2014
MSHDA-RENTAL DEVELOPMENT DIVISION ENVIRONMENTAL REVIEW REQUIREMENTS

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Acronyms/Definitions:

AADT – Annual Average Daily Traffic counts
AAI – All Appropriate Inquiry
AARST – American Association of Radon Scientists and Technologists
ACM – Asbestos-Containing Material
ALTA – American Land Title Association
ASD – HUD's Acceptable Separation Distance
AST – Aboveground Storage Tank
ASTM – American Society for Testing and Materials
AUL – Activity and Use Limitations
BEA – Baseline Environmental Assessment
BER – Business Environmental Risk
BFE – Base Flood Elevation aka 100-year floodplain, aka Special Flood Hazard Area
Busy Roadway – any freeway, expressway, highway, US or state route, or major roadway OR any road that is a significant contributing source to site DNL.
CREC – Controlled Recognized Environmental Condition
dB – decibel unit of sound
DDCC – Documentation of Due Care Compliant (MDEQ)
DNL – Day-Night Level, HUD standard for 24-hour weighted average noise level in decibels
DQO – Data Quality Objectives
EMF – Electro-Magnetic Field
EP – Environmental Professional
EPA – Environmental Protection Agency
ESA – Environmental Site Assessment
FEMA – Federal Emergency Management Agency
FIRM – Flood Insurance Rate Map
FTA – Federal Transit Administration
HREC – Historic Recognized Environmental Condition
HUD – Department of Housing and Urban Development
LIHTC: Low-Income Housing Tax Credits
LBP – Lead-Based Paint
LUST – Leaking Underground Storage Tank
MIOSHA – Michigan Occupational Safety and Health Administration
MSHDA – Michigan State Housing Development Authority
MDEQ – Michigan Department of Environmental Quality
NEPA – National Environmental Policy Act of 1969
NESHAP – National Emission Standards for Hazardous Air Pollutants
NFA – No Further Action letter
NFIP – National Flood Insurance Program
PCB – Polychlorinated Biphenyls
PBV – Project-Based Vouchers
QA/QC – Quality Assurance/Quality Control
RAD – HUD's Rental Assistance Demonstration program
RDD – MSHDA's Rental Development Division
RE – Responsible Entity
REC – Recognized Environmental Condition
RFQ – Request for Qualifications
SFHA – Special Flood Hazard Area
SHPO – State Historic Preservation Office
USDA – United States Department of Agriculture
USF&W – United States Fish and Wildlife Service
UST – Underground Storage Tank
VEC – Vapor Encroachment Condition
VES – Vapor Encroachment Screen

MSHDA Rental Development Division's Environmental Links website:
http://www.michigan.gov/mshda/0,4641,7-141-5587_22721---,00.html

The Environmental Links page contains resources for sponsors and consultants wishing to better understand the environmental review requirements for multi-family projects applying to Rental Development. It includes links to this document and others.

SECTION I: INTRODUCTION AND MSHDA SITE SELECTION CRITERIA

This document explains the environmental review requirements for the Michigan State Housing Development Authority (MSHDA or the "Authority") and is written to guide the Environmental Professional who will be performing the ESA. Environmental Professionals should carefully review this document before agreeing to provide any environmental services to MSHDA Developers or make a submission to MSHDA. ESA's or other environmental reports that do not satisfy the Authority's environmental review requirements or are otherwise incomplete will be returned to the sponsor for correction and may delay formal processing. **Questions concerning the Authority's environmental review requirements should be directed to Daniel Lince, Environmental Manager, MSHDA, 735 East Michigan Avenue, Lansing, MI, 48912, phone: 517.335.0183, e-mail: linced@michigan.gov or Mike Vollick, Environmental Review Officer, MSHDA, Cadillac Place, 3028 W. Grand Blvd, Suite 4-600, Detroit MI, 48202, phone: 313.456.2596, email: vollickm2@michigan.gov.**

The Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, is the federal statute that imposes liability on parties responsible for the presence of hazardous substances at a site. CERCLA liability is retroactive, joint and several and strict, meaning that a site owner or operator can be liable for all contamination at a site even if they were not responsible for causing the contamination. However, the statute also contains certain defenses and exemptions to liability. These defenses and exemptions have been drafted to encourage redevelopment of impacted properties, however they have particular requirements. The ESA process has been created to facilitate an owner or operator's ability to obtain CERCLA liability protection.

MSHDA requires site-specific environmental screening for all multi-family development proposals being considered for financing within the Rental Development Division (RDD). RDD projects covered under this requirement include multi-family projects requesting consideration under the 9% and 4% Low-Income Housing Tax Credit program, Direct Lending, GAP Financing, Pass-Through Short Term Bond Pilot Program, and Qualified Contract Requests. Single-family and other projects involving Community Development Block Grant (CDBG) funds are administered by the Community Development Division, who have their own environmental review requirements.

The Phase I Environmental Site Assessment (ESA) is an intake requirement that must be submitted before any proposal can be formally accepted for MSHDA mortgage loan processing. ESA's must be conducted to either the ASTM E 1527-05 or E 1527-13 Standard Practice. The MSHDA Phase I ESA is designed to satisfy the underwriting guidelines of the Authority by addressing environmental requirements of both federal (24 CFR Part 58) and state (NREPA PA 451) regulations, where applicable. The MSHDA Phase I ESA also requires additional elements beyond those solely required in the standard scope of ASTM E1527-05/13 Standard Practice, including but not limited to the ASTM E 2600-10 Standard Guide for Vapor Encroachment Screening on Property Involved in Real Estate Transactions.

The ASTM E 1527-05/13 Standard Practice defines "good commercial and customary practice" for conducting an ESA, thereby allowing the user to satisfy one of the requirements to obtain an innocent landowner, a contiguous property owner, or bona fide prospective purchaser defense to CERCLA liability. These defenses are also referred to as "Landowner Liability Protections" (LLPs). The ASTM E1527-05/13 practice satisfies the "due diligence" requirements established by 40 CFR Part 312 for

conducting All Appropriate Inquiry (AAI), one of the elements to obtain CERCLA liability protections.

Proposed development sites should exhibit no obvious negative site impacts or Recognized Environmental Conditions (RECs) which cannot be cost-effectively corrected or mitigated to residential standards. ASTM 1527-05 defines a REC as "the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property due to release to the environment or under conditions that pose a material threat of future release. *De minimis* conditions are not recognized environmental conditions." ASTM 1527-13 defines a RECs as "the presence or likely presence of any *hazardous substances* or *petroleum products* in, on, or at a *property*: (*1*) due to any *release* to the *environment*; (*2*) under conditions indicative of a *release* to the *environment*; or (*3*) under conditions that pose a *material threat* of a future *release* to the *environment*. *De minimis* conditions are not *recognized environmental conditions*."

Negative site impacts include, but are not limited to: excessive noise or physical hazards from railroad, vehicular, or air traffic; high tension power lines or high pressure gas transmission pipelines, sanitary landfills or auto salvage yards; sewage treatment plants; stored hazardous materials on or near sites; above ground or underground storage tanks; buried or spilled hazardous wastes/plumes; operating oil wells; mine shafts; gravel pits; wetlands; orchards; and prime agricultural soils classification.

The Authority will not approve developments requiring construction in the Special Flood Hazard Area (SFHA) unless all necessary governmental permits are obtained and all buildings, parking areas, and pedestrian and vehicular ingress and egress areas are elevated at least one foot above the base flood elevation (also referred to as "BFE" or the 100-year flood plain) when the development is completed. SFHA is defined as an area with a 1 percent annual chance of flooding at or above BFE; this is equivalent to a 26 percent chance of flooding over the life of a 30-year mortgage. SFHA developments receiving any federal funding source (Home, CDBG, Project-Based Vouchers, etc.) are generally discouraged but may be allowed in cases that have satisfied HUD's "Eight Step" process for determining what if any impact the development may have on either the 100-year flood plain or a wetland area. Please be advised that this process can be costly and can require a significant amount of time to complete.

SECTION II: MAJOR CHANGES FOR 2014

The changes for 2014 are summarized here:

1. In 2013, ASTM introduced a new Phase I ESA Standard Practice, the ASTM 1527-13. Throughout 2014, MSHDA will accept reports completed to either ASTM 1527-05 or ASTM-1527-13 standards. Starting in 2015, MSHDA will expect all Phase I ESA reports submitted for consideration to RDD to comply with the ASTM 1527-13 standard.

