

# Atlanta SMAC Conference

## April 18, 2017

New Construction - Pre-Application Training  
3<sup>rd</sup> Party Environmental

- ▶ Phase I ESA Scope of Work
- ▶ Compliance with NEPA and other related Federal and state environmental laws
- ▶ HEROS
- ▶ Common Environmental Issues at Pre-Application

# ASTM E 1527-13: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process

## PHASE I ESA SCOPE OF WORK

- ▶ Site Reconnaissance of the subject property and a visual survey of the adjacent properties to evaluate the potential for (Recognized Environmental Conditions (RECs));
- ▶ Interviews with past and present owners, operators, and occupants;
- ▶ Records Review of historical sources of information and federal, state, tribal and local government records; and,
- ▶ The Written Report must include the findings, opinions and conclusions of the EP and supporting documentation. It shall identify any data gaps.

# ASTM E 1527-13: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process

## SUMMARY POINTS OF ASTM E 1527-13

- ▶ Must be signed by an Environmental Professional per EPA AAI definition and Appendix X2 of ASTM E 1527-13
- ▶ Should be formatted as specified in Appendix X4 of ASTM E 1527-13
- ▶ An ASTM User Questionnaire should be utilized; it offers the User additional defenses under CERCLA
- ▶ The findings section should include the identification or absence of RECs, Historic RECs, Controlled RECs and de minimis conditions
- ▶ The Environmental Professional should provide an opinion on whether the findings present a REC and identified RECs/CRECs should be stated in the conclusions of the report
- ▶ ASTM E 2600-10: Standard Guide for Vapor Encroachment Screening on Property Involved in Real Estate Transactions is a referenced document in ASTM E 1527-13
- ▶ ASTM E 1527-13 report is valid for 180 days from the date of the site inspection
- ▶ Completion of an ESA to ASTM E 1527-13 will comply with AAI rule

# ASTM E 1527-13: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process

## POTENTIAL RECS

- ▶ Underground Storage Tanks (UST) - on-site and adjacent
- ▶ Previous/current on-site and adjacent property usage - gasoline stations, industrial uses, etc.
- ▶ On-site or vicinity state or federally-regulated facilities - National Priorities List (NPL), State Hazardous Waste Sites (SHWS), Leaking Underground Storage Tank (LUST) incidents, etc.
- ▶ Monitoring Wells
- ▶ Hazardous or Non-Hazardous Waste Storage/Disposal
- ▶ On-site Waste Disposal - dumped materials

# Compliance with NEPA and other related Federal and state environmental laws

- ▶ All Federal agencies are required to comply with the National Environmental Policy Act (NEPA) of 1969 and the implementing procedures issues by the Council on Environmental Quality at 40 CFR Parts 1500-1508.
- ▶ HUD regulations implementing NEPA are contained in 24 CFR, Part 50, “Protection and Enhancement of Environmental Quality.”
- ▶ In accordance with 24 CFR 50.32, HUD is responsible for determining that there are no environmental factors that are prohibited by law, Executive Order, or regulation, or which would endanger health or safety, or would put FHA mortgage insurance or the U.S. Government at financial risk or liability.
- ▶ Per 24 CFR 50.3(i), “It is HUD policy that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.”
- ▶ HUD has established environmental Form HUD-4128, “Environmental Assessment and Compliance Finding for Related Laws”, to document compliance with NEPA and other environmental Federal laws, authorities, Executive Orders, and HUD standards. HUD has established the HUD Environmental Review Online System (HEROS) - Form HUD 4128 for HUD staff to document compliance with NEPA. The use of HEROS and the Form HUD-4128 to document environmental assessments and reviews by HUD staff is required under 24 CFR 50.31.

# ASTM Non-Scope Considerations and compliance with NEPA and other related Federal and state environmental laws

The Environmental Review provides information regarding compliance with the NEPA environmental factors, the laws and authorities listed at 24 CFR 50.4, and the HUD-specific requirements detailed in MAP 9.5.

