

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

Special Attention of:

Field CPD Division Directors	Transmittal
Field CPD Representatives	Handbook No: 1390.05
	Issued: November 23, 1995

1. This Transmits, Handbook 1390.05 -- Environmental Policy for Housing Opportunities for Persons with AIDS (HOPWA) Program.
2. Summary: This handbook specifies the environmental review and documentation requirements to be followed by HUD Field Offices for grants under HUD's program for Housing Opportunities for Persons with AIDS (hereafter, HOPWA Grants).
3. CPD Field Division Directors are to provide a copy of this handbook to all HOPWA grantees with the grant approval letter. Field CPD Representatives for the HOPWA Program assisted by Environmental Officers shall provide assistance to grantees and their staff to ensure full understanding and implementation of this handbook. This handbook alerts grantees of the environmental criteria important in the selection of properties free of major hazards and problems.
4. This handbook replaces Notice CPD 92-39 by the same title.

DEH: Distribution: W-3-1

HANDBOOK 1390.05

U.S. Department of Housing & Urban Development
Office of Community Planning & Development

HOPWA Program Users

November 1995

Environmental
Policy for Housing
Opportunities for
Persons with AIDS
(HOPWA) Program

DEH: Distribution: W-3-1

Paragraph		Page
-----------	--	------

TABLE OF CONTENTS

CHAPTER 1. Introduction		
1-1	Purpose	1-1
1-2	Authority	1-1
1-3	Activities not subject to environmental review	1-2
CHAPTER 2. Responsibility		
2-1	Applicant's environmental assurance	2-1
2-2	Grantee's data for HUD environmental review	2-1
2-3	HUD's responsibility for performance of the environmental review	2-2
2-4	Field Office Responsibility	
	A. Secretary's Representatives and Environmental Staff	2-3
	B. Field CPD Division Directors and Representatives	2-3
CHAPTER 3. Applicable Federal environmental laws and authorities		
3-1	Qualified data sources and related matters	3-1
3-2	Thresholds and documentation	3-2
	A. Format (see Appendix 2)	
	1. Coastal Barrier Resources	3-2
	2. Sites contaminated with toxic chemicals and radioactive materials	3-3
	3. Locations in flood hazard areas or a designated wetland	3-3
i		
		11/95
1390.05		
Paragraph		
	4. Locations requiring flood insurance protection	3-6
	5. Locations in the vicinity of airports and airfields	3-7
	6. The National Register of Historic Places	3-8
	7. Significant impact to the human environment	3-10
	8. Locations near hazardous industrial operations handling explosive or flammable fuels or chemicals	3-10
	9. Noise-impacted sites	3-11
	10. Coastal zone management	3-13

11. Sole source aquifer	3-13
12. Endangered species protection	3-14

APPENDICES

1. Reply to grantee regarding HUD's determination for compliance review
2. Grantee's documentation for HUD compliance review (Format: Threshold review for property proposed for use in Housing Opportunities for Persons with AIDS (HOPWA) Program)
3. Notice to prospective buyers of properties located in runway clear zones and clear zones

CHAPTER 1. Introduction

1-1 Purpose

This handbook specifies the environmental review and documentation requirements to be followed by HUD Field Offices for grants under HUD's program for Housing Opportunities for Persons with AIDS (hereafter, HOPWA Grants).

The handbook explains the manner in which HOPWA grantees, before undertaking property acquisition, rehabilitation, conversion, lease, repair or construction activities, are to submit to HUD Field Offices property-specific information so that HUD may assure conformance with requirements related to the environment. Definition: "Property acquisition, rehabilitation, conversion, lease, repair or construction activities" means the recipient's commitment or expenditure of any HUD, State, local or other funds for property acquisition, rehabilitation, conversion, lease, repair, or construction activities under the HOPWA Program.

HUD Field Offices shall provide a copy of this handbook to all HOPWA grantees with the grant approval letter. Field CPD Representatives for the HOPWA Program assisted by Environmental Officers shall provide assistance to grantees and their staff to ensure full understanding and implementation of this handbook. This handbook alerts grantees of the environmental criteria important in the selection of properties free of major hazards and problems.

This handbook contains special procedures only for HOPWA Grants and does not affect the environmental procedures for any other HUD program.

