project cost is the total cost for acquiring, constructing, reconstructing, repairing, or improving the building. This cost must include both the Federally-assisted and non-Federally assisted portion of the cost, including any machinery, equipment, fixtures, and furnishing. If the Federal assistance includes any portion of the cost of any machinery, equipment, fixtures or furnishing, the total cost of that item must be covered.

Proof of Purchase of Flood Insurance Protection: Once HUD has approved a specific SFHA property, the grantee's file for any such property shall contain "proof of purchase" of flood insurance protection. The standard documentation for compliance is the "Policy Declarations" form issued by the National Flood Insurance Program (NFIP) or issued by any property insurance company offering coverage under NFIP.

Documentation: Grantees are to estimate the amount and period of flood insurance coverage and report these in Appendix B or equivalent.

Question #5: Is the property located within an airport runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield?

Threshold: HUD policy described in 24 CFR Part 51, Subpart D applies to assisted properties located within Clear Zones (CZ). In the case of new construction or major or substantial rehabilitation (as

defined below), and the acquisition of undeveloped land, this HUD policy also applies to properties located within Accident Potential Zones (APZ). Assisted construction or major rehabilitation of any

property located on a clear zone site is prohibited for a project to be frequently used or occupied by people. Clear Zones are also referred to as "Runway protection zones."

Definition: Rehabilitation (including conversion) is "major" or "substantial" when the estimated cost of the work is 75 percent or more of the total estimated cost of replacement after rehabilitation or, in the case of property in an APZ, when the work would change the use of the facility to a use that is not generally consistent with the recommendations of the Department of Defense's (DOD) "Land Use Compatibility Guidelines for Accident Potential Zones," or significantly increases the density or number of people at the site (51.302(b)(1) and (2)).

The provision of HUD financial assistance in a CZ is allowed for properties proposed for acquisition or lease with or without minor rehabilitation or repair (51.302 (c)). Upon HUD approval for acquisition or lease of a property in a CZ, (a) HUD will give advance written notice to the prospective property buyer or lessor in accordance with 51.303(a)(3); and (b) a copy of the HUD notice signed by the prospective property buyer or lessor will be placed in the property file (for a sample notice, see **Appendix E**). The written notice informs the prospective buyer or lessor of the potential hazards from airplane accidents which studies have shown are more likely to occur within clear zones than in other areas around an airport/airfield and the potential by airport or airfield operators, who may wish to purchase the property at some-point in the future as part of a clear zone acquisition program.

For properties located in an APZ, HUD shall determine whether the use of the property is generally consistent with DOD guidelines.

Documentation: Grantees are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee provides HUD with a finding from a qualified data source which states that the property proposed for assistance is not located within 3,000 feet of a civil airport or military airfield.

B. For properties located within 3,000 feet of a civil airport or military airfield, the grantee provides HUD with a finding from the airport or airfield operator stating whether or not the property proposed for assistance is located within a runway CZ (civil airport) or CZ or APZ (military airfield). For properties that are located within a runway CZ, CZ, or APZ, grantees who propose to rehabilitate such a property are to provide HUD with estimates of the cost of the proposed rehabilitation and the property value after the rehabilitation.

Question #6: Is the property listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, a historic district; or is a property whose area of potential effect includes a historic district or property?

Threshold: If a property is proposed for repair (see definition below), rehabilitation, conversion, new construction, or the acquisition of undeveloped land, HUD, in consultation with the State Historic Preservation Officer (SHPO), and following the Department of the Interior's Standards and

Guidelines for Evaluation, shall make a determination whether the property is: (a) listed on or eligible for listing on the National Register of Historic Places; or, (b) located within or directly adjacent to a historic district; or (c) a property whose area of potential effects includes a historic district or property. (The National Historic Preservation Act of 1966, 16 U.S. C. 470 et seq.)

Definition: Repair does not include in-kind replacement or incidental maintenance of external and internal building features.

Historic properties and districts are subject by law to special protection and historic preservation processing which HUD must perform to comply with the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800). Grantees seeking information from the SHPO need to allow sufficient time to obtain information from the SHPO.

Note: For properties determined to be historic properties, (or properties whose area of potential effects includes a historic district or property) even if the SHPO concludes that no adverse effect will occur as a result of the assisted project, HUD will require 30 to 90 days in most cases to perform the processing required by 36 CFR 800.