2. Section IV, Paragraph M.2 of the "Insurance Requirements" Section has been changed to reflect updated requirements.

3. MSHDA Cover Sheet - MSHDA coversheets have been amended to include information for non-renovation/remodeling projects (such as certain HUD tenant-based to project-based voucher conversions, i.e., RAD) and amended non-scope items.

4. Descriptions of several non-scope items (Section H) have been amended and includes a reference section of where to go for further information.

5. Acronyms/Definitions section added.

6. It is now requested that one (1) hard copy and one electronic copy on CD of all reports be included with each application. Previously, MSHDA had requested two hard copies.

SECTION III: SPECIAL INSTRUCTIONS

Tax Credit and Pass-Through Applications
Tax Credit and Pass-Through applications must have all elements of the MSHDA Environmental Review Requirements completed when the application is submitted. ESAs that do not satisfy the Authority's environmental review requirements or are incomplete will result in processing delays. ***Prior to final environmental approval, any negative site impacts or REC's must be adequately resolved and all associated environmental costs must be accurately documented and submitted.*** Abatement cost for Asbestos, Lead-Based Paint, UST/LUST remediation, soil remediation and/or soil vapor remediation must be reported as a separate line item in the Sponsor's Trade Payment breakdown. Remedial work must be performed by licensed and insured contractors and accurately documented.

Use of Federal Funds
Authority financed developments and/or Tax Credit proposals requesting federal funding or housing vouchers are required to be in compliance with the National Environmental Protection Act (NEPA) 24 CFR Part 58. To award these resources, MSHDA must document compliance with HUD's Environmental Review (ER) process to satisfy both the NEPA mandated items and the additional federal statutory and regulatory requirements administered by EPA, SHPO, etc. The Sponsor is responsible for retaining a qualified consultant from the list of MSHDA approved consultants to produce a NEPA report conforming to a HUD Approved Format. MSHDA is responsible for making the environmental determination and maintaining the environmental review record as required by HUD.

The NEPA sequence has three components requiring that: 1) written approvals from appropriate federal and state agencies be obtained, 2) MSHDA makes a determination and publishes a public notice which includes a public comment period and addresses any public comments received, and 3) MSHDA ensures that no choice-limiting actions on the part of the sponsor, 3rd party, MSHDA, etc., are taken prior to completion of the environmental review process.

For activities requiring public notice, the publication process routinely requires roughly 45 days to complete once the NEPA record has been approved by MSHDA. Incomplete or inaccurate NEPA documentation increases the amount of time necessary to complete MSHDA review and ultimately delays the publication process.

Development proposals involving construction in environmentally sensitive areas identified under NEPA such as wetlands, floodplains or near adverse impacts such as landfills, railroads, above ground or underground storage tanks, or freeways may disqualify your proposal from using federal funds or require additional review time beyond the time periods noted above. **Sponsors utilizing the competitive tax credit process will need to anticipate these delays and plan accordingly.**

Mitigation measures may be required to address impacts identified through the NEPA review. The costs for any mitigation measures need to be identified in the project budget and any resulting architectural/engineering modifications incorporated into the project plans and specifications.

Any construction activities proposed in a wetland (regulated or unregulated) or in a 100-year flood plain area or where site contamination cannot be effectively remediated or mitigated are strongly discouraged and may prohibit the use of federal funds.

Business Environmental Risks
The Business Environmental Risk (BER) designation is allowed under ASTM 1527-05/13. However, this designation is generally unacceptable for MSHDA residential development. The Authority requires a greater degree of certainty and professional judgment in the area of environmental contamination. Any report submitted with BERs will be closely scrutinized. MSHDA reserves the right to return any report with BERs included to the Environmental Professional for re-evaluation.

SECTION IV: MSHDA PHASE I ENVIRONMENTAL SITE ASSESSMENT (ESA)

The Phase I ESA must be conducted in a manner consistent with the meaning of the phrase "all appropriate inquiry into previous ownership and uses of the property consistent with good commercial or customary practice" [42 USC 9601 (35) (B)] and comply with MSHDA's environmental review requirements and the ASTM E 1527-05/13 standard including report format. Not every property will warrant the same degree of investigation, and the level of environmental review will be guided by the nature of the property and its prior use history. The ESA must be prepared in accordance with, **but not limited** to the ASTM Standard Practice for ESA of commercial real estate, E 1527-05 or E 1527-13, ASTM E 2600-10 Standard Guide Vapor Encroachment Screening on Property Involved in Real Estate Transactions, and with additional MSHDA requirements as may be applicable. Copies of the ASTM standards may be obtained by contacting ASTM, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428-2959, phone: 610.832.9535, web: www.astm.org.

Documentation and Continued Viability.
The report of findings for the ESA will meet the recommended report format outlined in this document. The report ***must include all documentation*** that supports the analyses, opinions, and conclusions of the Environmental Professional. All sources, including those that reveal no findings, should be well documented, and included in the report. The Phase I ESA and the consultants' Letter of Reliance must be current at the time of submission. A Phase I ESA is "presumed valid" for 180 days prior to the date of acquisition. If the "user" changes within this time period, the subsequent user must satisfy the User's Responsibilities. A Phase I ESA Update can be completed for reports meeting ASTM E 1527-05/13 standards that are more than 180 days and less than 1 year from the date of acquisition. For further information see Sec 4.6 and Sec 4.7 in the ASTM E 1527-05/13 standard.

A. Federal and State Environmental Database Review for the Subject Site and Adjoining Properties

Regulated sites identified within the specified search radius for each of the databases listed in ASTM's E1527-05/13 Section 8.1 Standard Environmental Record Sources must be geo-coded to a scaled map showing the location of the listed facilities and the subject site and included in the Phase I ESA report. This database review must be one of the commercially available products from providers such as Environmental Data Resources or First Search. Manually performed or other 'in house' database reviews will not be accepted.

Findings and any data failures are to be discussed in Section 5.1 of the Phase I ESA report with supporting documentation provided in Section 10.5 of the Phase I Appendices.

B. Local Environmental Database Review

The ESA will document local environmental records for the subject property and adjoining parcels. This review will minimally include a search of available records on file with:

- City Fire Marshall Department
- City or County Public Health Department

Consultant's findings and any identified data failures are to be discussed in Section 5.2 of the Phase I ESA report with supporting documentation provided in Section 10.6 of the Phase I Appendices.

C. Prior Land Use History

Document current and past uses of the property from the present back to the property's obvious first use or to 1940, whichever is earlier. The Environmental Professional's review shall at a minimum satisfy the requirements of ASTM Section 8.3, and the requirements noted herein. **Historical site use must be**

thoroughly documented and discussed in Section 5.4 of the Phase I ESA, and the consultant must identify any "data gaps" and indicate if they are significant. All proposed development sites require a historical review of available Sanborn fire insurance maps. The Phase I ESA must include true copies of available fire insurance maps and the maps are to be included in report appendices (Appendix 10.4). If historical fire insurance maps are not available on intervals sufficient to satisfy ASTM E 1527-05/13, a review of street directories for the area covered by the subject property and adjoining parcels may be substituted to supplement historical use review. Street directory review will be conducted on street address ranges appropriate for the period of historical development.

The location of the proposed development site boundaries must be noted on all photos and maps including site maps, aerials, Sanborn maps, etc. Reports with unmarked maps will be returned for correction which could delay the processing of the application. If fire insurance map coverage does not exist for the subject site, please provide a copy of the "No Coverage" certificate.

D. Site Visit

Site reconnaissance including all interior and exterior spaces shall at a minimum be performed to satisfy the requirements of Section 9 of ASTM E 1527-05/13. The Environmental Professional's findings will be discussed in Section 6 of the Phase I report and supporting documentation will be included in Appendix 10 of the report.

General site setting:

- Review of past and present uses of **subject site and neighboring properties** that use, treat, store, dispose of, or generate hazardous substances or petroleum products. Approximate quantities involved, types of containers, and storage conditions shall be described in the report for all uses.
- Type of business currently and previously conducted at the facility (commercial, multifamily housing, industrial, etc.).
- Identification of the source of potable water supplied within ½ mile and the sewage disposal system.
- Geologic, hydrogeologic, hydrologic, and topographical conditions are to be analyzed to determine if hazardous substances or petroleum products are likely to migrate to or from the property.
- A color copy of current USGS 7.5 min. Topographic Map.
- Identification of all structures or other physical improvements to the property.
- Empty and occupied user spaces, recreational facilities, parking lots, roads and surface water.
- Photographs of site interior, exterior, and adjoining properties. **All aerial photos must be marked to show approximate site boundary and a direction indicator showing north.**
- Indicate the presence of strong, pungent or noxious odors, metallic or plastic storage drums (usually 55-gallon), other containers with hazardous substances, petroleum products, or unidentified substances, whether or not leaking, and pools of liquid. Containers identified as containing hazardous substances are to be noted on the site map.

