

HUD 811 PRA Environmental Review and Funding Requirements

HUD 811 PRA funds come with their own environmental review requirements that differ from familiar HOME and OHFA requirements and are somewhat more prescriptive in what actions can be taken at project sites using the funds. The following are the “environmental tenets” associated with the 811 environmental review, specific restrictions that can eliminate a project from considering this funding source and information that could speed up review if provided to the environmental reviewer at the start of the review.

SITE CONTAMINATION

Restriction: Project site must be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

Helpful Submittal Items: The developer should provide a phase I environmental site assessment compliant with ASTM E1527-13 and including a vapor encroachment screen compliant with ASTM E2600-10. Viability of the ESA (i.e., whether it is recent enough to be valid) is determined based on the date of a related real estate transaction such as property transfer or start of construction/rehabilitation; the ESA or update must be dated within 180 days of the transaction. An update for purposes of viability does not have to be a complete, new phase I ESA report; it could be provided in the form of a letter report referring to the previous phase I ESA and covering the items ASTM requires be updated. Refer the environmental consultant to Section 4.6 of ASTM E1527-13.

If there are any recognized environmental conditions, including vapor encroachment conditions, these should be addressed as recommended by the environmental consultant. Phase II ESAs must be compliant with ASTM E1903-11 and any clean-up must be compliant with the cleanup standards of the OEPA Voluntary Action Program, though a VAP covenant not to sue is not required.

The prohibition on the presence of radioactive substances at the project site includes radon gas that could infiltrate into the structure from the geological formations beneath the project site. Because the presence of radon at unacceptable levels is a possibility throughout Ohio, per OHFA's radon policy all new construction projects should include a radon mitigation system in their construction plans; generally this includes a vapor collection system beneath the slab that vents to one or more risers extending above the top of the building. All rehab projects will need either to include plans for installing such a system or to test to see whether a system is needed. More information is available in OHFA's radon policy.

HISTORIC PRESERVATION

Restriction: No demolition of an eligible building is permitted; rehabilitation must meet Secretary of the Interior standards.

Helpful Submittal Items: If there are existing buildings on the project site, an evaluation of whether they are eligible for listing on the National Register of Historic Places is required. Project teams that can provide an expert opinion on this topic can speed their review times.

NOISE

Restriction: No outdoor noise sensitive uses in areas with noise levels of 75 dB or higher on new construction sites, and indoor noise must be attenuated to 45 dB for new construction projects.

Helpful Submittal Items: The project will be evaluated using the HUD procedures. Project teams that can provide the following data can speed their review times: 1) Identify all roads within 1,000 feet of any project site boundary having four or more lanes and/or 10,000 ADT or greater, and provide traffic data for points close to the project site. The data is available from ODOT for state routes and interstates, and from local planning commissions and/or engineer's offices for local roads. 2) Identify all railroads within 3,000 feet of any project site boundary. The reviewer will take care of collecting traffic data for railroads. 3) Be aware of airports that are near (within five miles of) the project site; while the reviewer will collect information pertinent to the review it will help the project team to be aware of risks.

AIRPORT HAZARDS

Restriction: No projects may be located within the clear zones or accident potential zones of military airfields or the runway protection zones of civilian airports.

Helpful Submittal Items: If the project site is very close to an airport of any size, the site's location relative to military airfield clear zones and accident potential zones and civilian airport runway protection zones will require evaluation. Projects cannot be located in these zones. Project teams can assist in speeding the review by providing maps of these zones obtained from the airport or from local planning or zoning officials.

COASTAL ZONE MANAGEMENT

Restriction: Projects located within the designated coastal zone along Lake Erie must be consistent with the state coastal zone management plan.

Helpful Submittal Items: The environmental reviewer will perform the coordination required to make this determination for any project located within the coastal zone. While it would be wise for the project team to be aware of their site's status, no submittal is required on their part. Coastal zones are mapped by ODNR's Office of Coastal Management.

FLOODPLAINS

Restrictions: No new construction in the floodway, 100-year floodplain or 500-year floodplain as identified on the best available FEMA map/data, including ABFE, P-FIRM or FIRM. No rehabilitation in coastal high hazard areas (V Zones) or floodway. No projects located in the 100-year floodplain in a community that is not participating in or has been suspended from the NFIP.