Documentation: The grantee should select either **A, B, or C** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee proposes to use EZ assistance for the rehabilitation, conversion, or construction of the property and provides HUD with a SHPO's finding that the proposed rehabilitation, conversion, or construction: (i) will have no effect on historic properties; or (ii) will have an effect on historic properties not considered adverse.

B. The grantee proposes to use EZ assistance for rehabilitation, conversion, or construction of the property and provides HUD with a SHPO's finding that the proposed rehabilitation, conversion, or construction will have an adverse effect on historic properties.

C. The grantee provides HUD with a copy of a letter from a SHPO stating the reasons for not being able to provide the grantee with the requested information or finding.

The grantee should inform HUD, if it gets no response at all from the SHPO.

Question #7: Is the property located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature?

Threshold: Properties that are located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature are subject to HUD safety standards (reference 24 CFR Part 51, Subpart C). However, under the EZ Program these standards would apply only if a grantee proposes: (a) construction of a building; (b) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; (c) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or, (d) the acquisition of undeveloped land. In the case of tanks containing common liquid fuels, the requirement for an acceptable separation distance (ASD) calculation only applies to storage tanks that have a capacity of more than 100 gallons.

Documentation: Grantees are to select one of the following options **A, B, or C** that best describe the condition of the project, and report the option selected in Appendix B or equivalent.

A. The proposed project does not include: (i) the construction of a building; (ii) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or (iv) the acquisition of undeveloped land.

B. The proposed project includes: (i) construction of a building; (ii) conversion of a nonresidential land use to a residential land use including making an uninhabitable building habitable; (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or, (iv) the acquisition of undeveloped land. The grantee provides HUD with a finding by a qualified data source that the property proposed for EZ assistance is not located within the immediate vicinity of hazardous industrial operations handling fuel or chemicals of an explosive nature by citing data and maps used.

C. The grantee proposes: (i) construction of a building; (ii) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or (iv) the acquisition of undeveloped land. The grantee provides HUD with a finding made by a qualified data source which states that: (i) the proposed property is located the immediate vicinity of hazardous industrial operations handling fuel or chemicals of an explosive or flammable nature; (ii) the type of and scale of such hazardous industrial operations; (iii) the distance of such operations from the proposed property; (iv) a preliminary calculation of the acceptable separation distance (ASD) between such operations and the proposed property; and, (v) a recommendation as to whether it is safe to use the property in accord with 24 CFR Part 51, Subpart C.

Question #8: Is the site noise-impacted?

Threshold: For new construction which is to occur in high noise areas, grantees shall incorporate noise attenuation features to the extent required by HUD environmental criteria and standards contained in Subpart B (Noise Abatement and Control) of 24 CFR Part 51. Since the acquisition of undeveloped land with EZ funds is eligible only if the land will be used for the development of EZ assisted housing in the future, the standards that apply to new construction also apply to land acquisition.

Definition: High noise areas are those in which the day-night average of exterior noise exceeds 65 decibels.

Approvals in a "normally unacceptable noise zone" (exceeding 65 decibels but not exceeding 75 decibels) require a minimum of 5 decibels additional noise attenuation for buildings having noise sensitive (e.g. residences) uses if the day-night average is greater than 65 decibels but does not exceed 70 decibels, or minimum of 10 decibels of additional noise attenuation if the day-night average is greater than 70 decibels but does not exceed 75 decibels.

In "unacceptable noise zones" (exceeding 75 decibels) the use of EZ assistance is prohibited without the specific approval by the HUD Assistant Secretary for Community Planning and Development of the

noise attenuation measures proposed to be used. it is also possible in such a circumstance that an environmental impact statement would have to be prepared.

For major rehabilitation projects and conversions in the "normally unacceptable" and "unacceptable" noise zones, HUD actively seeks to have noise attenuation features incorporated as part of the rehabilitation to be undertaken. For those properties in "unacceptable noise zones" HUD will go even further and strongly encourage the conversion of such properties to land uses more compatible with the high noise levels.

Documentation: Grantees are to select **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee provides HUD with a finding made by a qualified data source stating that the property proposed for new construction, major rehabilitation, or conversion in its EZ Program is not located within: (i) 1,000 feet of a major noise source, road, or highway; (ii) 3,000 ft of a railroad; or, (iii) 1 mile of a civil airport or 5 miles of a military airfield.