1-2 Authority

- A. The authority for this policy is set forth in HOPWA Program Regulations at Sect. 574.510 of 24 CFR part 574 (hereafter, the HOPWA Program Regulations).
- B. HUD Environmental Regulations at Sect. 50.3(i) and 50.17(i) of 24 CFR part 50 (hereafter HUD Environmental Regulations) allow a new post-award decision point for compliance with the National

Environmental Policy Act of 1969 (NEPA) and the other applicable Federal environmental laws and authorities listed in 50.4. The decision point for environmental compliance review is not the approval by HUD of the award of grants to successful applicants, but rather HUD approval of specific properties identified by the grantee for use in a HOPWA program. The reasons for this post-award decision point are the following:

1. Applications for funding under Formula Entitlement grants are not likely to identify specific properties to be used in

local HOPWA programs, whereas Federal environmental laws and authorities require review of specific properties; and

2. Applications for funding for Competitive grants are to identify specific properties to be used in the local HOPWA programs, but for administrative convenience, HUD has determined that an award of a grant will be conditioned on the applicant's compliance with Federal environmental policies and procedures that require environmental approval of the property by HUD before any funds are used in support of the property.

C. To implement Sect. 50.3(i) and 50.17(i), HUD Environmental Regulations provide for an environmental assurance.

D. The Department has determined that NEPA and the other Federal laws and authorities listed at 50.4 apply to: (i) physical development activities listed under 574.300(b) (3) and (4), and (ii) project-based rental assistance under 574.300(b) (5). Also HUD has determined that the other activities cited in 574.300(b), which by their nature do not propose a physical change to a property, are categorically excluded from NEPA review and do not trigger the laws and authorities in 50.4.

1-3 Activities not subject to environmental review

To preclude the need for doing repetitive findings of no significant impact for non-physical development activities and to provide for an efficient and effective use of resources and staff responsible for compliance with HUD Environmental Regulations, 50.19 and 50.20(b)

11/95

1-2

1390.05

and (o) authorize the following list of activities, which HUD has determined are categorically excluded from NEPA and not subject to the 50.4 authorities:

- A. Information services;
- B. Resource identification and planning to establish and coordinate strategies, including feasibility studies, environmental studies and testing;
- C. Tenant-based rental assistance;
- D. Supportive services including, but not limited to, health care, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;
- E. Operating costs including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs;
- F. Technical assistance; and

G. Administrative expenses.

	1-3	11/95
1390.05		
11/95	1-4	

CHAPTER 2. Responsibility

2-1 Applicant's environmental assurance

- A. HOPWA Program Regulations require an assurance that the applicant will:
1. supply HUD with information necessary for HUD to perform any applicable environmental review of each property in accordance with the environmental laws and authorities cited in 24 CFR part 50;
 2. carry out mitigating measures required by HUD or select alternate eligible property; and
 3. not acquire, rehabilitate, convert, lease, repair or construct property to provide housing, or commit HUD, State, local - or other funds to such program activities with respect to any eligible property, until HUD approval of the property is received. The grantee shall assure that project sponsors comply with these requirements.

2-2 Grantee's data for HUD environmental review

- A. The grantee will cooperate in providing data for HUD's performance of the environmental review. In submitting data to HUD, grantees may use the sample format provided in Appendix 2, or develop an equivalent format of their own. Grantees are to provide a separate format for each property. If available, grantees also may provide HUD with previously issued environmental reviews prepared by other local, State, or Federal agencies for the subject property.
- B. For community residences only, grantees who prepare environmental data and related worksheets after the effective date of the HOPWA grant agreement may use approved technical assistance funds from the HOPWA Grant to pay for costs incurred.
- C. Grantees are prohibited from committing or expending HUD, State, local, or other funds to undertake any property acquisition, rehabilitation, conversion, lease, repair or construction activities (for definition, refer to Paragraph 1-1 above),

2-1

11/95

1390.05

until HUD approval is received for the specific property for use in the grantee's HOPWA Program.

2-3 HUD's responsibility for performance of the environmental review

- A. Sec. 574.510 of HOPWA Program Regulations requires that before any amounts under this program are used to acquire, rehabilitate, convert, lease, repair or construct properties to provide housing, HUD shall perform a review in accord with 24 CFR part

50, which implements the National Environmental Policy Act (NEPA) and the related Federal environmental laws and authorities listed under Sect 50.4. In performing its environmental review, HUD will receive certain information provided by the grantee (refer to Appendix 2). Also, grantees may provide HUD with previously issued environmental reviews prepared by other local, State, or Federal agencies for the proposed property. HUD must, however, conduct the environmental analysis and prepare the environmental review and be responsible for the required environmental findings.

- B. HUD shall determine whether a NEPA environmental assessment is required. HUD shall also determine whether the assisted activities will trigger thresholds for other applicable Federal environmental laws and authorities, when the property is:
1. located within designated coastal barriers;
 2. listed on, or eligible for listing on, the National Register of Historic Places; or is located within, or adjacent to, an historic district or property; or is a property whose area of potential effects includes an historic district or property;
 3. located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature;
 4. contaminated by toxic chemicals or radioactive materials;
 5. located within a runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield;
 6. located within certain flood hazard areas or (for new construction only) a designated wetland;
 7. located within an area requiring flood insurance protection; or
 8. located within a high noise area.
- C. For proposed new construction or conversion (including demolition), major rehabilitation or substantial improvement of existing properties, HUD also shall determine whether the assisted activities will trigger thresholds for Federal environmental laws and authorities that may apply when the property:
1. is located within a coastal management zone;
 2. is located on a sole source aquifer; or
 3. would affect an endangered species.

