



**WORKFORCE
SERVICES**
HOUSING & COMMUNITY
DEVELOPMENT

HOUSING & **Community** DEVELOPMENT



Environmental Record Review (ERR) Impacts for Federal Funding

Welcome●

HUD's Mission

Create strong, sustainable, inclusive communities and quality affordable homes for all.

“To provide a decent, safe and sanitary home and suitable living environment for every American...”

-Housing Act of 1949



Protect the Environment

*Endangered species,
wetlands, historic properties,
air and water quality...*



Protect the Project

*Toxic contamination, radon,
explosive operations, noise
impacts, flooding, airport
hazards...*

What is an ERR?

*Remember: this is a record
written not only for HUD but
also for the members of the
public that are interested in
the impact the project may
have on their community.*

[40 CFR Part 1500](#)



24 CFR Part 58



Applies to States, Tribes,
Local Governments



*“Environmental Review
Procedures for Entities Assuming
HUD Environmental Responsibility”*

RESPONSIBILITIES UNDER PART 58

1. Define the project
2. Determine the level of review
3. Perform the environmental review
4. Finalize the review
5. Expend project funds
6. Post-review considerations and closeout



Responsible Entity (RE): assumes HUD's responsibility for environmental review, decision-making and action (**State Staff**)

Recipient: entities having applied for a HUD grant agreement through the State (**Project Applicant**)

Preparer: represents *Recipient* and provides *RE* with project & environmental information (**Project Representative**)

Certifying Officer (ECO): Chief Executive Officer of jurisdiction; may be delegated to alternate through formal, written delegation (**State Staff**)

Roll Call:



**know your
part**

Documents are to be signed in ink or with a verifiable e-signature program



Defining Your Project



An Environmental Review is the *umbrella* under which NEPA and related laws are considered; this covers a wide range of authorities and factors

Meaningful Project Description:

- ❖ Action
- ❖ Purpose and Need
- ❖ Location
- ❖ Area Setting
- ❖ Project Beneficiaries
- ❖ All funding sources
- ❖ All Development Partners
- ❖ Type of review

Who, What, When, Where, and Why



Statement of Purpose*

Alliance House owns a 9-unit apartment building located at 1805 South Main Street. The purpose of this project is to demolish the current apartment building to make way for a newly constructed 16-unit apartment building. The current property is owned by Alliance House. The new apartment community will also be owned by Alliance House. We work with adults living with mental illness. Our housing is reserved specifically for members of our organization. Residents of our housing live less than a block from the Alliance House and receive comprehensive wrap around mental health services. Keeping our housing location is pivotal to the success of our residents through their participation in our program. Residents pay 30% of their income, making this deeply affordable housing.

The Alliance House housing provides a critical opportunity for our members to obtain safe and deeply affordable housing. All members of our housing are required to be active members of the Clubhouse. This provides wrap around services for those that are living in our housing. All members of our housing are living at or below 30% AMI. Many of these individuals are living in or are at risk of living in homelessness when they enter Alliance House housing. The location of our housing falls in the Ballpark Community. This area has a critical need for safe and affordable housing. Providing incentivized rent assistance stabilizes the members who are struggling to pay rent due to interruptions in their employment and/or other revenue streams. Without this support, it is possible that many of our low-income members would experience homelessness, as the challenges of living with mental illness cause them to disproportionately experience housing disparities.

All residents have an assigned case manager at the Clubhouse that assists with community needs and reintegration. There is an expectation for our members living in our housing to have comprehensive goals to reintegrate into the larger community. This includes employment and education that assist our members in becoming self-sufficient and independent.

**Example of
well written
Project
Description**

Five Levels of Review

- ❖ Exempt
- ❖ Categorically Excluded, Not Subject to [58.5](#)*
- ❖ Categorically Excluded, Subject to [58.5](#)*
- ❖ Environmental Assessment
- ❖ Environmental Impact Statement (EIS)
 - *EIS escalates to HUD level review*

*Must convert to Exempt, otherwise a RROF and AUGF required

Review type is based upon the project description, make sure you provide the complete picture!



Am I Exempt? (24 CFR 58.34)

- ❖ Admin & Management
- ❖ Environmental Studies
- ❖ Inspections
- ❖ Testing
- ❖ Engineering
- ❖ Design Costs



These **may** be activities that need to proceed to effectively complete a full aggregated project review in the future.

These activities **do not change** the environment and **do not disturb** the ground.



