

Emergency Shelter Facility Grant (ESFG) Tools and Resources

Environmental Review Guidance, Checklist, and Tools

State law requires that Commerce and its grantees comply with the Montana Environmental Policy Act (MEPA), which aims to ensure that development of Montana's resources assures quality of life for Montanans in perpetuity. Below is guidance on how to complete an environmental review in compliance with MEPA, an environmental checklist for nonexempt projects, as well as additional tools and resources.

ESFG projects receiving federal dollars may be subject to the National Environmental Policy Act (NEPA). Contact Commerce if you are unsure about whether your project is subject to NEPA. A NEPA-compliant review will satisfy MEPA requirements, so projects subject to NEPA need only complete their NEPA environmental review process to comply with MEPA.

Environmental Review Guidance

The Emergency Shelter Facility Grant (ESFG) Program is a state action subject to the Montana Environmental Policy Act (MEPA). All ESFG grantees must follow the environmental review process to determine a finding level, discuss the project and finding level at a public meeting, and make a final determination. The following outlines the environmental review process that must be completed by the grantee.

For detailed information on MEPA, see [A Guide to the Montana Environmental Policy Act](#), or [A Citizen's Guide to Public Participation in Environmental Decision Making](#).

The Environmental Review Process

1. Designate an Environmental Certifying Officer (ECO):

This individual will be responsible for ensuring the environmental review is completed and for signing the final environmental determination. The officer for nonprofit corporations is the executive director. An Authorized Representative may complete the environmental review process so long as the Environmental Certifying Officer signs all relevant documents.

2. Determine and review the proposed scope of work:

Clearly define the proposed scope of work for the proposed project and the activities involved. Consider the larger effects of the entire project, not just of the portion for which ESFG funds would be directed. Identify any agencies or groups which may have a vested interest in the project or from whom any licenses or permits are required.

3. Determine whether the project is considered Exempt from MEPA review:

MEPA specifies three different levels of environmental review, based on the significance of the potential impacts. The levels are: (1) exempt or excluded from MEPA review; (2) environmental assessment (EA),

and (3) environmental impact statement (EIS). Projects seldom require an EIS, and if this level is anticipated, it is recommended that grantees contact Commerce staff.

Statutory or Categorical Exemptions

The following types of actions are statutorily exempt from MEPA review under ARM 8.2.304(5):

- Administrative actions (routine clerical or similar functions, including but not limited to administrative procurement, contracts for consulting services, or personnel actions);
- Minor repairs, operations, and maintenance of existing equipment or facilities;
- Investigation and enforcement; data collection activities; inspection of facilities or enforcement of environmental standards;
- Ministerial actions (in which the agency exercises no discretion and rather acts upon a given state of facts in a prescribed manner);
- Actions that are primarily social or economic in nature and that do not otherwise affect the human environment;

The following types of actions are categorically exempted from MEPA review under ARM 8.2.328(2):

- Projects that will be partially funded by, or for which the grantee must obtain a permit from, a state or federal agency which, by reason of its funding or permitting function, has primary responsibility to consider the environmental impacts of the project under MEPA or the National Environmental Policy Act;
- Activities which do not involve or lead directly to construction, such as planning studies, scientific research and analysis, surveys, or engineering;
- Projects primarily involving the acquisition of capital equipment;
- Projects that involve only minor repairs or rehabilitation to an existing facility, including functional replacement of an existing facility or facility components;
- Projects where the footprint of the proposed structures, pipelines, or other infrastructure would be substantially unchanged from existing conditions, and there is no increase in the population served by the facility; or
- Emergency repairs, reconstruction, restoration, retrofitting, or replacement of an existing facility that is in operation or under construction when damaged and the action:
 - (i) occurs within the existing facility footprint and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and
 - (ii) is commenced within six months after the date of the emergency.

Projects listed as statutorily or categorically exempt from MEPA review are not required to complete an EA and do not need to complete the Environmental Review Checklist (Appendix B); however, they must complete an Environmental Review Form (Appendix A). If a typically exempt activity may cause significant public controversy related to its effect on the human environment or may affect sensitive cultural or environmental resources, proceeding with an EA is advised.