2-4 Field Office Responsibility

- A. Secretary's Representatives and State Coordinators, assisted by Field Environmental Officers, are responsible for overseeing the performance of environmental procedures under 574.510 of the HOPWA Program Regulations.
- B. Field CPD Division Directors, assisted by CPD Representatives (Reps) assigned to the HOPWA Program in the HUD Field Offices have the lead responsibility for carrying out the intent of this handbook and are to:
 - 1. Review the grantee's data submission and if complete, perform the necessary environmental review and document compliance on applicable HUD Forms 4128 or 4128.1, which are available from the Field Environmental Officer.

Within five working days of the HUD receipt of the recipient's complete data submission (see Appendix 2), Field CPD Reps assigned to the HOPWA Program are to notify the recipient by letter from the Director for Community Planning

1390.05

2-3

11/95

and Development (CPD), or his/her deputy, indicating one of the following (To form the letters, refer to Appendix 1):

Option 1: HUD approval;

Option 2: HUD environmental approval with special conditions, including any mitigating measures to be undertaken by the grantee;

Option 3: HUD request for additional information to perform either the threshold determination or the compliance review, or both, or HUD advice that additional time will be required; or

Option 4: HUD disapproval and recommendation that the grantee select an alternate eligible property.

- 2. Complete the environmental record on HUD Forms 4128 or 4128.1 prior to preparing the Field Office's reply to the grantee regarding HUD approval or disapproval of the property.
 - 3. Keep environmental records until the closeout of the project by HUD; and
 - 4. Monitor compliance with any mitigation measures.
- C. Field CPD Reps who need advice or assistance concerning the implementation of this handbook should contact the Field Environmental Officer.

CHAPTER 3. Applicable Federal environmental laws and authorities

3-1 Qualified data sources and related matters

- A. HUD has determined that NEPA and the following Federal environmental laws and authorities set out in Sect 50.4 relate to its approval of specific properties for acquisition, rehabilitation, conversion, lease, repair or construction activities under the HOPWA Program. Upon review and acceptance of the documentation submitted by grantees, HUD will undertake any required processing, advise grantees in writing of HUD's determination of compliance with Federal environmental laws and authorities, and authorize property specific activities.
- B. Information provided by grantees must be from a qualified data source. One letter from a "qualified data source" can provide threshold information for several of the following Federal environmental laws and authorities. Definition: a "qualified data source" may include any Federal, State or local agency with expertise or experience in environmental protection (e.g., the local community development agency; the land planning agency; the State environmental protection agency; the State Historic Preservation Officer) or any other source qualified to provide reliable information on the particular subject.
- C. Grantees are encouraged to obtain outside information at the earliest possible stage. Grantees may use Appendix 2 or an equivalent format for providing HUD with information on the below listed Federal environmental laws and authorities that may apply to a grantee's project.

Lease activities generally are subject only to applicable authorities for properties located within coastal barrier resources, on contaminated sites, or for project-based lease activities in floodprone locations.

Acquisition activities are subject to the same authorities as the lease activities as well as generally to the applicable authorities for properties requiring flood insurance protection or located within clear or accident potential zones of airports/airfields.

1390.05

3-1

11/95

Repair and minor rehabilitation activities are subject to the same authorities as the lease and acquisition activities as well as generally to the applicable authority for properties that are historic or affect a historic property.

Major rehabilitation and substantial improvement activities (including: rehabilitation that increases unit density) are subject to the same authorities as the lease, acquisition, and repair activities as well as to applicable authorities covering significant impacts to the human environment, industrial hazards, noise-impact and coastal zone management.

New construction and conversion (including demolition) activities

are subject to all applicable authorities including protection of sole source aquifers and of endangered species.

3-2 Thresholds and Documentation

A. Format (see Appendix 2).

1. Coastal Barrier Resources:

Threshold: Grantees are prohibited by Federal law (cited below) from using Federal financial assistance for properties in their HOPWA programs, if the properties are located within designated coastal barriers of the Atlantic Ocean, Gulf of Mexico, and the Great Lakes. The Coastal Barrier Resources Act, as amended, 16 U.S.C. 3501, is cited in Sect 574.645 of the HOPWA Program Regulations.

Documentation: Grantees are to select either A or B for the condition that best describes their project and report the option selected on the format under Coastal Barrier Resources Site (see Appendix 2).