Categorically Excluded, Not Subject to Related Authorities (CENST) - [\[24 CFR 58.35\(b\)\]](#)

- ❖ Tenant Based Rental Assistance
- ❖ Supportive Services
- ❖ Operating costs including **Maintenance***
- ❖ Economic development activities (no construction or expansion)
- ❖ Activities to **Assist Homebuyers***
- ❖ Affordable housing pre-development costs
- ❖ **Supplemental Assistance*** of a previously-approved project

Maintenance* - slow or halt deterioration, not emergency rehabilitation

Assist Homebuyers* - existing or under construction with a foundation

Supplemental Assistance* - same RE; must complete [58.47](#) re-evaluation



Categorically Excluded, Subject to Related Authorities (CEST) - [\[24 CFR 58.35\(a\)\]](#)

- ❖ Acquisition, **Repair***, & **Improvement*** of public facilities
- ❖ Removal of architectural barriers
- ❖ Rehabilitation of residential and non-residential buildings
- ❖ Individual actions
- ❖ Acquisition and disposition of existing structures, including leasing
- ❖ Combinations of the above activities

Repair* - costs less than 75% of structural value

Improvement* - does not involve changes in land use



Environmental Assessment (EA)

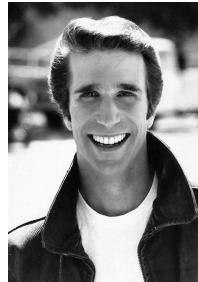
(24 CFR 58.36)

- ❖ Default level of review
 - If project is neither exempt nor categorically excluded
 - Categorically Exempt with *Extraordinary Circumstances*

OUTCOMES

→ Finding of No Significant Impact (FONSI)

- With or Without Mitigation



→ Finding of Significant Impact (FOSI)

- Reject or proceed with EIS



Supplemental or Tiering?

Supplemental Assistance

- ❖ Must be prepared by the same RE
- ❖ Must complete re-evaluation
 - Change in size, scope, nature
 - New activities
 - New environmental conditions

Tiered Review [\[40 CFR 1501.11\]](#)

- ❖ Tier 1: Broad Review
 - Early stage development
- ❖ Tier 2: Site-Specific Review
 - Generally restricted to CEST-level reviews, not EA
 - Example: Single Family Rehab Program



Aggregation

- ❖ Required by HUD [24 CFR 58.32](#)
 - Key element of a thorough project description
 - Required for analysis of whole project

HUD requires aggregation for all related **known** and **reasonably foreseeable** activities regardless of funding source.

✓ *Geographical*

✓ *Functional*

✓ *Logical*

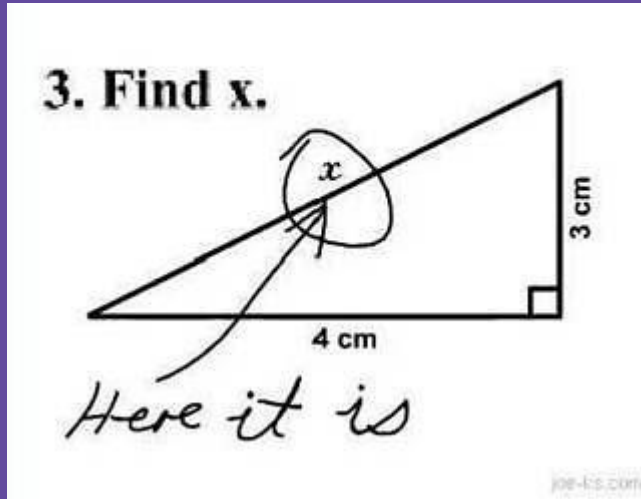
Adoption

- ❖ Independently review ERR
- ❖ Determine ERR meets the criteria for adoption
- ❖ Confirm the project scope substantially the same.
- ❖ Communicate regularly with the original agency
- ❖ Document compliance
- ❖ Ensure mitigation actions are verified
- ❖ Complete the RROF
 - The publication, public comment period, and objection period all apply.

[40 CFR 1506.3](#)



Documentation for the WIN



Just like math class, you are required to show your work!