Environmental Assessment (EA)

An EA is a written analysis of a proposed action to determine whether an EIS is required or is needed to serve one or more of the other purposes described in ARM 8.2.304(2). Normally, a thoroughly completed Environmental Review Checklist (Appendix B) and responses to the six questions contained in the Environmental Review Form (Appendix A) will suffice as the draft EA for public review and comment and may then be revised as necessary to constitute the final EA. Anyone authorized to perform work on behalf of the grantee may prepare the draft EA, using all available information and evidence. The grantee's authorized representative must sign the draft EA, and the final environmental determination must be made by the grantee's representatives or board. Preparation of an EA ensures the fullest appropriate opportunity for public review and comment on a proposed action, including alternatives and planned mitigation, and examines and documents the effects of a proposed action on the quality of the human environment. The EA also allows the project proponent to determine the need to prepare an EIS through an initial evaluation and determination of the significance of impacts associated with a proposed action.

In addition, a grantee may prepare an EA whenever the proposed action is one that might normally require an EIS, but the significant effects of the project appear to be mitigated below the level of significance through design, enforceable controls, and/or conditions imposed by the agency or other government agencies. For an EA to suffice in this instance, the grantee must determine that all of the impacts of the proposed action have been accurately identified, that they will be mitigated below the level of significance, and that no significant impact is likely to occur. The grantee may not consider compensation for purposes of determining that impacts have been mitigated below the level of significance.

An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to the grantee. The grantee is responsible for providing public review of an EA as necessary to match the complexity and seriousness of environmental issues associated with a proposed action and the level of public interest in the action. Methods of accomplishing public review include publishing a news release or legal notice to announce the availability of an EA, summarizing its content and soliciting public comment; holding public meetings or hearings; maintaining mailing lists of persons interested in a particular action or type of action and notifying them of the availability of EAs on such actions; and distributing copies of EAs for review and comment. Grantees are responsible for determining appropriate methods to ensure adequate public review on a case-by-case basis.

The grantee shall consider all substantive comments received in response to a draft EA and decide, at a public meeting, that either:

1. An EIS is necessary;
2. The EA did not adequately reflect the issues raised by the proposed action and must be revised; or
3. An EIS is not necessary and make a final decision on the proposed action.

Any time the grantee proposes substantial changes to the project affecting the original EA, the grant recipient must repeat its environmental review for the revisions to the project, assuring the environmental impacts of the revised project are adequately identified, addressed by the

grantee, and any necessary public review provided. When completed, the grantee must follow the original process and again provide environmental documents to Commerce.

Environmental Impact Statement (EIS)

An EIS is required whenever an EA indicates that an EIS is necessary, or a grantee proposes an action that may significantly affect the quality of the human environment (a “major action”). If there is a Finding of Significant Impact, immediately contact Commerce for further guidance. Commerce will work directly with the grantee to determine a course of action for fulfillment of the environmental requirements.

4. Proceed with the Public Process:

Public involvement is an important part of the environmental review process. All grantees must hold a public meeting regardless of the expected level of review. The meeting can be a stand-alone event or included on the agenda of another meeting such a Council or Board meeting, or public presentation about the proposed project. It is important the public is made aware of the meeting and has a reasonable opportunity to attend.

When advertising for a public meeting, grantees should follow their standard processes for engaging the public and should make efforts to ensure the public is made aware of the public meeting. Posting on Facebook, publishing on the grantee’s website, and placing ads in the local paper are all ways of ensuring the public is made aware of the meeting. A sample ad is provided in Appendix C. Advertisements should be posted at least 48 to 72 hours in advance and include:

- A description of the project and reason for the meeting,
- The name the grantee,
- The time and location of the meeting,

Public meetings should be held at a time and place that facilitates public participation. Holding the meeting at the proposed project site when feasible or at publicly accessible locations such as the library, City Hall, or County Courthouse is encouraged.

During the public meeting please do the following:

- Provide an overview of the proposed project, alternatives, and the preliminary environmental finding.
- Accept public comments regarding the project and environmental process.
- Respond to any comments which can be easily addressed within the meeting timeframe. Including a break within the meeting agenda to allow time to develop responses is suggested.
- Make a final environmental determination. If, after public comment, additional time to respond to comments is needed, or if an EA is needed, proceed accordingly and schedule a second public meeting.
- Take meeting minutes to record all comments and items discussed.