- A. The grantee states that its program operates in a community that does not contain any shores along the Atlantic Ocean, the Gulf of Mexico, or the Great Lakes.
- B. For the grantee whose program operates in a 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 data source (see Paragraph III. above) stating that the grantee's proposed property is not located within a designated

11/95

3-2

1390.05

coastal barrier by citing the map panel number of the official maps issued by the Department of the Interior on the basis of which the finding was made.

2. Sites contaminated with toxic chemicals and radioactive materials:

Threshold: Under HUD policy, as described in HUD Notice 79-33 (Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials), HUD will not approve the provision of financial assistance to residential properties located on contaminated sites. Sites known or suspected to be contaminated by toxic chemicals or radioactive materials include but are not limited to sites: (i) listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) located within 3,000 feet of a toxic or solid waste landfill site; or (iii) with an underground storage tank (which is not a residential fuel tank).

Documentation: Grantees are to select either A or B for the condition that best describes their project and report the option selected on the format under Contaminated Site (see Appendix 2).

- A. The grantee provides HUD with a finding made by a qualified data source stating that the property proposed for use in the HOPWA program and any directly adjacent properties do not contain any

sites known or suspected to be contaminated with toxic chemicals and radioactive materials.

B. The grantee provides any site contamination data in its letter to the Field Office for HUD's evaluation of contamination and/or suspicion of any contamination of a property proposed for use in the grantee's HOPWA program.

3. Locations in flood hazard areas or a designated wetland:

Threshold: Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands:

Assisted new construction located within a designated wetland is subject to HUD's decisionmaking process under E.O. 11990.

Assisted new construction, property acquisition, project-based

3-3

11/95

1390.05

lease, rehabilitation, conversion, or repair located within a floodplain are subject to HUD's decisionmaking process under E.O. 11988. The Order does not apply to existing single-family properties proposed for acquisition or lease with non-substantial or no improvement as long as the existing property is not located within a floodway or coastal high hazard area.

Under these Orders HUD must avoid, where practicable, financial support for proposed property acquisition, rehabilitation, conversion, project-based lease, repair, or construction of any floodprone property, or financial support for new construction on wetland property. For proposed financial assistance for such activities, including "substantial improvement" (see definition below) of existing single-family properties, HUD will require 30 to 60 days in most cases to perform the required processing.

Definition: "substantial improvement" for flood hazard purposes means any rehabilitation (including conversion) which (a) equals or exceeds 50 percent of the market-value of the property before rehabilitation, but excluding the costs for correcting health, sanitary, and safety code violations, or (b) increases the unit density of the property. Floodplain properties covered under E.O. 11988 are properties located within a Special Flood Hazard Area (SFHA) or, for critical actions, properties within the 500-year floodplain. The critical action standard applies to the proposed use of HOPWA financial 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 (see 24 CFR part 55).

Documentation: Grantees are to select A, B, or C for the condition that best describes their project and report the option selected on the format under Floodprone Or Wetland Site (see Appendix 2).

A. The grantee provides HUD with a finding made by a qualified data source stating that the property is not located within any of the

following:

- (i) the Special Flood Hazard Area (SFHA), or
- (ii) within the 500-year floodplain, which applies only to proposed critical actions, or
- (iii) within a designated wetland, which applies only to property where new construction is proposed.

11/95

3-4

1390.05

B. The grantee provides HUD with a finding made by a qualified data source that the property is located within one or more of the following:

- (i) the Special Flood Hazard Area (SFHA) and as to whether the property is located within a floodway or coastal high hazard area; or
- (ii) within the 500-year floodplain, which applies only to proposed critical actions; and/or
- (iii) within a designated wetland, which applies only to property where new construction is proposed.

The finding for A and B must provide HUD with the flood map panel number obtained either from the official maps issued by the Federal Emergency Management Agency (FEMA) or from the property appraisal report used to make the finding. Only for new construction, the finding must provide HUD with the wetland panel number obtained from official maps issued by the Department of Interior (DOI) or on the basis of which the finding was made, or where DOI has not mapped the area; a letter or other documentation from the Army Corps of Engineers or other Federal agency.

For proposed rehabilitation of properties that are located within a SFHA (or 500-year floodplain for proposed critical actions), grantees must provide HUD with estimates of: (i) the property value before rehabilitation, and (ii) the cost of the proposed rehabilitation. The estimates are to be provided in item E of the first page of the format (see Appendix 2).

If the property is found to be located within a SFHA, proceed to the next section on flood insurance protection and document the requisite insurance amount and period of coverage (except where lease without repair or rehabilitation is involved).

4. Locations requiring flood insurance protection:

Threshold: Flood Disaster Protection Act of 1973 (cited in Sect 574.640 of the HOPWA Program Regulations) 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

1390.05

is discussed below and is more stringent for grant than loan types of assistance. Localities cannot be self-insurers under the National Flood Insurance Program. Leasing activities are not subject to this requirement, except where repairs and rehabilitation are assisted.

