# CHAPTER 3
# ENVIRONMENTAL REVIEW

TABLE OF CONTENTS


| | Page |
|---|---|
| 3.0 Introduction | 3 |
| 3.1 Minimum Requirements | 3 |
| 3.2 Environmental Clearance Procedures | 4 |
| 3.2.1 Required Documentation for Exempt Activities | 4 |
| 3.2.2 Required Documentation for Categorically Excluded Activities under 58.35(b) | 4 |
| 3.2.3 Required Documents for Categorically Excluded Activities under 58.35(a) | 4 |
| 3.2.4 Required Documentation for full Environmental Assessment Activities | 5 |
| 3.2.5 Environmental Impact Statement | 7 |
| 3.2.6 Re-Evaluation of the Environmental Determination | 7 |
| 3.2.7 Related Federal Laws and Authorities | 8 |
| 3.3 Environmental Laws and Regulations | 9 |
| 3.3.1 Laws | 9 |
| 3.3.2 Regulations | 9 |
| | |
| Forms | |
| A301 Request for Exemption from SHPO Review | |
| 24 CFR 58 COMPLIANCE GUIDEBOOK | |
| Resource | |

# CHAPTER 3
# ENVIRONMENTAL REVIEW

## 3.0 Introduction

The Grant Recipient is responsible for compliance with federal environmental review requirements. This chapter includes a summary and basic understanding of the process. Any periodic updates provided by HUD environmental compliance staff will be required for TxCDBG Grant Recipients, and personnel completing the environmental review should be familiar with the resources and forms found on the HUD Environmental Review website and should contact the TDA Environmental Regulatory Officer for technical assistance. This chapter refers to the April 2014 version of ***24 CFR Part 58 Compliance Guidebook,*** created by HUD Region VI and included in this manual as Form A300, but the Grant Recipient should always use the most current published version.

**https://www.onecpd.info/environmental-review/**

HUD guidance uses the term Responsible Entity to refer to the unit of government responsible for meeting environmental review requirements, including the TxCDBG Grant Recipient. This means that the Grant Recipient is responsible for completing the review, with or without assistance from a third party, and certifying the results. When the Certifying Officer signs the documents, (s)he certifies not only has the project been found to have or not have significant impacts on the environment, but also that the required process was completed to reach this finding.

TDA must monitor the Grant Recipient's compliance with HUD environmental review requirements; failure to comply with these requirements will jeopardize the project and could lead to disallowed costs, repayment of funds, and debarment from the program for the Grant Recipient and administrators involved with the environmental review process.

Responsible Entities are required to complete their environmental reviews, Requests for Release of Funds and clearance related paperwork before:

- Any commitment of TxCDBG funds for activities; and.
- Any commitment of non-TxCDBG funds that would have an adverse environmental impact or limit the choice of alternatives.

A key factor in performing an environmental review is the fact that the environmental review process must consider the ultimate effect of a proposed project. That is, the effects of both the TxCDBG and related project activities must be considered. For example, if TxCDBG funds are being used to acquire a site for a new construction project, the ultimate effect of the project is not solely the acquisition of the site, but also the construction of the project, including infrastructure. Therefore, the environmental review must address the impacts of both the TxCDBG-funded land acquisition and the privately financed construction of the project. The review must address the actual project site and the surrounding area.

**Basics of Environmental Review**

1) What is there now?
2) What will be there when the project is complete?
3) How will this be accomplished?

# 3.1 Environmental Review Process

**Step 1 Determine Project Description**
A complete and clear project description is the first step in the environmental review process. The project description should provide location specific information and geographic boundaries, a delineation of all activities included in the overall scope of the project as well as a description of the existing conditions of the site. All elements described in the contract Performance Statement must be included in the description; in addition, any activities not funded by the TxCDBG grant but that are part of the aggregate impact of the project on the environment must also be included in the description. This description is the foundation for the review process and must be listed on the Environmental Review Record Summary Sheet (page 7 in the Compliance Guidebook).