If comments cannot be easily addressed within the public meeting, allow time to respond to comments and schedule a second public meeting. Some public comments may lead to changes to the proposed project to mitigate adverse effects or improve the project. At this second meeting, respond to all comments from the previous meeting, and repeat the public process.

In some cases, a project which was initially thought to be Exempt will require completing an EA to fully address public comments and concerns. This typically happens when the preliminary determination is not in line with the full scope of the project, or when there is significant public controversy over the proposed project.

5. Make a Final Environmental Determination:

Once the environmental process is complete and any relevant public comments addressed, make a final environmental determination of the proposed project's level of review. For ESFG projects the level will typically be Exempt or EA. If after completing an EA the project is likely to require preparing an EIS, consult Commerce staff immediately. The need for an EIS is very unlikely with ESFG projects.

6. Complete the Environmental Review Form (Appendix A):

The Environmental Review Form (Appendix A) will provide a summary of the proposed project, the environmental determination level, and detail the public process that was followed to arrive at the final determination. The form must be signed by the Environmental Certifying Official (ECO). An authorized representative may assist in completing the form and environmental review, in which case both the representative and ECO should sign the Environmental Review Form.

7. Submit all documents to Commerce:

Submit the completed Environmental Review to Commerce. All documents should be submitted prior to contract/initial draw request. A complete Environmental Review must include:

- Environmental Review Form (Appendix A),
- Environmental Review Checklist (Appendix B) --- for EA projects only
- Documentation of public process including meeting minutes,
- Supporting environmental documentation.

Additional Environmental Considerations

ESFG grantees are responsible for compliance with all applicable state environmental requirements. Some of the other state environmental requirements that *may* apply to ESFG projects include:

- Stream Protection Act, Title 87, Chapter 5, Part 5, MCA
- Montana Solid Waste Management Act, Title 75, Chapter 10, Part 2, MCA
- Clean Air Act of Montana, Title 75, Chapter 2, MCA

- Water Quality Act, Title 75, Chapter 5, MCA
- Public Water Supplies, Distribution and Treatment, Title 75, Chapter 6, MCA
- Floodplain and Floodway Management, Title 76, Chapter 5, MCA
- The Montana State Antiquities Act, Title 22, Chapter 3, MCA
- The Montana Sage Grouse Habitat Conservation Program and Conservation Strategy, Executive Orders 10-2014 and 12-2015 and Chapter 445, Laws 2015 (SB 261) <https://sagegrouse.mt.gov/>

Some of the environmental permits that may be required on your project from other state agencies include the following:

- Asbestos Control Program – contact the Department of Environmental Quality (DEQ).
- Montana Stream Protection Act (SPA 124 Permit) – contact the Montana Department of Fish, Wildlife and Parks at 444-2449.
- Montana Floodplain and Floodway Management Act (Floodplain Development Permit) – contact the Montana Department of Natural Resources and Conservation at 444-0860 or the local floodplain administrator.
- Federal Clean Water Act (404 Permit) – contact the U.S. Army Corps of Engineers in Helena at 441-1375.
- Short-Term Water Quality Standard for Turbidity (318 Authorization) – contact the Montana Department of Environmental Quality at 444-3080.
- Montana Water Use Act (Water Right Permit and Change Authorization) – contact the Montana Department of Natural Resources and Conservation at 444-6667 or the local DNRC Water Resources Regional Office. A useful website regarding water rights can be found at http://www.dnrc.mt.gov/wrd/water_rts/default.asp.
- Stormwater Discharge General Permits and/or Montana Pollutant Discharge Elimination System (MPDES Permit) – contact the Montana Department of Environmental Quality at 444-3080.
- Please check the DNRC website for a copy of “A Guide to Stream Permitting in Montana.” Their web address is http://dnrc.mt.gov/permits/stream_permitting/default.asp.
- Cultural Resource Survey – You may need to perform a cultural resource survey for your project. The State Historic Preservation Office (SHPO) can be reached at 444-7715 for more information. There is guidance for consulting with SHPO at <http://mhs.mt.gov/shpo/archaeology/consultingwith.asp>.