- ▶ Lead-Based Paint
- ▶ Asbestos
- ▶ Radon
- ▶ Historic Preservation
- ▶ Flood Insurance
- ▶ Floodplain Management
- ▶ Wetlands Protection
- ▶ Endangered Species
- ▶ Noise Analysis
- ▶ Explosive/Flammable Hazards
- ▶ Coastal Barrier Resources
- ▶ Coastal Zone Management
- ▶ Sole Source Aquifers
- ▶ Airport Hazards
- ▶ Environmental Justice
- ▶ Other Federal or State Laws (Air Quality, Wild and Scenic Rivers, and Farmland Protection)
- ▶ Additional Nuisances and Hazards

\*Note that compliance with Toxic Chemicals and Radioactive Materials, as detailed in MAP 9.3, is covered in the Phase I ESA.

# Compliance with NEPA and other related Federal and state environmental laws

Resources and assistance to support HUD's community partners



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## Related Federal Laws and Authorities

Choose a topic below to learn more about HUD environmental review compliance with Federal related laws and authorities listed at 24 CFR 50.4, 58.5, and 58.6.

Find by Topic



Air Quality



Airport Hazards



Coastal Barrier Resources



Coastal Zone Management



Endangered Species



Environmental Justice



Explosive and Flammable Facilities



Farmlands Protection



Flood Insurance

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Find by Topic



Floodplain Management



Historic Preservation



Noise Abatement and Control



Site Contamination



Sole Source Aquifers



Wetlands Protection



Wild and Scenic Rivers



# HUD Environmental Review Online System (HEROS)

- ▶ HUD's Office of Environment and Energy developed HEROS for developing, documenting, and managing environmental reviews, including Part 50 projects, utilizing on-screen guidance for completing HUD environmental reviews.
- ▶ HEROS is not yet available for consultants.
- ▶ Consultants are encouraged to submit information using HEROS-compatible worksheets (HEROS Partner Worksheets) posted on the HUD Exchange (<https://www.hudexchange.info/resource/4707/environmental-review-record-related-federal-laws-and-authorities-worksheets/>)
- ▶ “How To” Videos were developed to introduce and demonstrate HEROS (<https://www.hudexchange.info/environmental-review/heros-e-tutorials/>)

# HEROS Partner Worksheets

Resources and assistance to support HUD's community partners



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[Home](#) > [Resources](#) > Environmental Review Record Related Federal Laws and Authorities Worksheets

Tools and Templates

## Environmental Review Record Related Federal Laws and Authorities Worksheets

Date Published: August 2015

### Description

These worksheets contain the suggested format for documenting compliance with environmental requirements covered by related federal laws and authorities. This documentation should be included in the Environmental Review Record.

### Resource Links

- [Air Quality - Worksheet \(DOCX\)](#)
- [Airport Hazards - Worksheet \(DOCX\)](#)
- [Coastal Barrier Resources - Worksheet \(DOCX\)](#)
- [Coastal Zone Management - Worksheet \(DOCX\)](#)
- [Endangered Species - Worksheet \(DOCX\)](#)
- [Environmental Justice - Worksheet \(DOCX\)](#)
- [Explosive and Flammable Facilities - Worksheet \(DOCX\)](#)
- [Farmlands Protection - Worksheet \(DOCX\)](#)
- [Flood Insurance - Worksheet \(DOCX\)](#)
- [Floodplain Management - Worksheet \(DOCX\)](#)
- [Historic Preservation - Worksheet \(DOCX\)](#)
- [Noise Abatement and Control \(CEST\) - Worksheet \(DOCX\)](#)
- [Noise Abatement and Control \(EA\) - Worksheet \(DOCX\)](#)
- [Site Contamination \(Single Family\) - Worksheet \(DOCX\)](#)
- [Site Contamination \(Multi-Family\) - Worksheet \(DOCX\)](#)
- [Sole Source Aquifers - Worksheet \(DOCX\)](#)
- [Wetlands Protection - Worksheet \(DOCX\)](#)
- [Wild and Scenic Rivers - Worksheet \(DOCX\)](#)