Interior areas:

- Accessible common areas, occupant spaces, maintenance and repair areas, utility rooms, and boiler rooms are to be observed.
- All areas that were not or could not be inspected, as described in the Data Gaps section of the report, must be identified.
- Identify the means of heating and cooling the buildings, including fuel sources.
- Identify the presence of stains or corrosion on floors, ceilings, or walls, including mold.
- Aboveground storage tanks, underground storage tanks, or related structures, such as vent pipes, fill pipes, and access ways must be identified.

- Location of floor drains, sumps, etc., should be noted in the report and depicted on the site plan.

Exterior observations:

- The periphery of the property and all structures on the property shall be observed from all adjacent public thoroughfares, adjoining structures and their uses to be noted on site plan.
- Identify hazardous substance(s) or petroleum product storage areas on subject property and adjacent parcels.
- Aboveground storage tanks, underground storage tanks, or related structures, such as vent pipes, fill pipes, and access ways must be identified.
- Pits, ponds, or lagoons on the property and adjoining properties.
- Identify areas of obviously stained soil or pavement, leachate break-outs from waste disposal facilities or stressed vegetation (from sources other than lack of water).
- Identify electrical generators, transformers, power transmission lines, and hydraulic equipment that may contain PCBs. If transformers are present, please indicate their age and owner.
- Indicate site filling or grading suggesting trash, waste products or other fill materials are potentially present on site.
- Identify waste water, or other liquid, discharging into a ditch, drain, underground injection system, or stream on or adjacent to property.
- All wells and septic systems observed should be described in the report.

E. Interviews with Past and Present Owners and Occupants

The property owner, key site manager, and user interview must at a minimum conform to ASTM requirements as detailed in Section 10 of ASTM E 1527-05/13 standard. Interviews should be done prior to the site visit. The interview should indicate whether helpful documents exist that the Environmental Professional should review prior to the site visit. Interviewees should indicate whether they have any knowledge of: 1) any pending, threatened, or past litigation relevant to hazardous substances or petroleum products in, on, or from the property; 2) any pending, threatened, or past administrative proceedings relevant to hazardous substances or petroleum products in, on, or from the property; and/or 3) any notices from any government entity regarding a possible violation of environmental laws, or possible liability relating to hazardous substances or petroleum products. The Environmental Professional will discuss their findings in Section 7 of the Phase I report and provide supporting documentation in the report appendices.

F. Interviews with State and/or Local Government Officials

Interviews with representatives of state and/or local government agencies will conform to ASTM requirements as detailed in Section 11 of ASTM E 1527-05/13 standard and will at a minimum include the local fire department that serves the property, the state and/or local health agency. The Environmental Professional will discuss their findings in Section 7 of their Phase I report and will provide supporting documentation in the report appendices.

G. Compliance with Activity and Use Limitations (AULs)

The Environmental Professional must include all relevant information revealed by the discovery of any AULs in the Phase I Executive Summary and supporting documentation provided in the report appendices. If AULs have been identified, the Environmental Professional will also interview state and or local agencies responsible for the issuance of building permits or groundwater use permits.

H. ASTM "Non-scope" Considerations

The "non-scope" issues listed below are to be discussed by the Environmental Professional in Section 9 of the Phase I ESA report. Supporting documentation is to be included in the report appendix. **For all Tax Credit and Pass-Through applications**, **complete documentation supporting any proposed abatement/remediation work must be submitted prior to initial closing.**

The requirement for ACM/LBP inspections can be made a condition of approval in most instances. However, MSHDA is not responsible for delays in processing or approval resulting from this information not being included. At minimum, the Phase I must include an indication of the relevance of ACM/LBP requirements and indication of work to be performed. All other non-scope items must be included at the time of application. Specific details are noted below.

1. **Friable and non-friable ACM's:** Regardless of the date of construction, for structures undergoing renovation the following asbestos documentation must be submitted prior to initial closing: 1) a NESHAP-compliant survey from a licensed asbestos contractor/supervisor, 2) asbestos abatement plan including provisions for independent third party air monitoring, 3) a copy of the trade payment breakdown and associated supporting documentation (e.g., bids, specifications, work plans, etc., as requested) identifying all cost associated with the asbestos abatement activities and identified as a separate line item.

Note: While a NESHAP-compliant inspection is required for all structures regardless of age, for structures built prior to 1981 the ACM inspection must also be MIOSHA-compliant.

For information about asbestos, including abatement, certifications, clearances, or regulations, please contact the MIOSHA Asbestos Program at: 517-322-1320 or www.michigan.gov/asbestos.

2. **Lead-Based Paint (LBP):** For structures with building permits issued before January 1, 1978, a Lead Based Paint Risk Assessment and Inspection must be included prior to initial closing. LBP documentation will include at a minimum:
   - **a.** All projects: A completed Lead Based Paint Risk Assessment and Inspection meeting State of Michigan requirements and HUD's "Guidelines for the Evaluation and Control of Lead-Based Paint in Housing" from an appropriately certified Michigan Lead Risk Assessor.
   - **b.** Multi-family projects with federal funding (HOME, CDBG, PBV, etc.) must comply with HUD's Lead Safe Housing Rule (24 CFR Part 35). Abatement is required for all projects that meet the State of Michigan's Healthy Homes Section definition of lead abatement (MCL 333.5453(1)) and for all projects with greater than $25,000 federal assistance per unit, hard costs. Projects not meeting either of these requirements may use a combination of EPA lead-safe renovation and/or HUD interim controls, as appropriate, to address deteriorated LBP and its associated hazards.
   - **c.** The following LBP documentation must be submitted prior to initial closing: 1) LBP Risk Assessment / Inspection report, 2) remediation plan including provisions for a dust wipe clearance conducted by a certified, independent third party, 3) bid(s) from licensed and insured contractors who will be conducting lead remediation activities, and 4) a copy of the trade payment breakdown identifying all cost associated with the proposed LBP remediation activities and identified as a separate line item.

For information about lead-based paint, including abatement, certifications, clearances or regulations, please contact MDCH's Healthy Homes Section at: 866-691-LEAD or www.michigan.gov/leadsafe.

3. **Formaldehyde insulation:** If formaldehyde insulation is observed, and the structure is to be renovated, the extent and cost for abatement of the insulation (removal / encapsulation) must be included.

4. **Radon:** A radon assessment conducted by a Radon Professional must be included for all projects in EPA Radon Zone 1 counties (Branch, Calhoun, Cass, Hillsdale, Jackson, Kalamazoo, Lenawee, St. Joseph, and Washtenaw). Per AARST and HUD multi-family radon testing and mitigation policy, all "ground level" units are to be tested, regardless of the foundation type.

   For projects with test results exceeding the EPA action level of 4.0 picocuries/liter, plans and specifications approved by a Radon Professional for addressing these exceedances must be submitted prior to initial closing. New construction projects and any proposed mitigation plans must be consistent with the radon resistant code requirements as detailed in Appendix F of the Michigan Residential Code.

For information about radon, please contact Michigan's Indoor Radon Program at: 800-RADON-GAS or www.michigan.gov/deqradon.

5. ***Special Flood Hazard Area (SFHA):*** If published, you must include a copy of the FEMA Flood Hazard map including the Community Panel Number in your report. The site boundaries on the FEMA map must be clearly noted. FIRMette Floodplain maps are available online from FEMA at http://www.msc.fema.gov. All buildings, parking areas, and pedestrian and vehicular ingress and egress areas must be elevated at least one foot above the base flood elevation when the development is completed.

   For all applications in proximity to flood prone areas, the base flood elevation boundary and its relation to the building footprint must be clearly located on the proposed development site plan and included in the Phase I report. For projects with any portion in the SFHA, a signed and sealed ALTA survey with elevations is required. ALTA surveys for these projects must be submitted early in the review process.

For additional information on Special Flood Hazard Areas, please contact MDEQ's Floodplain Management/National Flood Insurance Unit at: 517-284-5489 (Les Thomas) or 517-284-5504 (Jerry Fulcher) or www.michigan.gov/floodplainmanagement.

6. **Wetlands:** The Phase I ESA must address the presence of any suspect regulated or non-regulated wetlands on the subject site; these areas must be accurately noted on the development site plan. For wetland areas hydraulically connected to other wetland resources or for wetland areas larger than 2 acres, the sponsor will need to provide a jurisdictional delineation from a qualified wetland consultant or a Level 2 or Level 3 Wetland Assessment review from MDEQ.