Appendix A: Environmental Review Form

On a separate piece of paper, following the outline below, please provide information about your proposed action/s and project:

1. **Alternatives:** Describe reasonable alternatives to the project.
2. **Mitigation:** Identify any enforceable measures necessary to reduce any impacts to an insignificant level.
3. **Is an Environmental Assessment (EA) or Environmental Impact Statement (EIS) required?**
Describe whether an EA or EIS is required and explain in detail why or why not.
4. **Public Involvement:** Describe the process followed to involve the public in the proposed project and its potential environmental impacts. Identify the public meetings -- where and when -- the project was considered and discussed, and when the grantee approved the final environmental review.
5. **Person(s) Responsible for Preparing:** Identify the person(s) responsible for overseeing environmental review and preparing the Environmental Review Checklist (if applicable).
6. **Other Agencies:** List any state, local, or federal agencies that have overlapping or additional jurisdiction or environmental review responsibility for the proposed action and the permits, licenses, and other authorizations required; and list any agencies or groups that were contacted or contributed information to this environmental review.

(1) Authorized Representative, Title

Date

(Name of) Grantee

(2) Grantee Executive

Date: _____

Please Note: If an authorized representative (1) completes the checklist, if applicable, and this form, an executive of the grantee (2) must also sign authorizing acceptance of the review process. Explanation or statement of how/why that representative was authorized should also be included.

Appendix B: Environmental Review Checklist

The Grantee must complete and submit an Environmental Review Checklist along with the Environmental Review Form, if the project is not exempt. Note: N/A with no description is not an adequate response to any section.

Project:	
Contract No.:	
Proposed Action:	
Project Location:	

Key Letter:		
N: No Impact; B: Potentially Beneficial; A: Potentially Adverse; P: Approval/Permits Required; M: Mitigation Required		
PHYSICAL ENVIRONMENT		
Key	1	Soil Suitability, Topographic and/or Geologic Constraints (e.g., soil slump, steep slopes, subsidence, seismic activity)
		<i>Response and source of information:</i>
Key	2	Hazardous Facilities (e.g., power lines, hazardous waste sites, acceptable distance from explosive and flammable hazards including chemical/petrochemical storage tanks, underground fuel storage tanks, and related facilities such as natural gas storage facilities and propane storage tanks)
		<i>Response and source of information:</i>
Key	3	Effects of project on surrounding Air Quality or any kind of effects of existing Air Quality on Project (e.g., dust, odors, emissions)
		<i>Response and source of information:</i>
Key	4	Groundwater Resources and Aquifers (e.g., quantity, quality, distribution, depth to groundwater, sole source aquifers)
		<i>Response and source of information:</i>

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Key	5	Surface Water/Water Quality, Quantity and Distribution (e.g., streams, lakes, storm runoff, irrigation systems, canals)
		<i>Response and source of information:</i>
Key	6	Floodplains and Floodplain Management (Identify any floodplains within one mile of the boundary of the project.)
		<i>Response and source of information:</i>
Key	7	Wetlands Protection (Identify any wetlands within one mile of the boundary of the project.)
		<i>Response and source of information:</i>
Key	8	Agricultural Lands, Production, and Farmland Protection (e.g., grazing, forestry, cropland, prime or unique agricultural lands) (Identify any prime or important farm ground or forest lands within one mile of the boundary of the project.)
		<i>Response and source of information:</i>
Key	9	Vegetation and Wildlife Species and Habitats, including Fish and Sage Grouse (e.g., terrestrial, avian and aquatic life and habitats)
		<i>Response and source of information:</i>
Key	10	Unique, Endangered, Fragile, or Limited Environmental Resources, Including Endangered Species (e.g., plants, fish, sage grouse or wildlife)
		<i>Response and source of information:</i>

