

# Emergency Solutions Grants Environmental Clearance

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June 3, 2020

## Speakers

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Please save questions for the end of the presentation.

## **Topics for today's discussion**

- Environmental Overview
- Project types and related level of reviews
- Maintenance vs Rehab
- Environmental review expectation for ESG annual and ESG CARES contract
- Contracting requirements
- Requirements during rehabilitation/renovation/conversion
- Long-term requirements

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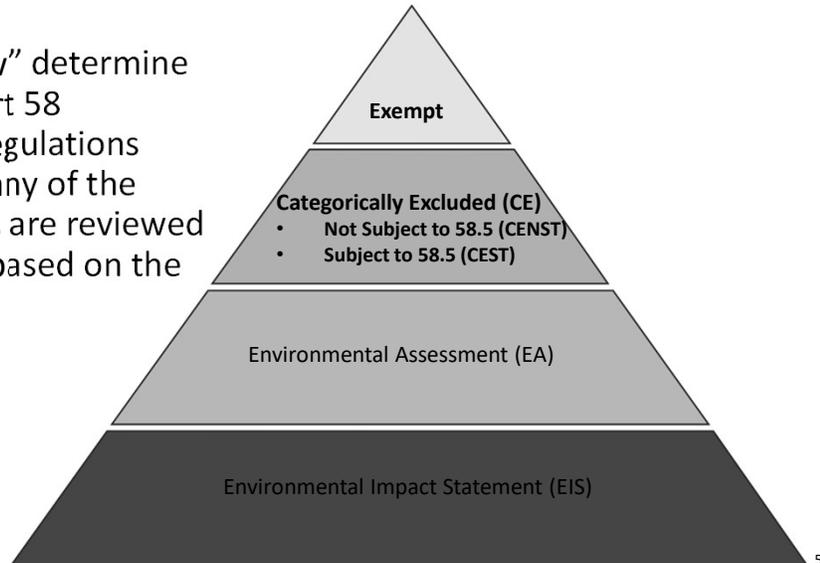
## **Environmental Overview: What is NEPA?**

- The National Environmental Policy Act (NEPA) of 1969 was enacted by Congress to ensure that federal agencies consider and address environmental impacts resulting from the activities and projects they sponsor
  - All Federal Agencies were charged with developing their own set of environmental regulations that implement NEPA
- HUD's Environmental Regulations are found at 24 Code of Federal Regulation (CFR) Part 58
  - ESG Program is subject to 24 CFR Part 58
- The type of ESG activities determine the "Level of Review" under 24 CFR Part 58, and "Level of Review" dictates how an environmental review is compiled.

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## 24 CFR Part 58 – What are the “Levels of Review”

“Levels of Review” determine which 24 CFR Part 58 environmental regulations apply, or how many of the NEPA regulations are reviewed for compliance, based on the funded activity.



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### Levels of review: Applicable NEPA - Related Laws and Authorities

#### Exempt and CE (Not Subject to 58.5)

##### §58.6 Laws and Authorities

- Airport Hazards (Runway Clear Zones/Accident Potential Zones)
- Coastal Barrier Resources
- Flood Insurance

#### CE (Subject to 58.5)

- §58.6 Laws and Authorities
- Clean Air
- Coastal Zone Management
- Contamination & Toxic Substances
- Endangered Species
- Explosive and Flammable
- Farmlands Protection
- Floodplain Management
- Historic Preservation
- Noise Abatement & Control
- Sole Source Aquifers
- Wetlands Protection
- Wild & Scenic Rivers
- Environmental Justice

#### Environmental Assessment

- §58.6 Laws and Authorities
- § 58.5 Laws and Authorities
- Environmental Assessment Factors

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## Examples of types of projects and “Level of Review”

Types of Projects	Level of Review	Timeline for completion of Review
Tenant Based Rental Assistance, Supportive Services, Operating Costs	Categorically Excluded NOT Subject to 58.5	30 minutes – an hour
Leasing, Rehabilitation, Project Based Rental Assistance	Categorically Excluded Subject to 58.5	Potentially 65 – 100 days including publication
Major Rehabilitation, expansion of building	Environmental Assessment	75 – 110 days including publication

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### **Categorically Excluded NOT Subject to 58.5 (CENST) - ESG activities**

- Types of ESG activities that would be CENST
  - **Tenant Based Rental Assistance (TBRA)**
  - **Operating Costs** - including **maintenance**, security, operations, utilities, furnishings, equipment, supplies, staff training & recruitment & other incidental costs
  - **Supportive Services** - nutrition classes, day care, short term payments for rent/mortgage/utility costs, permanent housing placement, housing services, health care, gaining access to local, State, Federal government benefits and services
  - **Public Services** - Child Care, Education Services, Employment assistance and job training, Outpatient health services Life Skills Training, Mental Health Services, Substance Abuse Treatment Services
  - **Administration**
  - **Environmental**
  - **Inspection/Testing**
  - **Training**