   For all applications, any wetlands and their relation to the building footprint must be clearly located on the proposed development site plan and included in the Phase I report.

For information about wetlands in Michigan, including delineations, regulations, and permits, contact: Water Resources Division: SWAS, Wetlands, Lakes, and Streams Unit at: 517-284-5531 or ***www.michigan.gov/wetlands*.**

7. **Electro-Magnetic Field (EMF):** This requirement applies only to MSHDA-financed, new construction (excludes LIHTC-only, PBV-only, or LIHTC/PBV-only projects). If EMF is not applicable, include a statement to this effect in the Phase I Report indicating why. Sites containing or in close proximity to high power transmission lines (60 kV and higher) will require a set-back sufficient to achieve a 3 milliGauss (mG) exposure limit. The EMF setback requirement is for high power transmission lines only. Contact the Authority for site-specific instructions for determining acceptable setback distances. **For projects where EMF applies, any setback and its relation to site buildings must be clearly indicated on the proposed**

development site plan and included in the Phase I report.

8. **High pressure buried gas lines:** This requirement applies only to MSHDA-financed new construction (excludes LIHTC-only, PBV-only, or LIHTC/PBV-only projects). If not applicable, include a statement in the Phase I Report indicating why. Sites located within 1000 feet of a buried high-pressure gas transmission line (4" diameter or larger and 400 p.s.i. or higher) must comply with the MSHDA's setback requirements. The location and capacity of any high-pressure utility systems located on or near the proposed development site must be noted in your report and located on the development site plan. Contact the Authority for site-specific instructions for determining acceptable setback distances. **For any projects where high-pressure buried gas lines apply, any setback and its relation to site buildings must be noted on the proposed development site plan and included in the Phase I report.**

9. **Noise analysis:** A noise assessment is required at the time of the Phase I submission for sites located within: 1) 1,000 feet of a limited access highway or "busy roadway" (see definition), or
   2) 3,000 feet of a railroad line, or
   3) 15 miles of a civil or military airport.

   The noise assessment **must** follow the procedures and worksheets contained in the "*HUD Noise Guidebook*" and include a 10-year projection for traffic growth. Use of HUD's online noise calculators (assessment, barrier, etc.) are acceptable.

   Noise mitigation measures may be required for any site with a DNL of 65 dB or greater. The project architect or engineer must complete HUD Figure 19, or equivalent, demonstrating the effectiveness of any proposed noise mitigation measures and submit to MSHDA. Sites requiring noise barriers (sound walls or vibration barriers) must provide an analysis of the barrier as outlined in the *HUD Noise Guidebook*.

   Vibration Analysis - Sites with rail lines within 100 feet of proposed or existing structures will also need to complete a Federal Transit Administration (FTA) *Transit Vibration Impact Assessment* and satisfy any applicable isolation requirements.

Traffic Count Resources and HUD Noise Calculators

HUD Noise Calculators:	http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/dnlcalculator
	http://www.michigan.gov/mdot/0,1607,7-151-9622_11033_11149---,00.html
Partial list of AADT resource sites:	http://www.semcog.org/data/Apps/trafficcounts.cfm
	http://www.gvmc.org/transportation/TrafficCounts.shtml
	http://www.tri-co.org/gis.htm

10. **Vapor Encroachment Screening (VES):** For the purposes of a MSHDA Phase I ESA, the Environmental Professional **will complete the Tier I and as needed, the non-invasive Tier II components of the *ASTM E 2600-10 Standard Guide for Vapor Encroachment Screening*.**

    Sites exhibiting a vapor encroachment condition (VEC) finding will require an invasive Tier II investigation. **The invasive Tier II sampling strategy must be consistent with the *MDEQ Guidance Document for the Vapor Intrusion Pathway* of May 2013, or current (ASTM E 2600-10; Sec 9.1 & 10.2).** This sampling is beyond the scope of the Phase I ESA and will be undertaken as part of a Phase II investigation. The Environmental Professional is encouraged to seek additional input from MDEQ and MSHDA prior to undertaking soil gas sampling.

Vapor Intrusion Resources

MDEQ Guidance Document for Vapor Intrusion:	http://www.michigan.gov/documents/deq/deq-rrd-CSI-VIGuidanceDocumentAllAppendicesExceptF_384573_7.pdf
Interstate Technical Regulatory Council (ITRC) Vapor Guidance:	http://www.itrcweb.org/documents/VI-1.pdf

I. Underground Storage Tanks (UST's) and Aboveground Storage Tanks (AST's)

1. **Underground Storage Tanks (UST's).** UST's require additional assessment and must include cost to close the tank according to Part 213 requirements. Historical tank removals lacking Part 213 closure documentation are deemed to be a "REC" and will require characterization. Similarly, closures relying on data collected prior to methanol preservation techniques are to be deemed a "REC". UST characterization and related remediation costs are to be documented separately in the Phase II investigation. **For all applications, the project documentation needs to include a copy of the proposed closure plan and the associated cost is to be identified**.

2. **Aboveground Storage Tanks (AST's)**. Sites containing or adjoining to above ground storage tanks must be evaluated according to procedures set forth in HUD's guidebook entitled *Siting of HUD-Assisted Projects Near Hazardous Facilities*. The proposed development site plans must reflect any required setbacks identified through the hazard analysis. **For all applications, any applicable setback and its relation to site buildings must be clearly located on the proposed development site plan.**

J. Development Site Plan Requirements

A detailed site plan must be included with the Phase I ESA. The plan, drawn to scale, should note any features previously described in the report. Features to appear on the site plan include:

a. Location of any RECs.
b. Boundaries of the subject property.
c. Adjoining properties and structures.
d. Location of any other areas of concern, including ASTs and USTs.
e. Location and size of any gas or electric transmission utilities.
f. Wetland and/or floodplain boundaries.

An aerial photo may be used as a base map for the site plan, however the plotted scale should not exceed 1": 100' and be of sufficient size and resolution to distinguish site features. The annotated site plan is to be included in Section 10 of the report.

K. User's Environmental Questionnaire and Disclosure Statement

This document is to be completed by the appropriate entity, reviewed by the Environmental Professional, and incorporated into their Phase I ESA report. Please see Section VIII of this document for the required format.

L. Environmental Professional's Opinion and Report

1. **Findings and Opinions**
   The Environmental Professional's report of findings and opinions shall conform to either the ASTM E 1527-05 or -13 Standard. The EP's "Conclusions" section, under either ASTM 1527-05 or -13 , must follow exactly the prescribed language contained in the applicable Standard. The consultant shall set forth a clearly written explanation of identified "data gaps," including historical "data failures" as defined by ASTM, shall opine on their effect upon the Environmental Professional's ability to identify RECs, and shall state if the Environmental Professional considers them to be "significant".

The BER designation is allowed under ASTM 1527-05/13. However, this designation is generally unacceptable for MSHDA developments. The Authority requires a greater degree of certainty and professional judgment in the area of environmental contamination. Any report submitted with BERs will be closely scrutinized. MSHDA reserves the right to return any report with BERs included to the Environmental Professional for re-evaluation.

2. **Report Format**
   The report of findings for the ESA will follow the recommended report format outlined in Section XI of this document. The report ***must include all documentation*** that supports the analyses, opinions, and conclusions of the Environmental Professional. All sources, including those that reveal no findings, should be well documented, and included in the report. The Phase I ESA and the consultants' Letter of Reliance must be current at the time of submission.

3. **Report Viability**
   ASTM Standard E1527-05/13 establishes the viability periods for Phase I reports as follows: A new Phase I is presumed valid for 180 days. After 180 days, the Phase I may be updated. The Phase I Update is presumed valid for between 180 days and one year. After one year, a new report is required.

4. **Copies**
   One hard (paper) copy and one complete pdf version on CD should be submitted to MSHDA. Hard copies of the reports must be bound with sections delineated by tabs.

5. **Letter of Reliance and Phase I Summary Cover Sheet**
   Documents must be completed and signed by the Environmental Professional performing the ESA and submitted with their Phase I report. The Environmental Professional's Letter of Reliance and Phase I Summary Cover Sheets ***must be in the format*** supplied in this document and included in the Phase I report. Any omissions, changes, or deviations will result in delays and or return of the report for correction.