**Step 2 Determine Level of Review**
The Grant Recipient must determine the most appropriate level of review for the grant-funded project. It is critical that the project receive an adequate review to meet statutory requirements; however, it is not appropriate to require reviews that exceed the statutory guidance.

The Grant Recipient must determine the level of review for:

- Administrative and engineering services. The Exemption Determination for Activities Listed at 24 CFR §58.34 **must** be completed prior to executing service contracts and must be submitted to TDA prior to executing any contract for these services.
- All other project activities.

The Grant Recipient should initially determine the most appropriate level of review, which will be confirmed or adjusted as it completes the review process. Three forms are included in the Compliance Guidebook (pages 13-16) to identify activities that fall under review levels less than the Environmental Assessment:

- Exemption Determination for Activities Listed at 24 CFR §58.34
- Categorical Exclusion Not subject to §58.5 Determination for Activities Listed at 24 CFR §58.35(b)
- Categorical Exclusion Subject to §58.5 Determination for Activities Listed at 24 CFR §58.35(a)

Each of these forms should be completed and signed if any project activities are identified by the categories on the form. If any activities described in the project description are not included on these forms, an Environmental Assessment must be conducted for the entire project.

## Step 3 Complete Checklists
The Compliance Guidebook includes various checklists intended to help the Grant Recipient address all issues and regulations for HUD environmental review requirements. For each of these checklists, the Grant Recipient must respond to each element with information from a verifiable source, to be included in the Environmental Review Record.

For reviews under the categories Exempt and Categorically Excluded, Not Subject to §58.5:

- Compliance Checklist for 24 CFR §58.6, Other Requirements (pages 47-51 in the Compliance Guidebook)

For reviews under the category Categorically Excluded, Subject to §58.5:

- Compliance Checklist for 24 CFR §58.6, Other Requirements (pages 47-51 in the Compliance Guidebook)
- Statutory Checklist (pages 17-46 in the Compliance Guidebook)

For reviews under the category Environmental Assessment:

- Compliance Checklist for 24 CFR §58.6, Other Requirements (pages 47-51 in the Compliance Guidebook)
- Statutory Checklist (pages 17-46 in the Compliance Guidebook)
- Assessment Checklist (pages 52-70 in the Compliance Guidebook)

A more detailed explanation of some of the laws most commonly applicable to TxCDBG projects can be found in the HUD Environmental Assessment Portal:
**https://www.onecpd.info/environmental-review**

Documentation of compliance with these laws must be included in the Environmental Review Record. If the project will affect or be affected by any of these laws and authorities, the Grant Recipient should initiate correspondence with the appropriate regulatory agency. All written correspondence should reference the TxCDBG Contract number. Photos of the project site must be included in the Environmental review record to document the project site visit required by several checklist items.

**Comment [SB1]:** New requirements / clarification of expectations

**Historic Preservation Requirements**
As part of the Statutory Checklist, each Grant Recipient must have concurrence from the State Historic Preservation Officer (SHPO) that the project will not adversely affect historically or archaeologically significant areas or structures. The SHPO in Texas is the Commissioner of the Texas Historical Commission.

TDA has reached a Programmatic Agreement with the Texas Historical Commission, a section of which is included in this chapter with Form A301. Grant Recipients meeting certain criteria may satisfy the Historical Preservation requirements by submitting a *Request for Exempt from SHPO Review Project Determination Form* (Form A301) to TDA. If the project does not meet the criteria outlined in the Programmatic Agreement, or if the Grant Recipient does not provide an adequate project description or other information needed to determine compliance, TDA will not approve the exemption.

**Comment [SB2]:** renumbered

If the project does not have an exemption from SHPO Review approved by TDA, the Grant Recipient must submit to the SHPO a Historic Preservation Notice, found at http://www.thc.state.tx.us and allow at least thirty five (35) calendar days for the SHPO to review. A copy of the Historic Preservation Notice and response must be kept in the Environmental Review Record.