Duration of Flood Insurance Coverage. The statutory period for flood insurance coverage may extend beyond project completion. For loans, loan insurance or guaranty, 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 full anticipated economic or useful life of the project. Such anticipated economic or useful life of the project may vary with the nature of the assisted activity. For example, construction of a new or substantially-improved building requires flood insurance coverage for the life of the building, while for minor rehabilitation such as repairing, weatherizing, or roofing of a building, the grantee may require flood insurance coverage ranging from 5 to 15 years as deemed feasible. HUD will accept any period within that range that appears reasonable.

Dollar Amount of Flood Insurance Coverage. For loans, loan insurance or guaranty, the amount of flood insurance coverage need not exceed the outstanding principal balance of the loan. For grants and other non-loan forms of financial assistance, the amount of flood insurance coverage must be at least equal to the development or project cost (less estimated land cost) or to the maximum limit of coverage made available by the Act with respect to the particular type of building involved (i.e., Single Family, Other Residential, Non-Residential, or Small Business), whichever is less. The development or project cost is the total cost for acquiring, constructing, reconstructing, repairing or improving the building. This cost covers both the Federally-assisted and the 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 also be covered by flood insurance.

Proof of Purchase of Flood Insurance Protection. Once HUD has approved a specific SFHA property, the grantee's file for any SFHA 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

11/95

3-6

1390.05

under NFIP. The insured has its insurer automatically forward to the grantee, in the same manner as to the insured, an information copy of the Policy Declarations form, which is used to verify compliance. The grantee's responsibility ceases in cases where a mortgage loan is approved requiring flood insurance as condition of loan approval by a lender (other than the grantee), whose responsibility is to assure

flood insurance coverage for the loan.

Documentation: Grantees are to estimate the amount and period of flood insurance coverage that is to be made a condition of approval of the SFHA building and report these on the format under Flood Insurance Protection (see Appendix 2).

5. Locations in the vicinity of airports and airfields:

Threshold: HUD policy as described in 24 CFR 51, Subpart D applies to assisted properties located within clear zones and in the case of new construction or major rehabilitation (see definition below), properties located within accident potential zones. Construction or major rehabilitation of any property located on a clear zone site is prohibited.

Definition: Rehabilitation (including conversion) is "major" or "substantial" when the estimated cost of the work is 75 percent or more of the property value after rehabilitation or, in the case of property in an Accident Potential Zone, when the work changes the use of the facility to a use that is not generally consistent with the recommendations in the Department of Defense "Land Use Compatibility Guidelines for Accident Potential Zones," or significantly increases the density or number of people at the site (24 CFR 51.302(b) (1) and (2)).

HUD financial assistance in a clear zone is allowed for properties proposed for acquisition or lease (24 CFR 51.302(a)) with or without minor rehabilitation or repair. Upon HUD approval for acquisition of a property in a clear zone, (a) HUD will give advance written notice to the prospective property buyer in accord with 24 CFR 51.303(a) (3); and (b) a copy of the HUD notice signed by the prospective property buyer will be placed in the property file (for a sample notice, see Appendix 3). The written notice informs the prospective property buyer of: (i) the potential hazards from airplane accidents which studies have shown more likely to occur within clear zones than in other areas around the airport/airfield; and (ii) the potential

1390.05

acquisition 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 within the accident potential zone (APZ) , HUD shall determine whether the use of the property is generally consistent with Department of Defense "Land Use Compatibility Guidelines for Accident Potential Zones."

Documentation: Grantees are to select either A or B for the condition that best describes their project and report the option selected on the format under Clear Or Accident Potential Zone Site (see Appendix 2).

A. The grantee states that the property 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 operator stating whether or not the property" is located within a runway clear zone at a civil airport, or a clear zone or accident potential zone at a military airfield. For properties that are located within a runway clear zone or a clear zone or accident potential zone, grantees who propose to rehabilitate such a property are to provide HUD with estimates of: (i) the cost of the proposed rehabilitation, and (ii) the property value after completion of the rehabilitation. The estimates are to be provided in item E of the first page of the format (see of Appendix 2).

6. The National Register of Historic Places:

Threshold: Only if a property is proposed for repair (see definition below), rehabilitation, conversion, or construction must HUD in consultation with the State Historic Preservation Officer (SHPO), and following the Department of the Interior's Standards and Guidelines for Evaluation, make a determination whether the property is:

(a) listed on or eligible for listing on the National Register of Historic Places;

(b) located within or directly adjacent to an historic district; or

11/95

3-8

1390.05

(c) a property whose area of potential effects includes an historic district or property.