M. Insurance Requirements

1. The Environmental Professional must carry insurance which provides full coverage for all work performed. The Environmental Professional must maintain insurance policies covering all of the following types of insurance in the greater of either the following amounts of coverage or the amounts of coverage that the Environmental Professional typically carries:

   a. Commercial General Liability insurance, total combined single limits of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate; and

   b. Professional Errors and Omissions insurance with limits of $1,000,000.00 each claim and $2,000,000.00 in the aggregate; and

   c. Pollution Liability insurance with limits of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate, with extended coverage including third party liability for death, bodily injury, diminution of value of property and property damage.

2. MSHDA must be included as an additional insured on both the Professional Errors and Omissions and Pollution Liability insurance policies. Proof of insurance will be documented on an Accord 25 certificate. Additionally, a policy endorsement or other acceptable documentation will be provided to verify that the insurer must give MSHDA at least thirty (30) days prior written notice of cancellation, termination, or material change to policy. The ACORD 25 certificate, and policy endorsement or other acceptable documentation must be included in Section 10 of the Phase I Report.

3. Each policy of insurance, including any deductible or self-insured retention, shall by its terms be primary with respect to any insurance carried by the Applicant or any parent, subsidiary, or affiliated entities. For policies written on claims-made basis, the Environmental Professional must maintain coverage in effect for a period of at least three (3) years following the completion of the final Phase I ESA and/or Phase II Report.

4. The Environmental Professional must promptly notify MSHDA of any changes made to the insurance policies required by this Section.

5. Upon request of MSHDA, the Environmental Professional must promptly deliver complete copies of policies evidencing the insurance coverage's required by this Section M to MSHDA.

6. All required insurance shall be underwritten by an insurance carrier with an **AM Best rating of not less than "A-, VII."** MSHDA prefers that insurance carriers be licensed in Michigan; however MSHDA will accept surplus lines insurance companies with an A.M. Best rating of no less than "A-, VIII."

SECTION V: RECs, PHASE II, Site Status, BEA/ Documentation of Due Care Compliance

A. **Recognized Environmental Conditions (RECs) -** All RECs require additional investigation with findings documented in a Phase II report. REC's or "other concerns" that are inadequately investigated, that present a potential health hazard to residents of the proposed development**,** that fail to reliably characterize the extent of contamination, and/or present an unacceptable degree of lender or owner liability, will be the basis for termination of processing of the proposal.

   Phase II - REC's identified in the Phase I ESA must be adequately resolved through a Phase II investigation and documented separately from the Phase I ESA report. The Environmental Professional shall follow ASTM Phase II standard for REC characterization such that the Environmental Professional can opine whether **"the *data* provides sufficient information to**

support a professional opinion that there is no reasonable basis for suspecting the disposal or release of hazardous substances or petroleum products at the site with respect to the RECs assessed, and that no further assessment is necessary or that with respect to the RECs assessed, hazardous substances or petroleum products have been released or disposed at the property (ASTM E 1903-11)."

Historically Recognized Environmental Condition (HREC) - The ASTM 1527-13 Standard includes provision for a HREC. The use of an HREC is limited to a past release that has been addressed to the satisfaction of regulatory authority (MDEQ) or meets unrestricted residential use criteria established by the appropriate regulatory authority (MDEQ) without restrictions or controls. If a HREC exists on site, please include a copy of the closure documentation with your report. HRECs lacking appropriate closure documentation are to be treated as a REC and resolved accordingly.

Controlled Recognized Environmental Condition (CREC) - The ASTM E1527-13 Standard includes provision for a CREC. A CREC describes a condition where previous releases at properties that underwent risk-based closures were addressed, but contaminants are allowed to remain in place under certain restrictions or conditions.

B. **Data Quality Objectives (DQOs) -** Phase II sampling should utilize the DQO process as outlined by the US EPA (*www.epa.gov/quality/qs-docs/g4hw-final.pdf*) or MDEQ's Sampling Strategies and Statistics Training Materials for Part 201 Cleanup Criteria (*www.michigan.gov/documents/deq/deq-erd-stats-s3tm_250015_7.pdf*). DQOs for Phase II sampling events including but not limited to sample location, quantity of samples, and analytical procedures must be chosen to be consistent with the identified REC's and the exposure pathways for residential land use. The sampling design must be sufficient in scope to **reliably characterize the nature and extent of the impact and all relevant and applicable exposure pathways**. Analytical methods, detection limits, QA/QC procedures and sampling plans will satisfy applicable federal, state, and any technical guidance from MSHDA. Sampling plans that do not comply with the guidance or lack sufficient data quality standards to ensure reliable results will be deemed incomplete and returned to the Environmental Professional for additional work. Sampling events to include trip blanks, soil bore logs, laboratory QA/QC reports, and Chain of Custody documents.

C. "Facility" Status

Proposed development sites meeting the definition of "facility" under Part 201 will require the disclosure of a Baseline Environmental Assessment (BEA) and approval of Documentation of Due Care Compliance (DDCC) from MDEQ. The proposed response activities and due care measures in the DDCC must comply with applicable federal requirements and Authority standards and <u>the report is to be submitted to MDEQ for review and approval.</u> This approval must be obtained prior to initial closing (or before submission of the NEPA study to finalize Part 58 environmental review requirements for federally funded projects). *MDEQ has up to 45 days to respond to submittals, so it is important that investigations and reports are complete and thorough in order to avoid potential delays.*

Subsequent to the implementation of response activities and/or other due care measures outlined in the DDDC, the owner operator must complete an NFA report and submit this to MDEQ for review and approval. Therefore, the DDDC should include a discussion of this endpoint and of the items required for the NFA. The DDDC at a minimum will describe:

- The components of the Post Closure Plan.
- Any proposed Restrictions.
- If Post Closure Agreement is required.
- If any ongoing Remedial Actions or Monitoring will be necessary.

For sponsor's seeking unrestricted residential closure of contaminated sites, typically through complete removal of the contaminated medium, the sponsor may wish to pursue an NFA without going through the DDDC approval process. This is acceptable to MSHDA provided that a BEA is disclosed and an NFA work plan is submitted to MDEQ for review and approval **prior to** initial closing (or before finalizing the Part 58

environmental review for federally funded projects). The NFA letter from MDEQ should be obtained prior to occupancy. An unrestricted NFA must address the entire property and all releases, hazardous substances, and exposures pathways identified.

SECTION VI: FEDERAL ENVIRONMENTAL ASSESSMENT (NEPA)

This assessment is undertaken to satisfy the review requirements of 24 CFR Part 58 (NEPA) and related federal regulatory requirements. This process is required for any proposal requesting the use of federal funding (HOME, Project-Based Vouchers, RAD, etc.). NEPA environmental review must be completed and, if necessary, HUD's signoff obtained (HUD Form 7015.16) before any choice limiting actions can be undertaken by the Sponsor.

The Sponsor will retain a firm from MSHDA's prequalified "Group B" list to complete the NEPA study. The NEPA study will contain the required elements as outlined in the "**Sample NEPA Report"** document available on our web site.

The NEPA study is separate from the Phase I report and is not to be included in the Phase I report.

One (1) paper copy of the NEPA document and a PDF copy on CD are to be submitted to MSHDA.

Also, see Section XII for the MSHDA NEPA Fact Sheet.

SECTION VII: SELECTING AN ENVIRONMENTAL PROFESSIONAL

ESAs require the use of professional consulting firms specializing in identifying and analyzing environmental conditions. It is important to select a consultant who can perform an acceptable ESA as outlined in this document, who meets the definition of an Environmental Professional pursuant to 40 CFR Section 312.10(b), and who has prior ***experience*** working with the MSHDA.

Several factors which should be considered in selecting an Environmental Professional include:

(1) The consultant should have sufficient personnel with the necessary technical capabilities to perform an ESA in a timely fashion (approximately six to eight weeks).

(2) The developer should screen résumés of key individuals in the consulting firm and ask for a list of recently completed work to verify the firm's reputation, adherence to budget, compliance with schedules and deadlines, etc.

While not mandatory, it is strongly recommended that you use an Environmental Professional from MSHDA's "Group A" Pre-Qualified Consultants list for ESAs and related work. If MSHDA elects to retain technical assistance in reviewing reports from non-qualified consultants, the expense incurred will become the responsibility of the sponsor. The list of Qualified Consultants is available in the "Environmental Links" page on the MSHDA website (www.michigan.gov/MSHDA click on the sidebar link "Developers and Contractors" then "Environmental Links").
If you are developing urban renewal property or a Brownfield site, your consultant should have demonstrable experience working with urban renewal sites. Ask to see examples of prior residential redevelopment sites delivered on time and on budget that are comparable to your intended development . Identify and speak with the project manager(s) responsible for overseeing your project, not only the corporate staff. Review the credentials and work experience of your project manager.