**Categorical Exclusion Converted to Exemption 24CFR58.34 (a)(12) & 58.35(a)(7)**
Under rare circumstances the Grant Recipient could find their Categorically Excluded project falls under Exempt status per 58.34 (a) (12) and that none of the statutory requirements under 58.5 apply to the project. Using the *Statutory Checklist* the Grant Recipient will determine if the project that they are preparing to undertake can be converted to Exempt under 58.34 (a) (12).

**Environmental Impact Statement**
An Environmental Impact Statement (EIS) is required when the Grant Recipient's Environmental Assessment results in a Finding of Significant Impact, indicating that its proposed project or activity will significantly impact the human environment. It is unlikely that any TxCDBG-funded activity will trigger an EIS. In the event a Grant Recipient finds itself involved with this level of review, the Grant Recipient should contact the Environmental Regulatory Officer at TDA immediately for further instructions.

**Tiered Review**
For projects with multiple, non-contiguous locations, such as a housing rehabilitation project with work sites that are scattered throughout a county, a tiered environmental review is appropriate.

- For the project as a whole, complete a **Broad-Level Tiered Environmental Review** using the format provided on the HUD website. This review will identify which review requirements must be addressed site-by-site.
- For each specific site, document compliance with the review requirements identified in the Broad-Level Tiered Environmental Review.
- The Grant Recipient may request a Release of Funds based on the Broad-Level review; however, the Site-Specific review must be completed prior to obligating funds for each site.

**Comment [SB3]:** new section

### Step 4 Publish Notice of Intent to Request Release of Funds, and FONSI if applicable

For reviews under the categories Environmental Assessment and Categorically Excluded, Subject to §58.5:

Once the Grant Recipient has verified compliance with related laws and authorities, a Notice of Intent to Request Release of Funds (NOI/RROF) must be published at least once in a newspaper of general circulation in the affected community.

This Notice must also be sent, at a minimum, to the following: (24 CFR 58.43)

- Local news media;
- Individuals and groups known to be interested in its activities; and
- Appropriate local, State, and Federal agencies and TDA. Notice to the regional office of the Environmental Protection Agency having jurisdiction is included in this requirement only if a Finding of No Significant Impact is issued (i.e. Environmental Assessment Level of Review).

The Notice must include: (24CFR58.43)

- TxCDBG contract number;
- Description of the project (Exhibit A and may also include alternatives to the project as appropriate.);
- Detailed description of the project location(s); and
- The start and end dates of the period that the Grant Recipient will accept public comment on the Notice. Ending dates cannot be on days where the Entity's office of operation is closed.
- Utilize the approved HUD format found in the Guidebook or the HUD Environmental Website

If the Grant Recipient completes an Environmental Assessment and makes a Finding of No Significant Impact (FONSI), the FONSI notice must be prepared and distributed in accordance with 24 CFR 58.43 and 24 CFR 58.45. The FONSI notice and Public Comment Notice may be combined by adding to the above publication (see pages 71-78 of the Compliance Guidebook):

- Explanation of why the action is not significant.

| Level of Review | Period that the Grant Recipient must accept public comment on the Notice |
|---|---|
| Categorically Excluded, Subject to §58.5 (Notice of Intent to Request Release of Funds) | at least 7 calendar days following the date of publication |
| Environmental Assessment (Combined FONSI and NOI/RROF Notice) | at least 15 calendar days following the date of publication |

If this notice is posted rather than published as allowed by 24 CFR 58.43 and 58.45, 3 additional days are required for public comments on the review.

Public comment periods and publications are not required for the following review categories:

- Exempt
- Categorically Excluded, Not Subject to §58.5

**Step 5 Prepare Request for Release of Funds and Certifications**

For reviews under the categories Environmental Assessment and Categorically Excluded, Subject to §58.5:

After the public comment period has expired and all comments, if any, are resolved, the Grant Recipient's Certifying Officer (mayor or county judge) shall complete the Request for Release of Funds and Certification form, *HUD form 7015.15,* found on the HUD Environmental website.