# HEROS Partner Worksheets

## Flood Insurance (CEST and EA)

General requirements	Legislation	Regulation
Certain types of federal financial assistance may not be used in floodplains unless the community participates in National Flood Insurance Program and flood insurance is both obtained and maintained.	Flood Disaster Protection Act of 1973 as amended (42 USC 4001-4128)	24 CFR 50.4(b)(1) and 24 CFR 58.6(a) and (b); 24 CFR 55.1(b).
<b>Reference</b>		
<a href="https://www.hudexchange.info/environmental-review/flood-insurance">https://www.hudexchange.info/environmental-review/flood-insurance</a>		

**1. Does this project involve financial assistance for construction, rehabilitation, or acquisition of a mobile home, building, or insurable personal property?**

No. This project does not require flood insurance or is excepted from flood insurance. → *Continue to the Worksheet Summary.*

Yes → *Continue to Question 2.*

**2. Provide a FEMA/FIRM map showing the site.**

The Federal Emergency Management Agency (FEMA) designates floodplains. The [FEMA Map Service Center](#) provides this information in the form of FEMA Flood Insurance Rate Maps (FIRMs). For projects in areas not mapped by FEMA, use the best available information to determine floodplain information. Include documentation, including a discussion of why this is the best available information for the site. Provide FEMA/FIRM floodplain zone designation, panel number, and date within your documentation.

**Is the structure, part of the structure, or insurable property located in a FEMA-designated Special Flood Hazard Area?**

No → *Continue to the Worksheet Summary.*

Yes → *Continue to Question 3.*

**3. Is the community participating in the National Flood Insurance Program or has less than one year passed since FEMA notification of Special Flood Hazards?**

Yes, the community is participating in the National Flood Insurance Program. For loans, loan insurance or loan guarantees, flood insurance coverage must be continued for the term of the loan. For grants and other non-loan forms of financial assistance, flood insurance coverage must be continued for the life of the building irrespective of the transfer of ownership. The amount of coverage must equal the total project cost or the maximum coverage limit of the National Flood Insurance Program, whichever is less

Provide a copy of the flood insurance policy declaration or a paid receipt for the current annual flood insurance premium and a copy of the application for flood insurance.

→ *Continue to the Worksheet Summary.*

Yes, less than one year has passed since FEMA notification of Special Flood Hazards. If less than one year has passed since notification of Special Flood Hazards, no flood insurance is required.

→ *Continue to the Worksheet Summary.*

No. The community is not participating, or its participation has been suspended.

Federal assistance may not be used at this location. Cancel the project at this location.

### Worksheet Summary

#### **Compliance Determination**

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

#### **Are formal compliance steps or mitigation required?**

Yes

No

# Common Environmental Issues at Pre-Application

## ▶ Site Contamination

- ▶ All RECs identified in the Phase I ESA must be resolved, by means of file reviews and/or subsurface investigations.
- ▶ Site characterization and vapor testing, if necessary, should be completed to properly understand the level of contamination.
- ▶ All sampling efforts, along with any remediation studies and plans, should be submitted at pre-application.

## ▶ Floodplains and Wetlands

- ▶ Preliminary development plans do not typically provided enough detail to properly evaluate potential indirect impacts to floodplains or wetlands, such as stormwater conveyances.
- ▶ Wetland delineations and permitting should either be completed or in progress, since more time consuming.

## ▶ Noise Analysis

- ▶ Unacceptable noise levels (>75 dB) should be identified early to allow for time to complete either an Environmental Impact Statement (EIS), if additional environmental issues are identified, or initiating the waiver process.

## ▶ Radon Gas

- ▶ Based on recent HUD guidance, the pre-construction radon mitigation review is no longer a requirement at pre-application.

# Questions?

Feel free to contact me for further questions or clarifications:

- ▶ Keith S. Bayer - Technical Services Team Leader

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