If you suspect that your site may contain abandoned UST's be sure your consultant has the appropriate experience and credentials for closing a UST. For a list of UST consultants, please contact the

Department of Licensing and Regulatory Affairs, Bureau Fire Services, Underground Storage Tanks Unit at 517-335-7211.

No reputable Environmental Professional will unequivocally certify a site to be environmentally clean. However, your consultant is expected to provide a professional opinion regarding the probability of contamination being present at a site. At that time, risk levels may be assessed and accepted or a determination made to proceed with a Phase II ESA.

The MSHDA "Group A" Qualified Consultants List was developed to provide developers with a list of environmental consultants that are able to meet MSHDA Environmental Review Requirements. These consultants were chosen through an RFQ process and are entrusted to provide adequate and timely information to expedite the development process for both MSHDA and the Developer.

SECTION VIII: 2014 - USER'S ENVIRONMENTAL QUESTIONNAIRE AND DISCLOSURE STATEMENT

The Authority requires the completion of its "User's Environmental Questionnaire and Disclosure Statement" to fulfill Section 6, User's Responsibilities of the ASTM Standard E 1527-05/13. **The checklist is to be completed and signed by the sponsor (developer), and returned to the Environmental Professional conducting the Phase I. This questionnaire is to be reviewed by the Environmental Professional and incorporated into their Phase I report (the completed User's Questionnaire is to be included in Appendix 10.6 of the Phase I report). Failure to properly complete this process will result in delays.**

In preparing this document, the **"User" (Sponsor)** must make a good faith effort to answer the questions in the checklist. The User or a preparer designated by the User presents that to the best of his/her knowledge the above statements and facts are true and correct and that to the best of the preparer's knowledge no material facts have been omitted or misstated. Time and care should be taken to check whatever records are in the User's possession. If any of the following questions are answered in the affirmative or if answers are unknown, are qualified, or cannot be obtained, the burden is on the Environmental Professional to determine whether further inquiry is appropriate. The User should document the reason for any affirmative answer to provide the Environmental Professional with all appropriate information. Moreover, the Environmental Professional must determine if further inquiry in any area where the property owner provides incomplete information is warranted, providing written explanation for their recommendation(s).

In order to qualify for one of the Landowner Liability Protections (LLPs) offered by the Small Business Relief and Brownfield's Revitalization Act of 2001 (the "Brownfield's Amendments"), the User must provide the following information (if available) to the Environmental Professional. Failure to provide this information could result in a determination that "all appropriate inquiry" is not complete.

User's (Sponsor's) Name: _____

User's (Sponsor's) Telephone No.: _____

User's (Sponsor's) Fax No.: _____

Subject Property: _____

Property Address: _____

City: _____ **State:** _____ **Zip:** _____

1.0 **Environmental Cleanup Liens:**

Are you aware of any environmental cleanup liens against the property that are filed, recorded, or unrecorded under federal, tribal, state, or local law?

__ YES __ NO (If "YES," please describe)

2.0 **Activity and Land Use Limitations:**

Are you aware of any activity and land use limitations, such as engineering controls, land use restrictions or institutional controls that are in place at the site and/or have been filed, recorded or unrecorded in a registry under federal, tribal, state or local law?

___ YES ___ NO (If "YES," please describe)

3.0 **Specialized Knowledge or Experience of the User:**

(a) As the user of this ESA do you have any knowledge or experience related to the property or nearby properties that could be material to any environmental conditions of this property?

___ YES ___ NO (If "YES," please describe)

(b) Are you involved in the same line of business as the current or former occupants of the property or an adjoining property so that you would have specialized knowledge of the chemicals and processes used by this type of business?

___ YES ___ NO (If "YES," please describe)

4.0 **Relationship of Purchase Price to Fair Market Value:**

(a) Does the purchase price being paid for this property reasonably reflect the fair market value of the property?

___ YES ___ NO (If "YES," please describe)

(b) If you conclude that there is a difference, have you considered whether the lower price is because contamination is known or believed to be present at the property?

___ YES ___ NO (If "YES," please describe)

5.0 **Commonly Known or Reasonably Ascertainable Information:**

Are you aware of commonly known or reasonably ascertainable information about the property that would help the environmental professional to identify conditions indicative of releases or threatened releases? For example, as user,

(a) Do you know the past uses of the property? Please list: _____

_____.

(b) Do you know the specific chemicals that are present or once were present at the property?

___ YES ___ NO (If "YES," please describe)

(c) Do you know of spills or other chemical releases that have taken place at the property?

___ YES ___ NO (If "YES," please describe)

(d) Do you know of any environmental cleanups that have taken place at the property?

___ YES ___ NO (If "YES," please describe)

6.0 **Presence or Likely Presence of Contamination:**

As the user of this ESA and based on your knowledge and experience related to the property are there any obvious indicators that point to the presence or likely presence of contamination at the property?

___ YES ___ NO (If "YES," please describe)

User's Signature: _____Date _____

User's Printed Name:_____

SECTION IX **2014 MSHDA PHASE I SUMMARY COVER SHEET**

Project Name:			
Project Address:			
Sponsors Name:		Sponsor E-mail:	
Consulting Firm:			
Consultant Phone:	( )	E-mail:	
Consultant Project #:		Report Date:	

Additional Site Info (please complete if known)

Site area:	(in acres)	# Units planned:	
Vacant land: ☐	Developed: ☐	If developed, # existing buildings:	
Date(s) of construction for existing structures:			
Single Site: ☐	Scattered sites: ☐	If scattered, # sites:	
Rehab of existing structure(s): ☐	New Construction with planned demolition of existing structure(s): ☐		
Adaptive Re-Use: ☐	New Construction without planned demolition of existing structure(s): ☐		
No physical changes planned: ☐	Comments:		

Please answer all questions below, noting the appropriate page or appendix in your report that contains the supporting documentation. **Summary Cover Sheets containing unknown or incomplete responses will not be processed and will be returned for correction.**

1. Report Findings

a. The site contains a wetland area(s). ☐ Yes ☐ No
(See requirements in Sec. IV, H.6)

b. The site or a portion of the site is in the Special Flood Hazard Area.
☐ Yes ☐ No
(See requirements in Sec. IV, H.5)

c. The site contains a UST(s) or AST(s). ☐ Yes ☐ No
(See requirements in Sec. IV, I)

d. **RECs** - The Phase I ESA revealed a REC(s). ☐ Yes ☐ No
(See requirements in Sec. IV, D.5)

e. **EMF** - There are high power electrical transmission lines within 500 feet of the subject site.
☐ Yes ☐ No

(See requirements in Sec. IV, H.7)

f. **HP GAS** - There are buried high-pressure gas transmission lines (4" in diameter and 400 psi or greater) within 1000 feet of the subject site. ☐ Yes ☐ No

(See requirements in Sec. IV, H.8)

g. **NOISE -** The subject site is near a busy roadway or within 1000 feet of a limited access freeway or 3000 feet of a rail line, or within 15 miles of an airport. ☐ Yes ☐ No

(See requirements in Sec. IV, H.9)

h. **ASBESTOS** - A NESHAP-compliant asbestos survey is required for every MSHDA renovation/remodeling project, regardless of the date of construction. Was a NESHAP-compliant asbestos survey performed for this renovation/remodeling project?

☐ Yes ☐ No

(See requirements in Sec. IV, H.1)

j. **LEAD** - For structures built before 1978 and that are undergoing renovation/remodeling, a combination lead Risk Assessment/Inspection satisfying state and federal requirements is required. Was a combination lead Risk Assessment/Inspection performed?

☐ N/A: Post-1978 Date of Construction

☐ Yes ☐ No

(See requirements in Sec. IV, H.2)

l. **RADON -** For developments in EPA Radon Zone 1 counties (Branch, Calhoun, Cass, Hillsdale, Jackson, Kalamazoo, Lenawee, St. Joseph, and Washtenaw) was a radon assessment conducted by a Radon Professional was performed?

☐ N/A: Not in EPA Radon Zone 1 county

☐ Yes ☐ No

(See requirements in Sec. IV, H.5)

m. A "Recorded Land Records" search was performed? ☐ Yes ☐ No

(See requirements in Sec. IV, C)

n. A Phase II investigation is required? ☐ Yes ☐ No

(See requirements in Sec. V)

o. A Tier I and non-invasive Tier II Vapor Encroachment Screen were preformed?