- The RROF must be **printed on both sides** and one original copy must be submitted to TDA.
- The RROF is a federal form and must not be altered in any way.
- Because the Certification form certifies that the dates of the comment periods have expired, the Request form SHALL not be signed prior to the **day after the end of the public comment period**.

  NOTE: False claims or information could lead to criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

The Certifying Officer must sign two copies of the RROF. One must be placed in the Environmental review Record. The other originally signed RROF must be submitted to TDA.

A Request for Release of Funds is not required for the following review categories:

- Exempt
- Categorically Excluded, Not Subject to §58.5

**Step 6 Submit Clearance Documentation to TDA**

The Grant Recipient must submit the following documentation to TDA in order to obtain a release of Funds:

**For reviews under the category Exempt:**

1) Letter from the Grant Recipient supporting the Exempt level of review (see sample)
2) Exemption Determination for Activities Listed at 24 CFR §58.34
3) Compliance Documentation Checklist 58.6

**For reviews under the category Categorically Excluded, Not Subject to §58.5:**

Once the Grant Recipient has verified compliance with related laws and authorities, the Grant recipient must submit the following to TDA:

1) Letter from the Grant Recipient supporting the Categorical Exclusion level of review (see sample)
2) Categorical Exclusion Not subject to §58.5 Determination for Activities Listed at 24 CFR §58.35(b)
3) Compliance Documentation Checklist 58.6

**For reviews under the category Categorically Excluded, Subject to §58.5:**

1) Letter from the Grant Recipient declaring their intent to ask for a Release of Funds.
2) Certification of Categorical Exclusion, 58.35(a)

3) Evidence of Publication of the Notice of Intent to Request Release of Funds/ Finding **(NOI/RROF)**:
   - The actual published newspaper page with the Notice; **or**
   - A copy of the newspaper publication and the publisher's affidavit certifying the date of publication.
4) Request for Release of Funds and Certification, HUD Form 7015.15
5) Written Certification of Exemption (Required if converting to Exempt Under 58.34(a)(12))

**For reviews under the category Environmental Assessment:**

1) Letter from the Grant Recipient declaring their intent to ask for a Release of Funds.
2) Evidence of Publication consisting of FONSI and RROF: (24CFR58.43)
   - The actual published newspaper page with the combined notice, or
   - A copy of the newspaper publication with the combined notice and a publisher's affidavit certifying the date of publication.
3) Request for Release of Funds and Certification HUD Form **7015.15**

Although the original RROF is required prior to release of funds, TDA recommends submitting the required documentation by email initially, including a color scan of the publication and signed RROF, followed by a mailed copy of the originally signed RROF.

**Step 7 State Objection Period and release of funds**

Once TDA receives a scanned copy of the RROF and other required documentation, the Environmental Regulatory Officer will begin the 15-day State Objection period. Any person or agency may object to a certified RROF. However, the objections must meet the conditions and procedures set forth in 24 CFR Part 58 Subpart H. Required documentation submitted for Exempt and Categorically Excluded Projects Not Subject to 58.5 will not experience a 15 day Objection Period but will receive a Release of Funds from TDA.

If there are no objections received after 15 days, and if the originally signed RROF has been received by TDA, TDA will provide a clearance letter, an Authorization to Use Grant Funds, to the Grant Recipient.

- This clearance is for the environmental condition only; other Special Conditions in the Contract must also be met before any construction funds can be released.
- The authorization is completed based on the Certifying Official's signature certifying that all required procedures have been completed, along with the limited support documentation provided. This is not an indication that TDA has reviewed and approved the entire environmental review record for the project.