B. The grantee provides HUD with a finding made by a qualified data source stating whether the property is located within a normally unacceptable or unacceptable noise zone; and, if so: (i) stating that the plans for the property proposed by the grantee for new construction, major rehabilitation or conversion activity in its EZ Program incorporates noise attenuation features in accord with HUD environmental criteria and standards contained in Subpart B (Noise Abatement and Control); and (ii) providing HUD the plans and a statement of the anticipated interior noise levels.

Question #9: Is the project consistent with the State's coastal zone management?

Threshold: The Coastal Zone Management (CZM) Act of 1972 (16 U.S.C. 1451 et seq.) only applies to activities proposing new construction, major rehabilitation, conversion, substantial improvement of existing structures, or the acquisition of undeveloped land. Projects which can affect the coastal zone must be carried out in a manner consistent with the approved State coastal zone management program under Sec. 307 of the Coastal Zone Management Act of 1972, as amended.

Documentation: Grantees are to select either **A**, **B**, or **C** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee states that its program operates in a community that does not contain coastal areas of the Atlantic or Pacific Oceans, the Great lakes or the Gulf of Mexico.

B. The grantee provides HUD with a finding made by a qualified source that even though the grantee operates in a community which contains coastal areas of the Atlantic or Pacific Oceans, the Great Lakes or the Gulf of Mexico, the EZ-assisted property is not located in a coastal zone, as defined in the relevant State's Coastal Zone Management Plan.

C. The proposed assisted activity would be located within a coastal zone and the grantee has provided HUD with a finding made by the State CZM agency that the proposed assisted activity is consistent with the approved State CZM program.

Question #10: Does the project affect a sole source aquifer?

Threshold: The sole source aquifer authority only applies to activities proposing new construction, conversion, or acquisition of undeveloped land. Projects which can affect aquifers designated by the EPA must be reviewed for impact on such designated aquifer sources. The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 et seq., and 21 U.S.C. 349) requires protection of drinking water systems which are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health. For information see the homepage of the EPA Office of Ground Water and Drinking Water at (<http://www.epa.gov/OGWDW/ssanp.html>).

Documentation: Grantees are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee provides HUD with a finding made by a qualified data source stating that the property proposed for EZ assistance is not located on and would not affect a sole source aquifer designated by EPA.

B. For the grantee whose proposed project is located on or would affect a sole source aquifer designated by the EPA, the grantee has identified the aquifer and has provided HUD with an explanation of the effect on the aquifer from a qualified data source, and/or a copy of any comments on the proposed project that the grantee has received from the EPA as well as from any State or local agency with jurisdiction for protecting the drinking water system.

Question #11: Will the project affect an endangered species?

Threshold: The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) applies only to activities proposing new construction, conversion, and the acquisition of undeveloped land. Section 7 of the Act sets out procedures for consultation. Consultation will be required with the Department of Interior (Fish and Wildlife Service) or the Department of Commerce (National Marine Fisheries Service) depending on the species involved. Consultation is required if an activity may affect a listed (endangered or threatened) species or a critical habitat. A conference is required if an action is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of a critical habitat proposed to be designated for such species.

Documentation: Grantees are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix **B** or equivalent.

A. For proposed new construction, conversion, or the acquisition of undeveloped land, the grantee has provided HUD with a finding made by a qualified data source that the project is not likely to affect any listed or proposed endangered or threatened species or critical habitat. The finding shall indicate whether the project is located within a critical habitat, and if so, explain why the project is not likely to affect the species or habitat.

B. For proposed new construction, conversion, or the acquisition of undeveloped land which is likely to affect listed or proposed endangered or threatened species or a critical habitat, the grantee has provided HUD with a "biological assessment" prepared by a qualified data source explaining the likely

effect, and/or a finding made by the Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce.

Question #12: Does the project affect listed wild and scenic rivers?

Threshold: EZ assisted activities are subject to the requirements of the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.). New construction, conversion, major rehabilitation of existing structures, and the acquisition of undeveloped land when proposed in areas within one mile of a listed Wild and Scenic River have the potential for impacting this natural resource. For information, see the homepage of National Park Service at [<http://www.nps.gov/rivers/>].

Documentation: The grantee should select **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

A. The grantee provided HUD with a finding made by a qualified data source which states that the project is not located within one mile of a listed Wild and Scenic River or the project will not have an effect upon the natural, free flowing or scenic qualities of such a river.

B. The project is located within one mile of a listed Wild and Scenic River and the Department of the Interior, National Park Service, indicates that the project, as proposed, will have an effect upon the natural, free flowing or scenic qualities of the river.