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## **Categorically Excluded Subject to 58.5 (CEST) - ESG activities**

- Rehabilitation/Additions
  - Renovations
  - Repair of fixed appurtenances
  - Leases
    - emergency shelter space
    - office space
  - Project Based Rental Assistance
- This is a higher and more intense level of environmental review
    - It may require a publication of required notices and approval through HUD Fort Worth.
  - This process can take from 65 to 100 days before environmental clearance is achieved.
  - You CANNOT incur any costs on these activities until environmental clearance is achieved

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## **Maintenance (CENST) vs. Rehabilitation/Renovation (CEST)**

- When making an environmental determination, distinguishing between maintenance activities and more extensive repair and rehabilitation activities requires careful consideration.

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## HUD guidance on categorizing maintenance and rehabilitation

- HUD guidance reflected in Notice CPD-16-02 Issued February 8, 2016 - “Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58”
  - <https://www.hudexchange.info/resource/3197/guidance-categorizing-activity-as-maintenance-environmental-regulations-24-cfr-parts-50-and-58/>

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## Maintenance

- In general, maintenance activities slow or halt deterioration of a building and do not materially add to its value or adapt it to new uses.
  - While maintenance is often budgeted as an operating expense, and repairs and rehabilitation are treated as capital expenses, it is the nature of the activity itself, not its budget category that determines whether it qualifies as maintenance for environmental review purposes.
  - Simultaneous maintenance work in multiple units or buildings is still considered maintenance, however, deferred maintenance that now requires extensive repairs and rehabilitation does not qualify as maintenance.

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**Maintenance - General examples of maintenance activities for environmental review purposes:**

- Cleaning activities, painting (not patching drywall);
- Protective or preventative measures to keep a building, its systems, and its grounds in working order (such as pest control);
- Replacement of appliances that are not permanently affixed to the building (such as a refrigerator);
- Periodic replacement of a limited number of component parts of a building feature or system that are subject to normal wear and tear;
- Replacement of a damaged or malfunctioning component part of a building feature or system (replacing A/C condenser unit).
  - Replacement of all or most parts or an entire system is not maintenance (replacing HVAC system)

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**Examples of Maintenance Activities**

**Issue: Tree falls on a home**



**Q: Is remove tree and patching the roof maintenance?**



**A: YES!**

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## Examples of Maintenance Activities

**Issue: Damaged Carpet**



**Q: Is patching the carpet maintenance?**



**A: YES!**

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## Examples of Maintenance Activities

**Issue: Leaky Window**



**Q: Is replacing the window maintenance?**



**A: NO!**

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## Rehabilitation/Renovation

- Defining “Rehabilitation/Renovation” for 24 CFR Part 58 purposes
  - In general, an activity that **does** materially add to the value of the building, appreciably prolong its useful life, or adapt it to new uses would be considered rehabilitation/renovation.
  - Rule of thumb, if it involves ground or interior disturbance, its rehab
  - “Repair” - for environmental purposes, there is no minimum level. Minor repair, minor rehabilitation, and major rehabilitation all fall under rehabilitation.

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### Rehabilitation/Renovation - General examples of for environmental review purposes:

- replacing fixtures, such as the HVAC system
- replacing a roof
- Installation of new plumbing system
- Rewiring of electrical systems
- Bathroom remodel
- Installing new wood flooring

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## Notice CPD-16-02 Examples of maintenance vs. rehabilitation activities

Feature or System	Maintenance Activities <sup>4</sup>	Rehabilitation Activities <sup>5</sup>
Site	<ul style="list-style-type: none"> <li>•Lawn care (litter pick-up, mowing, raking), trimming trees &amp; shrubs</li> <li>•Snow/ice removal</li> <li>•Neighborhood cleanup</li> <li>•Application of pavement sealants, parking lot restriping, directional signage or marking for handicapped accessibility</li> <li>•Repair of cracked or broken sidewalks</li> </ul>	<ul style="list-style-type: none"> <li>•New landscaping throughout an area</li> <li>•Construction of new walkways, driveways or parking areas or replacement thereof</li> </ul>
Building Exterior	<ul style="list-style-type: none"> <li>•Cleaning &amp; fixing gutters &amp; downspouts</li> <li>•Repainting previously painted surfaces (including limited wet scraping and low pressure washing)</li> <li>•Replacing deteriorated section of siding</li> <li>•Removal of graffiti</li> </ul>	<ul style="list-style-type: none"> <li>•Cleaning masonry or stripping painted surfaces by sandblasting, acid wash, or high pressure washing</li> <li>•Applying new exterior siding</li> </ul>
Roof	<ul style="list-style-type: none"> <li>•Fix leaks</li> <li>•Application of waterproof coating to a flat roof</li> <li>•Replacement of deteriorated flashing</li> <li>•In-kind replacement of loose or missing shingles</li> </ul>	<ul style="list-style-type: none"> <li>•Complete replacement of roof with new shingles, tiles, roll roofing, membrane, or metal roof</li> <li>•Installation of solar panels</li> </ul>
Windows	<ul style="list-style-type: none"> <li>•Washing windows</li> <li>•Caulking, weather stripping, re-glazing windows and doors</li> <li>•Fixing broken windowpane(s), storm window(s) or damaged entry door</li> <li>•Replacing broken door lock</li> <li>•Replacing a vandalized entry door to restore security of a building or unit</li> <li>•Replace a single severely damaged window to match</li> <li>•Annual switch out of storm &amp; screen panels</li> </ul>	<ul style="list-style-type: none"> <li>•Replacement of windows</li> <li>•Replacement of exterior doors</li> <li>•Adding storm windows or storm doors</li> </ul>