**Step 8 State's Post-Release Review**

**Comment [SB4]:** New section describing existing procedures

Following the Authorization to Use Grant Funds, TDA will conduct a post-release monitoring review in accordance with 24 CFR 58.18. This review may occur at any time after the release of funds and prior to the closeout of the grant contract. TDA will request either:

- Completed Statutory Checklist and Assessment Checklist (if applicable) referencing verifiable supporting documentation; or
- Complete Environmental Review Record.

If TDA determines that the Grant Recipient's environmental review was inadequate or incorrect, the Environmental Regulatory Officer will provide technical assistance and guidance for corrections. If necessary, a finding letter will be issued and the contract may be placed on hold until any issues are

resolved. Significant violations of federal requirements may result in disallowed costs and/or requirement to pay grant funds in whole or part if funds have been obligated based on an RROF found to be invalid.

**Step 9 Re-Evaluation of the Environmental Determination**

According to 24 CFR 58.47, the environmental determination must be re-evaluated any time that the Grant Recipient "proposes substantial changes in the nature, magnitude or extent of the project." The re-evaluation assists in determining whether or not the original determination and/ or finding are still valid. Project amendments that **may** result in the need for an updated FONSI include but are not limited to:

- Any change in activity
    - Ex. Adding water line improvements to a sewer line improvement project
    - Ex. Adding sewer plant improvements to a sewer line improvement project
- Any new project location not addressed in original review
    - Ex. Adding additional streets to a street paving project
    - Ex. Changing the location of a proposed water tower
- An increase in infrastructure capacity of more than 20%
    - Ex. Increasing a proposed water storage tank from 100,000 gallons to 150,000 gallons
    - Ex. Adding traffic lanes to widen a street
- A change in method or design that impacts the physical environment
    - Ex. Adding lift stations not previously proposed to a sewer line improvement project
    - Ex. Add fire hydrants to a water line improvement project where none had been proposed
- A change to accommodate new circumstances and environmental conditions that have arisen during project implementation
    - Ex. Addressing damage caused by a natural disaster
    - Ex. Changing strategies from rehabilitation of a building to reconstruction or expansion as a result of the actual building conditions

Any project changes that were not addressed by the original environmental review require a re-evaluation. The Grant Recipient must notify TxCDBG when the re-evaluation has been completed as to whether or not the FONSI or any other determination is still valid. The Form A1101 requesting a change in the TxCDBG contract addresses this requirement – a separate letter is not required unless additional information is requested – and a copy must be included in the Environmental Review Record.

**Re-Evaluation of the Finding**

Any project changes that were addressed by the original environmental review will likely not require additional clearance requirements. The Grant Recipient should clearly document that the changes are not substantial and that the EA/FONSI or Categorical Exclusion/Exempt determination are still valid after re-evaluation. The Environmental Review Record should be updated with any new project locations, etc.

If the proposed project amendment is a change in scope or activity and is not covered by the original Environmental Review, then the Entity must start over at the beginning of the process, including a new environmental review, public notices, public comment and objection periods, and new release of funds by TDA.

TDA strongly recommends that the Grant Recipient include any anticipated alternatives (additive alternatives) to the original project in the original environmental review. TDA also recommends if a

construction bid is substantially less than anticipated and additional construction funds will be available, that the Grant Recipient begin the request for an amendment as soon as possible. Thus, in the event the amendment is approved and environmental clearance is obtained, administrative requirements will not delay construction.

Note that any modified project activities not included in the original TxCDBG Contract will generally require a re-evaluation but *not* necessarily a new full Environmental Review and associated publications. In addition, the publication required for the amendment process should also note the change in locations or activities so the persons or parties interested in the project will have a chance to comment in compliance with the dissemination requirements of 24 CFR 58.43

Any amendment submitted from the Grant Recipient will be evaluated by TDA for compliance with 24 CFR 58.47. If the Environmental Regulatory Officer has concerns regarding the proposed changes to the contract, the Grant Recipient, Contract Specialist, and Administrative Consultant will be contacted to discuss the concerns.