Question #13: Does the project affect prime and unique farmland, or other farmland of statewide or local significance?

Threshold: A finding of compliance with the requirements of the Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) must be made for assisted new construction activities and the acquisition of undeveloped land.

Documentation: Grantees are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix **B** or equivalent.

A. The grantee Provides HUD with a finding from a qualified data source which states that the proposed project site does not include prime or unique farmland, or other farmland of statewide or local significance as identified by the Department of Agriculture, Natural Resources and Conservation Service (NRCS), or the project site includes prime farmland but is located in an area committed to urban uses.

B. The proposed project site includes farmland and the grantee has requested an evaluation of land type from NRCS using form AD 1006 and has provided the resultant rating to HUD.

Question #14: Is the project within a "non-attainment" or "maintenance" area and not in conformance with the State Implementation Plan (SIP) for clean air?

Threshold: EZ assisted activities are subject to the requirements of the Clean Air Act (42 U.S.C. 7401 et seq.). New construction, conversion, major rehabilitation of existing buildings, and the

acquisition of undeveloped land which are located in “non-attainment” or “maintenance” areas as determined by the EPA may need to be modified or mitigation measures developed and implemented.

Documentation: Grantees should select **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

- A.** The grantee has provided HUD with a finding made by a qualified data source which states that the project is located in an “attainment” area, or if located in a “non-attainment” or “maintenance” area the project conforms with the EPA approved State Implementation Plan (SIP).
- B.** The proposed project is located in a “non-attainment” or “maintenance” area and is **not** in conformance with the SIP.

Question #15: Is the project located in a neighborhood where the proposed action is likely to raise environmental justice issues?

Threshold: Executive Order 12898 – “Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations,” applies to low-income or minority neighborhoods where the grantee proposes the acquisition of housing, the acquisition of land for development, and new construction. Environmental justice issues may include, but are not limited to new, continued or historically disproportionate potential for high and adverse human health and environmental effects on minority or low-income populations. The grantee will need to determine if the site or neighborhood suffers from disproportionate adverse health and environmental effects relative to the community at large. EPA has Federal oversight for this matter. Recipients seeking more detailed information about the Executive Order are encouraged to see the EPA EJ homepage at [<http://es.epa.gov/oeca/oejbut.htm>].

Documentation: The grantee should select **A** or **B** for the condition that best describes their project and report the option selected in Appendix B or equivalent.

- A.** The grantee provides HUD with a finding that the project is not likely to raise environmental justice issues.
- B.** The project is likely to raise environmental justice issues and has the potential for new or continued disproportionately high and adverse human health and environmental effects on minority or low-income populations. The grantee must consider mitigation or avoidance of adverse impacts from the project to the extent practicable.

Question #16: Does the grantee propose: (i) acquisition of land for development of more than four housing units on a site or five or more units of housing, where the housing sites are 2,000 feet or less apart; (ii) infrastructure; (iii) new construction other than for residential activities excluded under 50.20(a)(3); (iv) major rehabilitation of existing structures in accordance with 50.20(a)(2) that involves any of the following conditions: (a) in the case of residential buildings, an increase in the unit density of more than 20 percent; (b) changes in land use (from non-residential to residential or from residential to non-residential); or (c) estimated cost of rehabilitation that is

75 percent or more of the total estimated cost of replacement after rehabilitation; or (v) any other activity not categorically excluded under 50.20(a)?

Threshold: For the above activities, an environmental assessment is required for compliance with the **National Environmental Policy Act (NEPA)** (42 U.S.C. 4321 et seq.) and the implementing regulations of the Council on Environmental Quality (CEQ). It is the policy of the Department to reject proposals which have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality.

Documentation: If the answer to question #16 is "Yes," grantees are to provide information on any adverse environmental impacts that affect the project or that the project would create. Grantees are to identify any adverse impacts in terms of: (i) impact on unique natural features or areas; (ii) site suitability, access, and compatibility with surrounding development; (iii) soil stability, erosion, and drainage; (iv) nuisances and hazards (natural and built); (v) availability of water supply and sanitary sewers; (vi) availability of solid waste disposal; (vii) availability of schools, parks, recreation, and social services; (viii) availability of emergency health care, fire and police services; and (ix) availability of commercial/retail and public transportation serving such proposed development. Grantees are to identify any significant impacts to the human environment. Report data and findings in Appendix B or equivalent.