Rehabilitation projects located in the 100- and 500-year floodplains must meet the following requirements: 1) Either flood-proof all structures or elevate the lowest habitable floor and utilities above the 500-year floodplain; 2) Develop an early warning system and evacuation plan with routing to areas outside of the floodplain; and 3) If in the 100-year floodplain, obtain flood insurance under the NFIP.

Helpful Submittal Items: To speed review, rehabilitation project teams can provide plans showing site topography and the necessary flood-proofing/elevation measures, and a written early warning system/evacuation plan.

WETLANDS

Restrictions: No new construction in wetlands; i.e., no draining, dredging, channelizing, filling, diking, impounding or related grading activities in connection with the project. Rehabilitation projects cannot expand their developed footprint into wetlands. Note that in both cases, if wetlands are avoided and will be protected in the future the project can receive 811 funds.

Helpful Submittal Items: To document status with respect to wetlands, project teams with sites having wet areas/streams, hydric soils according to the NRCS, or vegetation typical of wetlands can provide a wetland/Waters of the U.S. screening report and a delineation if wetlands are identified by the screening. If wetlands are present, both new construction and rehabilitation projects should provide documentation showing that the wetlands will be avoided.

EXPLOSIVE AND FLAMMABLE HAZARDS

Restrictions: Unless buildings, people and outdoor facilities are shielded, new construction projects cannot be located closer than HUD's Acceptable Separation Distance (ASD) from an aboveground storage tank storing explosive or flammable materials. There are no requirements for rehabilitation projects.

Helpful Submittal Items: The environmental reviewer will calculate the ASDs for any aboveground storage tanks in the vicinity of the project. To speed this review, identify any aboveground storage tanks that can be seen from any part of the project site, including tanks located further away than the adjacent properties – this line of sight is one aspect by which the potential hazards of the tanks are evaluated and. Also identify any industrial facilities within one mile having large aboveground tanks even when they are not visible from the project site. To speed the review, also provide the tanks' volume and contents, and report whether the contents are stored under pressure and whether there is a dike or containment structure surrounding the tank(s). Note that integral secondary containment jackets are not relevant to this review; only containment that is open-topped has an effect on the necessary calculations.

ENDANGERED SPECIES

Restrictions: New construction is not permitted if it will result in a taking of federally-listed endangered plant or animal species. “Take” may include modification of habitat; USFWS makes the determination.

Helpful Submittal Items: The environmental reviewer will perform the necessary coordination; the project team should simply be aware that this could be an issue if the project involves modification of suitable habitat for an endangered species.

If the project site is not already entirely paved or maintained as a lawn, the project team could work with a consultant with experience in natural resources evaluation to determine whether potential endangered species habitat is present and whether an on-site survey for a given species could be required. These surveys are typically limited to certain times of the year, usually in the warmer months, and could delay a project if the survey is required and not already completed. The consultant performing the on-site survey may be required to have special licensing or certification. Note that the project’s consultant should not perform formal coordination with USFWS – only OHFA’s environmental reviewer has standing to do that for the 811 funds.

FARMLAND PROTECTION

Restrictions: New construction may not convert unique, prime or otherwise productive agricultural properties to urban uses.

Helpful Submittal Items: The environmental reviewer will perform the necessary coordination. The project team should simply be aware that this could be an issue if the project site is currently farmed.

SOLE SOURCE AQUIFERS

Restrictions: New construction projects located within designated sole source aquifer (SSA) areas require consultation and review with USEPA. It is not expected that any housing project will be denied based on SSA requirements.

Helpful Submittal Items: The environmental reviewer will perform the necessary coordination, which may slow the review depending on the speed of USEPA’s response. The project team should be aware of this issue in planning their schedule. The SSAs in Ohio include the Allen County Area Combined Aquifer System, the Greater Miami Buried Aquifer & OKI Extension in southwestern Ohio, and the Bass Islands Aquifer on Catawba Island.

COASTAL BARRIER RESOURCES

Restrictions: No new construction or rehabilitation in Coastal Barrier Resource System (CBRS) units.

Helpful Submittal Items: No submittal items are required; the project should simply be aware of their project site’s status with respect to CBRS units. In Ohio, CBRS units are located in the Port Clinton- Huron area and nearby islands and in the Geneva and Mentor areas, all on or near Lake Erie.

LEAD-BASED PAINT

Restrictions: This issue will not prevent any project from using 811 funds.

Helpful Submittal Items: If a lead-based paint survey has been performed at the project site, the project team should provide a copy.