# 3.3 Environmental Laws and Regulations

The following provisions of law authorize state governments to assume HUD's environmental review responsibilities. TDA will act for HUD for environmental reviews, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of laws that further the purposes of NEPA, as specified in 24 CFR Part 58. These regulations are referenced in 24 CFR 58.1(b).

## 3.3.1 Laws

The foremost Environmental law is NEPA and implementing Executive Order 11514 (35 FR 4247, 3 CFR, 1966-1970 Comp., p. 902) as amended by Executive Order 11991 and the implementing regulations of the Council on Environmental Quality (40 CFR parts 1500-1508). This is not an all-inclusive list as projects can cross over into other laws and authorities not listed here.

**NEPA**

42 USC § 4321 provides: The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

**Executive Order 11514**

Protection and Enhancement of Environmental Quality

**Executive Order 11991**

Relating to Protection and Enhancement of Environmental Quality

**Historic Preservation Requirements:**

National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq*.
Archeological and Historic Data Preservation Act of 1974, 16 USC 469
Executive Order 11593, Protection and Enhancement of the Cultural Environment
Antiquities Code of Texas, Chapter 191 Natural Resources Code
Tribal Consultation in Projects that are Reviewed under 24 CFR Part 58

https://www.onecpd.info/resources/documents/Notice-CPD-12-006-Tribal-Consultation-Under-24-Cfr-Part-58.pdf

## 3.3.2 Regulations

**24 CFR Part 51**: Environmental Criteria and Standards
Description: This regulation provides environmental standards for determining project acceptability and necessary measures to insure that activities assisted by HUD achieve the goal of a suitable living environment. The environmental criteria include noise abatement and control and the siting of HUD-assisted projects near hazardous operations including explosives, flammables, runway clear zones at civil airports, and accident potential zones at military airfields.

**24 CFR Part 55**: Floodplain Management
Description: HUD regulations to implement executive order on development in floodplains. See HUD Environmental Review Guidebook for more information and publication requirements. This could add 15 days to the Environmental Process.

**24 CFR Part 58**: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities
Description: The procedures outlined in this regulation are used by entities that assume HUD's environmental review responsibilities in determining program compliance with the intent of the NEPA and other related statutes. Applicable HUD programs under this regulation include only those in which a specific statute allows governing entities to assume the Federal responsibility.

**36 CFR Part 800**: Protection of Historic Properties
Description: The Advisory Commission on Historic Preservation Rules, used by HUD for all HUD projects.

**A301**

## Request for Exemption from SHPO Review, Project Determination Form

| | |
|---|---|
| Responsible Entity (Grant Recipient) Name: | |
| Certifying Official Name: | |
| Contact Phone Number: | |
| Contract Number: | |
| Project County: | |

**Project Description:**

**Buildings:** give the estimated age or construction date of any buildings, facilities, treatment plants or bridges per Stipulations V. B, F. or I.

**Project Locations (BE SPECIFIC):**

HOW FAR IS THE CLOSEST CEMETERY?

**Reason Project Activity is Exempt from SHPO Review:**
*reproduce reason from Stipulation V of the Programmatic Agreement (PA).*

**Pictures:**
*Take a before picture of the primary locations directly impacted by project activities. Attach them to this form.*

**Applicant Certification:**

Determination
After referencing Stipulation V of the Programmatic Agreement (PA), I have determined that the project activity is not required to be reviewed by SHPO. This form will be reviewed by the Environmental Regulatory Officer for final **determination of exemption**.

As the duly designated certifying official of the Responsible Entity, I also certify that: I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.

_____ _____
Signature and Title of the Certifying Officer Date Submitted

## Excerpt from Programmatic Agreement between TDA and THC:

**Stipulation V. Actions Exempted from Review by the SHPO**
The following actions that will be funded by TDA require no further review under the terms of this PA. TDA shall maintain a list of undertakings completed per this stipulation and shall make the list available upon the request of SHPO.