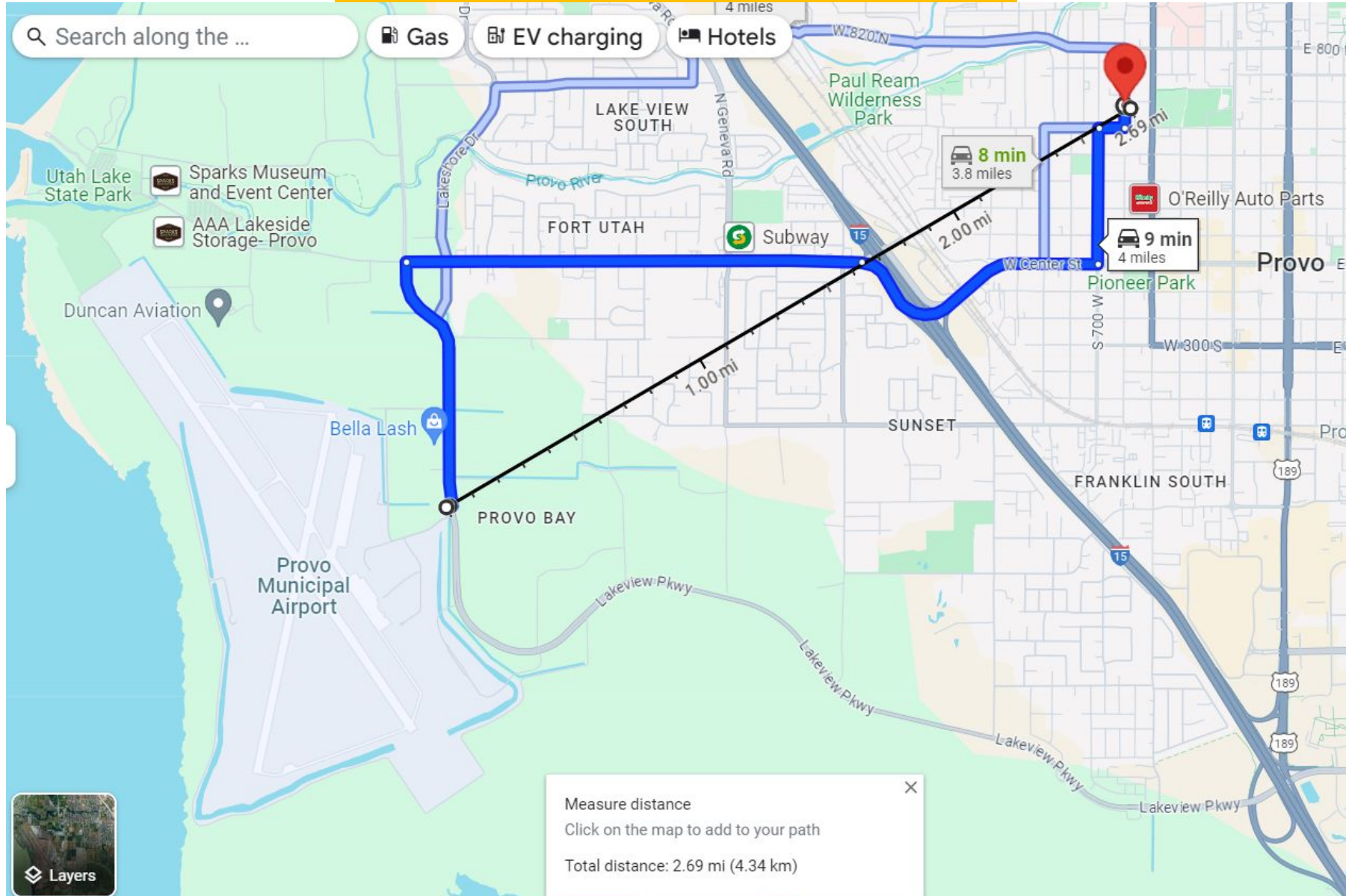
Documentation must be:

- ✓ Credible
- ✓ Qualified
- ✓ Verifiable
- ✓ Relevant

"N/A" =
Not Allowed
Not Acceptable
Not Appropriate



Airport Distance Example





1,000 ft major roads:

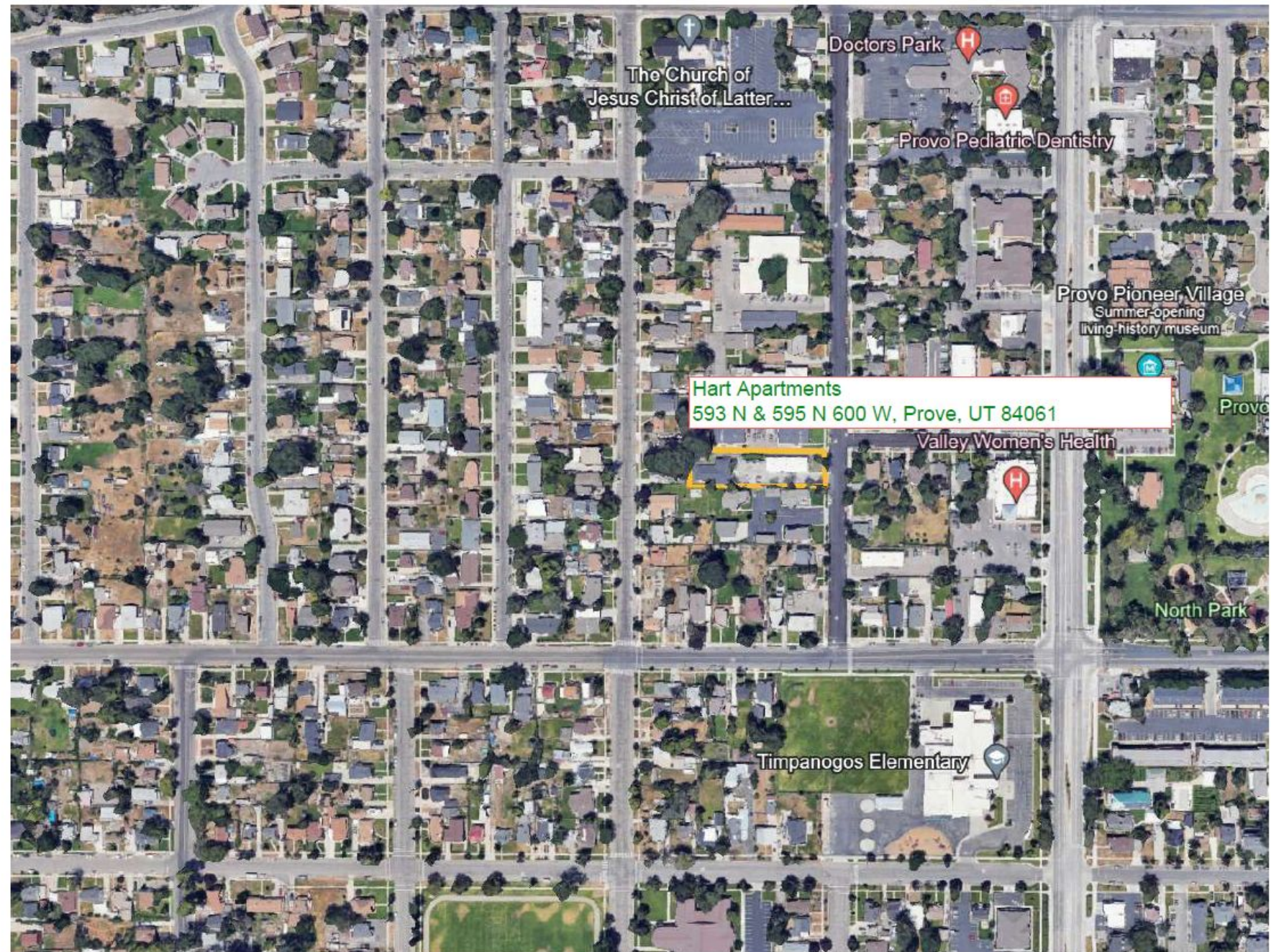


Noise Calculation:

- ★ Location Identified
- ★ Radius clearly marked
- ★ Distance calculated
- ★ Picture is labeled

There are no major roads or 4 lane roads within 1000 feet of the project

Another
example of
labeled and
identified
location





Floodplain Map:

What do you
see?

Timing

HUD Calendar Days - Comment Period

- ❖ 15 days after the date of submission
- ❖ If the final day falls on a weekend or federal holiday, then add more days until the final day falls on a business day

Complexity Increases



<u>Level of Review</u>	<u>Typical Timelines</u>
Exempt/CENST	Less than an hour
CEST	30 days - 90 days
EA	45 days - 1 year
EIS	2 years - 5 years



Exempt or CENST/CEST converts to exempt

- ❖ No public comment needed; RE must document determination in writing citing applicable regulations
 - Can only convert where no circumstances require compliance
 - [24 CFR 58.34\(b\)](#)

EA or EIS

- ❖ Public comment and HUD comment periods both apply prior to receiving from HUD the *Authorization to Use Grant Funds (AUGF)*

Environmental Clearance

No actions can be undertaken prior to the **date of clearance**:
Choice Limiting Actions deem the project is no longer eligible for federal funding - **now** or in the **future**.



Choice Limiting Actions (CLAs)

Projects become **federalized** at the time of application for federal funding. This includes CDBG, HOME, and HTF funds.

[24 CFR 58.22](#)



- ❖ Acquisition, Leasing or disposition of real property
- ❖ Contracting
- ❖ Committing funds
- ❖ Site Improvements
 - Demolition
 - Rehabilitation
 - Repair
 - Renovation
 - Construction
 - Conversion



Mitigation



Mitigation measures, or conditions for approval, are sometimes necessary for a project to be in compliance. The conditions are often implemented after the environmental review is complete and the project is underway. Documentation demonstrating that the mitigation measures have been implemented should be included in the environmental review record.

The ERR is not complete until the stated activities are finished and monitored to HUD standards



Resources & Recommendations

- ❖ [HUD Environmental Review Landing Page](#)
- ❖ [Web-Based Instructional System for Environmental Reviews \(WISER\)](#)
- ❖ [24 CFR Part 58](#)
- ❖ [DWS/HCD Environmental Review](#)





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