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 the information from the SHPO. Grantees may wish to make special arrangements with the SHPO for rapid review of the grantee's proposed property where this is practicable. For properties determined to be historic properties, HUD will require 30 to 90 days in most cases to perform the required processing. In-kind replacement or incidental maintenance of external and internal building features is not subject to this requirement.

Documentation: Grantees are to select one of the following options that best describes the condition of their project and report the option selected on the format under Historic Property Site (see Appendix 2).

A. The grantee proposes financial assistance for rehabilitation, conversion, or construction of the property and provides HUD with a SHPO's finding that the proposed rehabilitation, conversion, or construction:

1. Will have no effect on historic properties; or

2. Will have an effect on historic properties not considered

adverse.

B. The grantee proposes financial 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 the SHPO stating any reasons for not being able to provide the grantee with the requested information and finding.

7. Significant impact to the human environment:

Threshold: For proposed new construction or major rehabilitation of structures, an environmental assessment is required for compliance with the National Environmental Policy Act (NEPA) and the implementing regulations of the Council on Environmental Quality. It is the policy

3-9

11/95

1390.05

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 and minimize environmental harm.

Documentation: 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 physical site suitability, soil stability and erodibility, natural hazards, man-made hazards and nuisances, air quality, displacement, energy conservation, infrastructure (e.g. water supply, waste water, storm water, and solid waste), compatibility with surrounding development, site accessibility, public services (i.e. fire; police, health care, social services, schools, parks) and transportation. Identify any significant impacts to the human environment. Grantees are to report this data needed for the environmental assessment on separate sheets and submit them as an attachment to the format in Appendix 2.

8. Locations near hazardous industrial operations handling explosive or flammable fuels or chemicals:

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 (24 CFR 51, Subpart C) However, under the HOPWA program, these standards would apply only if grantees propose: (i) construction of a building; (ii) conversion of a non-residential land use to a residential land use including making a uninhabitable building habitable; or (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units. 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

that best describe the condition of the project, and report the option selected on the format under Industrial Hazards Site (see Appendix 2).

- A. The proposed project does not include: (i) construction of a building; (ii) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; or (iii) rehabilitation that increases the density of

11/95

3-10

1390.05

a residential structure by increasing the number of dwelling or rooming units.

- B. The proposed project includes: (i) construction of a building; (ii) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; or (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; and the grantee provides HUD a finding by a qualified data source that the grantee's proposed property is not located within the immediate vicinity of hazardous industrial operations handling fuel or chemicals of an explosive or flammable nature by citing data used and the 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; or (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; and the grantee provides HUD a finding made by a qualified data source stating: (i) that the proposed property is located within the immediate vicinity of hazardous industrial operations handling fuel or chemicals of an explosive or flammable nature; (ii) the type 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 51, Subpart C.

9. Noise-impacted sites:

Threshold: For new construction which is to occur in high noise areas (i.e. exceeding 65 decibels), 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. Approvals in a Normally unacceptable noise zone require a minimum of 5 decibels additional sound attenuation for buildings having noise-sensitive uses if the day-night average sound level is greater than 65 decibels but does not exceed 70 decibels, or a minimum of 10 decibels of additional sound attenuation if the day-night average sound level is greater than 70 decibels but does not exceed 75 decibels.

3-11

11/95

1390.05

Above 75 decibels is unacceptable and the noise attenuation measures

require the approval of the Assistant Secretary for Community Planning and Development.

For major rehabilitation projects in the Normally Unacceptable and Unacceptable noise zones, HUD actively seeks to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level of exterior noise exposure. In Unacceptable noise zones, HUD strongly encourages conversion of noise-exposed sites to land uses 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 on the format under Noise-Impacted Site (see Appendix 2).

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

B. The grantee provides HUD with a finding made by a qualified data source: (i) stating that the plans for the property proposed by the grantee for new construction or conversion activity in its HOPWA program incorporate noise attenuation features in accord with HUD environmental criteria and standards contained in Subpart B (Noise Abatement and Control) of 24 CFR part 51; (ii) stating whether the property is located within a "Normally Unacceptable" or "Unacceptable" noise zone; and (iii) providing HUD plans and a statement of the anticipated interior noise levels.

10. Coastal Zone Management:

Threshold: Only for new construction, conversion, major rehabilitation, and substantial improvement activities does the Coastal Zone Management (CZM) authority apply. 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.

11/95

3-12

1390.05

Documentation: Grantees are to select either A or B for the condition that best describes their project and report the option selected on the format under CZM Site (see Appendix 2).

A. The grantee states that its project is not located within a coastal zone, as defined by the State's Coastal Zone Management Plan.

B. For grantees whose project is located within a coastal zone, the grantee provides HUD with a finding made by the State CZM agency that the project proposed by the grantee is consistent with the approved State coastal zone management program.