A. Routine road maintenance and resurfacing where work is confined to the existing right-of-way and previously maintained surfaces, ditches, culverts, and cut and fill slopes where there are no known historic properties, or historic properties would not be affected because the proposed work is clearly within a disturbed context;

B. Maintenance, alteration, or removal of existing buildings or other facilities less than 45 years old that are not listed on the National Register of Historic Places or within a National Register Historic District and that have not been previously determined eligible for inclusion in the National Register of Historic Places;

C. Point repair to an existing water or wastewater line where construction occurs in the original trench.

D. Replacement of existing water or wastewater lines where all construction occurs within the original trench.

E. Replacement of existing water or wastewater lines in a new trench paralleling the existing line if the following conditions are met:

1. The replacement occurs beneath city streets or adjacent drainage rights-of way (as in item A);
2. The replacement does not occur within a National Register District or local Historic District;
3. The replacement does not occur within the historic towns of Goliad, San Augustine, Jefferson, Nacogdoches, Bastrop, Castroville, San Ygnacio, Roma, Refugio, Ysleta, San Elizario, and Presidio;
4. The replacement does not occur beneath brick-paved streets.
5. The replacement does not occur adjacent to roads in rural areas of the county (where abandoned cemeteries or unrecorded archeological sites might be impacted by a new trench).

F. Minor alterations or additions to existing water or wastewater treatment plants or other facilities that are less than 45 years old. (Excavation of new treatment ponds or enlargement of existing ponds are not considered minor alterations and are subject to review).

G. Installation of generators at existing water/wastewater or shelter facilities.

H. Addition or replacement of equipment within the same location and footprint. (Examples include but not limited to: Computer monitoring equipment, bar screens, clarifiers, chlorination equipment, SCADA equipment etc.)

I. Repair of bridges less than 45 years old.

TDA and the SHPO may amend, alter, or delete actions covered by this stipulation through a written agreement of both parties and upon notification to Indian Tribes, for review and comment without formal amendment process.

**Stipulation VI. Actions That Require Review by the SHPO**

Any undertaking with the potential to affect historic resources that is not specifically excluded from SHPO review by Stipulation V. shall be subject to review under this agreement.
The following actions that are funded by TDA are examples of those undertakings that require review by the SHPO under this PA. However, this list is not comprehensive and any projects that involve excavation or alteration of buildings or structures more than 45 years old that are not specifically exempted under Stipulation V. must be submitted for review.

A. The construction of new water or wastewater lines using mechanized equipment.

B. The construction of new water or wastewater lines parallel to an existing line, but not within the same trench, that will disturb previously undisturbed soil, except as excluded under the conditions set forth in Stipulation V. 5.

C. The installation of a new ground storage tank where soil is disturbed in order to construct the foundation for the tank. Other than previously disturbed areas that are currently part of the water / waste water facility.

D. The installation of a new elevated storage tank where soil will be disturbed in order to construct the support structure for the tank. The visual effect of the new tower on surrounding historic properties must also be evaluated.

E. The construction of new streets in previously undisturbed areas.

F. The reconstruction of streets that increase the width of the existing roadway and disturb soil that was not disturbed during prior construction.

G. The reconstruction of bridges in areas where additional actions designed to prevent similar future damage will cause soil disturbance.

H. The construction of new drainage structures in areas that have experienced minimal disturbance of the soil. This includes the construction of new drainage ditches, storm culverts and storm water detention basins.

I. The construction of new wastewater or water treatment facilities. In many cases the construction of various basins treatment units and associated yard piping require excavation to varying depths over much of the site.

J. The expansion of existing water or wastewater facilities requiring excavation in areas of a plant site that may not have been disturbed during the original construction.

K. Maintenance, alteration or removal of existing buildings or other facilities greater than 45 years old.

TDA and the SHPO may amend, alter, or delete actions covered by this stipulation through a written agreement of both parties and upon notification to Indian Tribes, for review and comment without formal amendment process.