☐ Yes ☐ No

(See requirements in Sec. IV, H.10)

p. A Vapor Encroachment Condition (VEC) was identified. An invasive Tier II investigation is recommended. ☐ Yes ☐ No

(See requirements in Sec. IV, H.10)

2. Report Documentation Check List. If any of the responses below are "NO," do not submit report.

a. MSHDA Phase I Letter of Reliance completed? ☐ Yes ☐ No

b. User's Disclosure Statement completed? ☐ Yes ☐ No

c. Compliant ACORD 25 Certificate of insurance included? ☐ Yes ☐ No

d. FEMA Flood Plain Map Included? ☐ Yes ☐ No

e. Fire Insurance Maps or No Coverage Letter Included? ☐ Yes ☐ No

f. Development Site Plan Included? ☐ Yes ☐ No

g. Site boundaries indicated on all maps and photos? ☐ Yes ☐ No

I represent that this Summary Cover Sheet accurately reflects the environmental information contained in the above captioned document.

_____/_____ _____

Signature of Environmental Professional | Date | Print or Type Legal Name

SECTION X: 2014 MSHDA PHASE I LETTER OF RELIANCE

(*DATE*)

PRIVILEGED AND CONFIDENTIAL

Dan Lince
Environmental Manger
Rental Development Division
Michigan State Housing Development Authority
735 East Michigan Avenue
Lansing, Michigan 48912

RE: Phase I ESA for: (*Insert Development Name*), (*Report #*), (*Date of Report*)

Dear Mr. Lince:

Please find enclosed the Phase I Environmental Site Assessment for the subject property dated *()* to the Michigan State Housing Development Authority.

It is my understanding that the information contained in the Phase I Environmental Site Assessment will be used by the Authority in considering proposed financing of residential development of the subject property and, furthermore, that the Authority may rely upon the Phase I Environmental Site Assessment as if it were issued to the Authority.

I **represent** that the attached is a true, correct and complete copy of the Phase I Environmental Site Assessment for the above captioned property and that the report represents my professional opinion of the site as of this date and that I meet the definition of an Environmental Professional as defined in Section 312.10 of 40 CFR 312. I also **represent** that the Phase I Environmental Site Assessment including the evaluation, recommendations, and conclusions as of this date has been performed in conformance with the scope and limitations of the ASTM Practice E 1527-05 or E 1527-13, ASTM Practice E 2600-10, and MSHDA's Environmental Review Requirements for 2014.

Sincerely,

(*Environmental Professional's signature*)

SECTION XI: **Required MSHDA Phase I Report Format - 2014**

Please note all sections listed below are required.

Report Cover Sheet
Table Contents
MSHDA Phase I Summary Cover Sheet

Section 1 - Executive Summary
1.1 Phase I ESA Summary and Conclusions including any identified REC's
1.2 Identified Data Gaps
1.3 Identified Liens or Activity and Use Limitations

Section 2 - Introduction
2.1 Purpose
2.2 Detailed Scope-of-Services (see ASTM E 1527-05/13 Sections 12.4)
2.3 Significant Assumptions
2.4 Limitations and Exceptions
2.5 Special Terms and Conditions
2.6 User Reliance

Section 3 - Site Description
3.1 Location and Legal Description
3.2 Site and Vicinity General Characteristics
3.3 Current Use of the *Property*
3.4 Descriptions of Structures, Roads, Other Improvements on the Site (including heating/cooling system, sewage disposal, source of potable water)
3.5 Current Uses of the Adjoining Properties

Section 4 - User Provided Information
4.1 Title Records
4.2 Environmental Liens or Activity and Use Limitations
4.3 Specialized Knowledge
4.4 Commonly Known or Reasonably Ascertainable Information
4.5 Valuation Reduction for Environmental Issues
4.6 Owner, Property Manager, and Occupant Information
4.7 Reason for Performing *Phase I ESA*
4.8 Other

Section 5 - Records Review
5.1 Standard Environmental Record Sources
5.2 Additional Environmental Record Sources
5.3 Physical Setting Source(s)
5.4 Historical Use Information on the *Property*
5.5 Historical Use Information on Adjoining Properties

Section 6 - Site Reconnaissance
6.1 Methodology and Limiting Conditions
6.2 General Site Setting
6.3 Exterior Observations
6.4 Interior Observations

Section 7 - Interviews
7.1 Interview with Owner
7.2 Interview with Site Manager
7.3 Interviews with Occupants
7.4 Interviews with Local Government Officials
7.5 Interviews with Others

Section 8 - Evaluation and Report Preparation (see ASTM E1527-05/13 Section 12)
8.1 Findings (see ASTM E 1527-05/13 Section 12.5)
8.2 Opinion (see ASTM E 1527-05/13 Section 12.6)
9.3 Additional Investigation (see ASTM E 1527-05/13 Section 12.6.1)
9.4 Data Gaps (see ASTM E 1527-05/13 Section 12.7)
9.5 Conclusions (see ASTM E 1527-05/13 Sections 12.8.1 and 12.8.2)
9.6 Additional Services (see ASTM E 1527-05/13 Sections 12.9)
9.7 Limiting Conditions/Deviations (see ASTM E 1527-05/13 Section 12.10)
9.8 References (see ASTM E 1527-05/13 Section 12.11)
9.9 Signature(s) of Environmental Professional(s) (see ASTM E 1527-05/13 Section 12.12)
9.10 Qualification(s) of Environmental Professional(s) (see ASTM E 1527-05/13 Sections 12.13)

Section 9 - Non-Scope Considerations
9.1 Friable and Non-friable Asbestos Containing Materials (ACMs)
9.2 Lead-Based Paint
9.3 Formaldehyde Insulation
9.4 Radon Gas
9.5 100-year Floodplain
9.6 Wetlands
9.7 EMF
9.8 High Pressure Buried Gas Lines
9.9 Noise analysis
9.10 Vapor Encroachment Screen, ASTM E 2600-10.

Section 10 - Appendices
10.1 Site (Vicinity) Map
10.2 Site Plan
10.3 Site Photographs
10.4 Historical Research Documentation (aerial photographs, fire insurance maps, historical topographical maps, street directories, etc.)
10.5 Regulatory Records Documentation
10.6 Interview Documentation
10.7 Special Contractual Conditions between User and Environmental Professional (ACM, LBP, radon, floodplain, wetlands, EMF, etc.)
10.8 Qualification(s) of the Environmental Professional(s)
10.9 MSHDA Phase I Letter of Reliance
10.10 Copy of Environmental Professional Insurance Certificates

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) ENVIRONMENTAL REVIEW FACT SHEET

Applicants applying to MSHDA's RDD applying for federal funds (HOME, Project Based Vouchers, Community Development Block Grant, etc.) are required to undergo the HUD environmental review process, commonly referred to as NEPA. The level of environmental review is determined by the scope and nature of proposed activities, as detailed in HUD 24 CFR Part 58.

This FAQ explains more about the environmental review process.

The environmental review procedures cover numerous and varied considerations, and can take a significant amount of time and effort to complete. Starting EARLY is a necessity.

This fact sheet is not intended as a stand-alone document concerning NEPA and the environmental review process. As an overview, this fact sheet explains the NEPA process but is not intended to be comprehensive, other requirements may be required to be submitted for review and compliance.

Responsible Entity under Part 58

A "Responsible Entity" under HUD CFR Part 58 is the state or local unit of government from which federal funds originate. For the purposes of multi-family projects submitted to MSHDA's RDD, MSHDA is the RE. The RE is never the sponsor, development group, Limited Dividend Housing Association, environmental consultant, or other entity submitting an application.

DETERMINING THE LEVEL OF ENVIRONMENTAL REVIEW

24 CFR Part 58 provides guidance for conducting the environmental review process. Every project requires some level of environmental review. There are five levels of environmental review to consider:

1. Exempt
2. Categorically Excluded, Not Subject To 58.5 (CENST)
3. Categorically Excluded, Subject To 58.5 (CEST)
4. Environmental Assessment (EA)
5. Environmental Impact Statement (EIS)

In general...

- Most all applications will require some level of environmental review.
- Very few applications initially qualify as being Exempt.
- Most rehab projects qualify for an initial determination as Categorically Excluded, Subject to 58.5.
- All new construction projects will require an Environmental Assessment.