11. Sole Source Aquifer:

Threshold: Only for new construction and conversion activities does the Sole Source Aquifer (SSA) authority apply. Projects which can affect aquifers designated by EPA must be reviewed for impact on such designated aquifer sources. The Safe Drinking Water Act of 1974 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.

Documentation: Grantees are to select either A or B for the condition that best describes their project and report the option selected on the format under Aquifer Site (see Appendix 2).

A. The grantee provides HUD with a finding made by a qualified data source stating that the grantee's proposed property is not located on nor does it affect a sole source aquifer designated by EPA.

B. For the grantee whose project proposes new construction or conversion activities that are located on or may affect any sole source aquifer designated by the EPA, the grantee identifies the aquifer and provides 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 Regional Office as well as from any State or local agency with jurisdiction for protecting the drinking water system.

3-13

11/95

1390.05

12. Endangered Species protection:

Threshold: Only for new construction and conversion activities does the Endangered Species Protection (ESP) authority apply. Projects which can affect listed or proposed endangered or threatened species or critical habitats require consultation with the Department of the Interior in compliance with the procedure of Section 7 of the Endangered Species Act of 1973, as amended.

Documentation: Grantees are to select either A or B for the condition that best describes their project and report the option selected on the format under ESP Site (see Appendix 2).

A. For the grantee whose project proposes new construction or conversion activities, the grantee provides 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 the grantee whose project proposes new construction or conversion activities that are likely to affect listed or proposed endangered or threatened species or critical habitat, the grantee provides HUD with a statement from a qualified data source explaining the likely affect, and/or a finding made by the Fish and Wildlife Service of the Department of the Interior stating as acceptable the proposed mitigation that the grantee will provide to protect any

affected endangered or threatened species or critical habitat.

11/95

3-14

REPLY TO GRANTEE REGARDING HUD'S DETERMINATION
FOR COMPLIANCE REVIEW

[Type on HUD stationery]

Dear Grantee:

We have reviewed the environmental information which you provided to us in your letter of (month, day, year) for the grant under the HUD program for Housing Opportunities for Persons with AIDS (HOPWA). Our determination for the property listed in your submission (or format) is as follows:

[Type the appropriate option]

[Option 1: HUD approval]

HUD has completed its environmental review and approves the use of this property in your HOPWA program. You may proceed to commit or expend grant, State, local or other funds to undertake property acquisition, rehabilitation, conversion, lease, repair, or construction activities.

[Option 2: HUD environmental approval with special conditions]

HUD has completed its environmental review and approves, subject to special conditions, the use of this property in your HOPWA program. You may proceed to commit or expend grant, State, local or other funds to undertake property acquisition, rehabilitation, conversion, lease, repair, or construction activities under the following specified conditions: (explain the specified conditions).

[Option 3: HUD request for additional information or time]

The following property appears to exceed one or more of the thresholds that activate the Federal environmental laws and authorities. Therefore, (we request that you provide the following necessary information so that we may perform the threshold determination) or (a compliance review is required and significantly more time will be needed for us to complete this review). You are prohibited from committing or expending grant, State, local or other funds to undertake property acquisition, rehabilitation, conversion, lease, repair, or construction activities, until HUD approval is

received for the specific property. If you wish to remove this property from further consideration, please call us as soon as possible. For this property, the following action is required (explain action required).

(Option 4: HUD disapproval]

The following property exceeds one or more of the thresholds that activate the Federal environmental laws and authorities, and for the following reasons HUD disapproves the use of this property in your HOPWA program. You are prohibited from committing or expending grant, State, local or other funds to undertake property acquisition, rehabilitation, conversion, lease, repair, or construction activities in connection with the HOPWA program. For this property, the specific reasons for this disapproval are the following: (explain reasons).

For further assistance, please phone your CPD Rep for the HOPWA Program, _____, at _____.

Yours truly,

Director
Community Planning and Development Division

cc:
Field CPD Rep for the HOPWA Program
Field Environmental Officer

11/95

2 of 2

GRANTEE'S DOCUMENTATION FOR HUD COMPLIANCE REVIEW

NOTE: In recording the information needed for HUD compliance, grantees under the Housing Opportunity for Persons with AIDS (HOPWA) Program may use this format or may develop an equivalent format of their own. Grantees are to forward the formats, supporting documentation, and request for HUD's determination in a cover letter to the HUD Field Office addressed to the Director of the Community Planning and Development Division. Grantees are prohibited from committing or expending grant, State, local or other funds to undertake property acquisition, rehabilitation, conversion, lease, repair, or construction activities (for definition, refer to Paragraph 1-1 of this handbook), until HUD approval is received for the specific property for use in the grantee's HOPWA Program. Refer questions on this handbook to the HUD Field Office.

HUD will use this information to perform compliance with applicable Federal environmental laws and authorities.