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Key	11	Unique Natural Features (e.g., geologic features)
		<i>Response and source of information:</i>
Key	12	Access to, and Quality of, Recreational and Wilderness Activities, Public Lands and Waterways, and Public Open Space
		<i>Response and source of information:</i>
HUMAN ENVIRONMENT		
Key	1	Visual Quality – Coherence, Diversity, Compatibility of Use and Scale, Aesthetics
		<i>Response and source of information:</i>
Key	2	Nuisances (e.g., glare, fumes)
		<i>Response and source of information:</i>
Key	3	Noise -- suitable separation between noise sensitive activities (such as residential areas) and major noise sources (aircraft, highways, and railroads)
		<i>Response and source of information:</i>
Key	4	Historic Properties, Cultural, and Archaeological Resources
		<i>Response and source of information:</i>
Key	5	Changes in Demographic (population) Characteristics (e.g., quantity, distribution, density)
		<i>Response and source of information:</i>

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Key	6	General Housing Conditions - Quality, Quantity, Affordability
		<i>Response and source of information:</i>
Key	7	Displacement or Relocation of Businesses or Residents
		<i>Response and source of information:</i>
Key	8	Public Health and Safety
		<i>Response and source of information:</i>
Key	9	Lead Based Paint and/or Asbestos
		<i>Response and source of information:</i>
Key	10	Local Employment and Income Patterns - Quantity and Distribution of Employment, Economic Impact
		<i>Response and source of information:</i>
Key	11	Local and State Tax Base and Revenues
		<i>Response and source of information:</i>
Key	12	Educational Facilities - Schools, Colleges, Universities
		<i>Response and source of information:</i>

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Key	13	Commercial and Industrial Facilities - Production and Activity, Growth or Decline
		<i>Response and source of information:</i>
Key	14	Health Care – Medical Services
		<i>Response and source of information:</i>
Key	15	Social Services – Governmental Services (e.g., demand on)
		<i>Response and source of information:</i>
Key	16	Social Structures and Mores (Standards of Social Conduct/Social Conventions)
		<i>Response and source of information:</i>
Key	17	Land Use Compatibility (e.g., growth, land use change, development activity, adjacent land uses and potential conflicts)
		<i>Response and source of information:</i>
Key	18	Energy Resources - Consumption and Conservation
		<i>Response and source of information:</i>
Key	19	Solid Waste Management
		<i>Response and source of information:</i>

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Key	20	Wastewater Treatment - Sewage System
		<i>Response and source of information:</i>
Key	21	Storm Water – Surface Drainage
		<i>Response and source of information:</i>
Key	22	Community Water Supply
		<i>Response and source of information:</i>
Key	23	Public Safety – Police
		<i>Response and source of information:</i>
Key	24	Fire Protection – Hazards
		<i>Response and source of information:</i>
Key	25	Emergency Medical Services
		<i>Response and source of information:</i>
Key	26	Parks, Playgrounds, and Open Space
		<i>Response and source of information:</i>
Key	27	Cultural Facilities, Cultural Uniqueness and Diversity
		<i>Response and source of information:</i>

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Key	28	Transportation Networks and Traffic Flow Conflicts (e.g., rail; auto including local traffic; airport runway clear zones - avoidance of incompatible land use in airport runway clear zones)
		<i>Response and source of information:</i>
Key	29	Consistency with Local Ordinances, Resolutions, or Plans (e.g., conformance with local comprehensive plans, zoning, or capital improvement plans)
		<i>Response and source of information:</i>
Key	30	Is there a regulatory action on private property rights as a result of this Project? (consider options that reduce, minimize, or eliminate the regulation of private property rights.)
		<i>Response and source of information:</i>

Appendix C: Sample Advertisement for Public Comment and Review of Environmental Review Record

The <Grantee> will hold a public hearing on <date> at <time/location> for the purpose of obtaining comments regarding the environmental review record for the proposed <type> project that will <scope of work>.

At the public hearing the proposed project will be explained, including the purpose and proposed area of the project, activities, budget, possible sources of funding, any costs that may result for local citizens as a result of the project, and a decision will be made on the environmental assessment. All interested persons will be given the opportunity to ask questions and express opinions regarding the proposed project and any environmental impacts.

Comments may be given orally at the meeting or submitted in writing before <date> at <time>.

Anyone wanting to review the environmental review record and project impacts or submit questions and comments should contact <who, how>. Copies of the draft environmental record are available at <where> and will also be available at the public meeting.

<Grantee>