Exempt Activities (24 CFR 58.34)

Exempt activities have no physical impact or result in no physical change on the environment. Other than documenting the level of review as Exempt, the RE does not have to comply with actions under NEPA and other provisions of laws or authorities cited in §58.5. Funds from any source may be used for Exempt activities after the finding of exemption is documented in the review record. The following activities are Exempt under §58.34:

1. Environmental and other studies, resource identification and development of plans and strategies;
2. Information and financial services;
3. Administrative and management activities;
4. Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
5. Inspections and testing of properties for hazards or defects;
6. Purchase of insurance;
7. Purchase of tools;
8. Engineering or design costs;
9. Technical assistance and training;
10. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
11. Payment of principal and interest on loans made or obligations guaranteed by HUD;
12. **Any of the categorical exclusions listed in §58.35(a) provided there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5.**

Categorically Excluded Activities (24 CFR 58.35) – 2 classifications

If an activity is not determined Exempt, the RE must determine if it is Categorically Excluded. Categorically Excluded activities are those *excluded from NEPA requirements, but may be subject to review under other Federal laws and authorities listed in 24 CFR 58.5.* There are two

classifications of Categorically Excluded activities; those listed under **§58.35 (a)** and those listed under **§58.35(b)**.

(a) 58.35(a) Categorically Excluded Activities SUBJECT TO §58.5 (CEST):

The following activities may be subject to review under authorities listed in §58.5:

1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
3) Rehabilitation of buildings and improvements when the following conditions are met:
    a. In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland.
    b. In the case of multifamily residential buildings:
        i. Unit density is not changed more than 20 percent;
        ii. The project does not involve changes in land use from residential to non-residential; and
        iii. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
    c. In the case of non-residential structures, including commercial, industrial and public buildings:
        i. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
        ii. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
4) (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or combination in between; or

    (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

    (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

6) Combinations of the above activities.

(b) <u>58.35(b)</u> Categorically Excluded Activities <u>NOT SUBJECT TO</u> §58.5 (CENST):

HUD has determined the following activities do not alter any conditions requiring a review of compliance determination under Federal laws and authorities cited in §58.5:

1) Tenant-based rental assistance;
2) Supportive services including, but not limited to, health care, housing services, 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;
3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy-downs, and similar activities that result in the transfer of title;
6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact; and
7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under §58.47.

Applications for new construction are neither Exempt nor Categorically Excluded and will require a full Environmental Assessment (24 CFR 58.36).

<u>Environmental Assessment (EA) (24 CFR 58.36)</u>

If a project is not Exempt or Categorically Excluded, an *Environmental Assessment* is required. The purpose of the EA is to determine the significance of environmental effects and to assess alternative means to achieve an RE's objectives. Once actual and potential impacts of project alternatives are identified, the RE must then assess if mitigation measures are needed to undertake the project. It is at this point that the RE is capable of determining if the project is generally feasible with the ability to identify the most suitable project alternative to meet the needs of the RE and its beneficiaries. If significant impacts are anticipated with no reasonable means of mitigation apparent, the RE may reject the project or complete an Environmental Impact Statement (EIS). In all circumstances, the EA must provide sufficient evidence and

analysis for determining whether to prepare an EIS.

Statutory Checklist Laws and Related Authorities

Categorically excluded projects, which include **MOST ALL** of the initial submissions to MSHDA Rental Development, must demonstrate compliance with the following federal laws and related authorities through completion of the NEPA statutory checklist. The NEPA statutory checklist must be completed by a Environmental Professional qualified to conduct such a review from MSHDA's "Group B" Qualified Consultant List.

☐ **Historic Properties (16 USC 470 Section 106):**

- Cover letter to SHPO
- Letter(s) to tribes
- SHPO Section 106 Project Information Form
- Attachments to Section 106 Form
- SHPO response letter(s) – always responds
- Tribal response letter(s) – may not respond
- Cultural Resource Survey, if applicable
- Memorandum of Agreement, if applicable, or documentation of other mitigation measures as agreed to by all consulting parties

☐ **Floodplain Management (EO 11988):**

- FEMA Flood Insurance Rate Map (FIRM) map or FEMA FIRMette Map w/ project keyed
- If not in floodplain, nothing more required. EA/Statutory Checklist form must be complete.
- If in floodplain, HUD 8-Step Process may be required. Engineer/architect is resource for help.

☐ **Flood Insurance (24 CFR Part 55)** (Particularly relevant if project lies in floodplain. The participating community where the subject property is located must be a member in good standing with NFIP if project is in floodplain. If not in floodplain, documentation should still be attached.)

- Page(s) from FEMA Community Status Book for NFIP status
- Other:

☐ **Wetland Protection (EO11990)** (If project is in a wetland, the HUD 8-Step Decision Making Process applies.)

- Color US Fish & Wildlife (US F&W) National Wetlands Inventory (NWI) Map
- Letter & attachments to US F&W)
- MDEQ response
- Permitting requirements, as applicable
- Other:

☐ **Coastal Zone Management (16 USC 1451, Section 307)**

- MDEQ website; attach documentation
- Document compliance

☐ **Airport Hazards (24 CFR Part 51, Subpart D)** - Protection of project & project beneficiaries from airport accident areas.

- Maps indicating nearest airports in relation to the project area
- If project proposed w/in thresholds of airport accident areas, HUD process that must be completed

☐ **Endangered Species (50 CFR Part 402)** - Includes threatened and endangered plants and animals, and their habitat.

- Letter & attachments to US F&W for Federally designated species
- Response from US F&W
- Conditions by agencies, as applicable

☐ **Wild & Scenic Rivers (16 USC 1271)** -Project impacts to designated rivers & river segments; impacts to project by rivers & river segments.

- Federally designated river- Website documentation & map river in relation to project

☐ **Farmland Protection (7 CFR Part 658)** - Does project convert prime or unique farmland to other uses.

- Color aerial photograph of project area and surrounding area
- Letter & attachments to USDA Natural Resources Conservation Services (NRCS), including Farmland Conversion Impact Rating Form AD 1006
- All correspondence from USDA NRCS
- Mitigation measures recommended

☐ **Noise Control (24 CFR 51 Subpart B)** –Noise made by project, noise around the project, construction noise.

- Color aerial photograph
- Color photos of project site & surrounding area
- Color maps showing project in relation to noise sources or sensitive noise uses
- Field visit checklist or other form of documented site visit
- Noise Assessment, if applicable
- Noise attenuation measures, as appropriate

☐ **Explosive & Flammable Operations (24 CFR Part 51, Subpart C)** – Hazards by the project and/or project subjected to nearby hazards.

- Field visit checklist or other form of documented site visit
- Color photographs of project site & adjacent sites
- Statement from fire department/fire marshal
- Statement from local emergency management agency/individual
- HUD Acceptable Separation Distance calculations, if applicable
- Mitigation measures, if applicable

☐ **Sole Source Aquifers (40 CFR Part 149)**

- One in Michigan; not used.

☐ **Air Quality** (Air emissions from project or project subjected to air emissions).

- EPA designated non-attainment areas from EPA website
- EPA/ DEQ air permits or permitting requirements
- Conformance with local air codes, ordinances, & standards by finished project & construction activities

- Documentation whether project will begin a trend of poor air quality standards
- Odors and fumes from project or impacting project
- Radon test and results and mitigation, if applicable
- Mold contamination, inspection and report and mitigation, if applicable
- Asbestos -Under Air Quality in Statutory Checklist. EA has an Asbestos Section. Includes inspections, sampling, testing, reports, & mitigation for buildings, water/sewer pipes, boiler/plumbing wrap, interior/exterior buildings, some bridges, etc.

☐ **Contamination & Toxic Substances (24 CFR 58 (5)(i)(2)**: Contamination by the project or impacts to the project.

- MSHDA scoped Phase I Environmental Site Assessment (ESA)
- Consider contamination to/of: Groundwater, Air, Surface Water, Vapor Encroachment, Soil
- ASTM Phase II ESA, if applicable
- Response Activity Plan to DEQ, if applicable
- BEA/Due Care to DEQ, if applicable
- No Further Action letter, if applicable

☐ **Environmental Justice (EO 12898)** - Last section for Statutory Checklist. Disproportionately high adverse impacts to low income & minority persons.

- Planning and zoning information, if available
- Public involvement in the project (should coincide with citizen participation in an EA)
- Map or other documentation to show if project occurs on or near low income or minority neighborhood
- Positive and negative impacts to people by the project

Conclusion

This document provides an overview of the "NEPA review" process. This process is required for all applications requesting federal money. Sponsors should contract for completion of this review with an environmental professional approved for conducting a NEPA review from MSDHA's qualified consultant list[i].

If you have any questions, please contact MSHDA's Environmental Review unit.

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[i] http://www.michigan.gov/mshda/0,4641,7-141-5587_22721---,00.html