Grantees are to use a separate format for each property proposed for financial assistance in the local HOPWA program. All grantees are to complete the first page of the format by providing the grantee agency name, the name and phone number of the format preparer, the present and proposed use of the property, and the activities proposed for the property. If repair, rehabilitation or conversion is proposed, the grantee should state the estimated cost of any repair/rehabilitation work as well as the property's value before and after the work. The complete street address and a map that shows the location of the property within the locality must be provided for each property.

Chapter 3 this handbook discusses the data required for each Federal environmental law or authority. Chapter 3 explains the significance of the lettered options, one of which the grantee must select to represent its specific threshold documentation for a particular law or authority. The grantee must indicate that option on the format in the line provided for the particular law or authority.

Data for completing the format is to be obtained from a qualified data source (for a definition, see Paragraph 3-1). In addition, grantees may provide HUD with previously issued environmental reviews, prepared by other local, State, or Federal agencies for the proposed property. The local community development agency or the local planning agency may be a source of such data.

FORMAT: THRESHOLD REVIEW FOR PROPERTY PROPOSED FOR USE IN HOUSING OPPORTUNITY FOR PERSONS WITH AIDS (HOPWA) PROGRAM

HOPWA Grantee's Name: _____

Preparer's Name: _____

Phone: (Area Code and Number) _____

A) Provide the following information for the property:

Street address: _____

City, State: _____

B) Provide a map of the community and mark on the map the location of the property.

C) Indicate the present and proposed use of-the property:

Present use: _____

Proposed use: _____

D) Which of the following activities are you proposing for the property? Check each box that applies to your project.

- Lease
- Acquisition
- Repair or minor rehabilitation
- Major rehabilitation or substantial improvement
- New Construction or conversion

E) Report the repair/rehab costs and the related property values, only if you propose conversion, repair, minor or major rehabilitation or substantial improvement.

Property value before repair/rehab (est. in thousands) \$_____.

Repair/rehab costs (est. in thousands) \$_____.

Property value after completion of repair/rehabilitation (est. in thousands) \$_____.

1390.05
APPENDIX 2

FOR LEASE ACTIVITIES: Complete 1 through 3 only.

- 1) Coastal Barrier Resources Site: Indicate A or B _____.
- 2) Contaminated Site: Indicate A or B _____.
- 3) Floodprone or Wetland Site: Indicate A or B _____.

FOR ACQUISITION ACTIVITIES: Complete 1 through 5 only.

- 4) Flood insurance protection: Indicate A or B _____.
Est. coverage amount: \$_____.
Coverage period: ----- years.

5) Clear or Accident Potential Zone Site:
Indicate A or B _____.

FOR REPAIR OR MINOR REHABILITATION: Complete 1 through 6 only.

6) Historic Property Site: Indicate A, B, or C _____.

FOR MINOR REHABILITATION OR SUBSTANTIAL IMPROVEMENT: Complete 1 through 10 only.

7) Significant impact to the human environment: Are there any adverse impacts of the project on the environment or of the vicinity on the project. Check: Yes [] No []
Document on separate sheets as outlined on page 3-9.

8) Industrial Hazards Site: Indicate A, B, or C _____.

9) Noise-Impacted Site: Indicate A or B _____.

10) Coastal Zone Management Site: Indicate A or B _____.

FOR NEW CONSTRUCTION OR CONVERSION: Complete 1 through 12.

11) Sole Source Aquifer Site: Indicate A or B _____.

12) Endangered Species Site: Indicate A or B _____.

NOTICE TO PROSPECTIVE BUYERS OF PROPERTIES LOCATED
IN RUNWAY CLEAR ZONES AND CLEAR ZONES

(In accordance with 24 CFR 51.303(a)(3), this Notice to Prospective Buyers must be given to anyone interested in buying an existing property which is located in either a Runway Clear Zone at a civil airport or a Clear Zone at a military installation.)

The property which you are interested in purchasing at (street address, city, state, zip code) is located in the Runway Clear Zone/Clear Zone for (provide the name of the airport/airfield, city, state).

Studies have shown that if an accident were to occur it is more likely to occur within the Runway Clear Zone/Clear Zone than in other areas around the airport/airfield. Please note that we are not discussing the chances that an accident will occur, only where one is most likely to occur.

You should also be aware that the airport/airfield operator may wish to purchase the property at some point in the future as part of a clear zone acquisition program. Such programs have been underway for many years at airports and airfields across the country. We cannot predict if or when this might happen since it is a function of many factors, particularly the availability of funds, but it is a possibility.

We wanted to bring this information to your attention. Your signature on the space below indicates that you are now aware that the property you are interested in is located in a Runway Clear Zone/Clear Zone.

Signature of prospective buyer

Date

Typed or printed name of prospective buyer

(This Notice to Prospective Buyers must be maintained as part of the HUD file on this action.)