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## Notice CPD-16-02 Examples of maintenance vs. rehabilitation activities

Feature or System	Maintenance Activities <sup>4</sup>	Rehabilitation Activities <sup>5</sup>
Interior Walls and Ceilings	<ul style="list-style-type: none"> <li>•Patching or mending cracked plaster</li> <li>•Patching or fixing holes or cracks in drywall</li> <li>•Replacing stained ceiling tiles</li> <li>•Painting or wallpapering</li> </ul>	<ul style="list-style-type: none"> <li>•Installation of new drywall or paneling</li> <li>•Installation of new acoustical ceiling</li> <li>•Installation of dropped ceilings</li> </ul>
Flooring	<ul style="list-style-type: none"> <li>•Cleaning floors</li> <li>•Stripping wooden floors &amp; resealing</li> <li>•Installation or replacement of carpeting or vinyl flooring*</li> </ul>	<ul style="list-style-type: none"> <li>•Installation of new wood floor</li> </ul>
Circulation	<ul style="list-style-type: none"> <li>•In-kind replacement of broken stair treads or balusters</li> <li>•Inspection &amp; servicing of elevators</li> </ul>	<ul style="list-style-type: none"> <li>•Rebuilding stair or constructing new stair</li> <li>•Installation of new access ramp</li> <li>•Elevator replacement</li> </ul>
Kitchen	<ul style="list-style-type: none"> <li>•Replacement of stoves, refrigerators, and microwaves*</li> <li>•Replacing cabinet hardware*</li> </ul>	<ul style="list-style-type: none"> <li>•Complete or substantial kitchen remodel</li> </ul>
Bathroom/Laundry	<ul style="list-style-type: none"> <li>•Unclogging sink or toilet</li> <li>•Replacing deteriorated toilet in an occupied housing unit*</li> <li>•Replacing broken medicine cabinet*</li> <li>•Replacing washing machines and dryers*</li> <li>•Installation of grab bars</li> </ul>	<ul style="list-style-type: none"> <li>•Complete or substantial bathroom remodel</li> </ul>
HVAC	<ul style="list-style-type: none"> <li>•Servicing &amp; maintenance of mechanical systems</li> <li>•Changing air filters</li> <li>•Cleaning air ducts</li> <li>•Installing or replacing a window air conditioner</li> <li>•Replacing a malfunctioning part of a HVAC system like a thermostat*</li> </ul>	<ul style="list-style-type: none"> <li>•Installation of new furnace or heat distribution system</li> <li>•Installation of central air conditioning</li> </ul>
Electrical/Lighting	<ul style="list-style-type: none"> <li>•Changing light bulbs</li> <li>•Replacing malfunctioning light fixture, electrical switch or outlet*</li> </ul>	<ul style="list-style-type: none"> <li>•Major rewiring of building</li> <li>•Installation of new electrical service</li> <li>•Replacing or moving electrical panels</li> </ul>

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## Notice CPD-16-02 Examples of maintenance vs. rehabilitation activities

Feature or System	Maintenance Activities <sup>4</sup>	Rehabilitation Activities <sup>5</sup>
Plumbing	<ul style="list-style-type: none"> <li>•Fixing plumbing leaks*</li> <li>•Repairing damage from frozen pipes*</li> <li>•Repairing water or sewer connection within existing utility trench alignment</li> <li>•Replacing malfunctioning water heater*</li> </ul>	<ul style="list-style-type: none"> <li>•Installation of new plumbing system</li> <li>•New water or sewer connection</li> </ul>
Security	<ul style="list-style-type: none"> <li>•Repair of security alarm systems</li> <li>•Boarding up a vacant building with protective plywood</li> <li>•Installation of temporary security fencing</li> <li>•Installation of security devices needed for an individual health facility patient</li> </ul>	<ul style="list-style-type: none"> <li>•Installation of permanent security bollards</li> <li>•Installation of new security alarm system</li> </ul>
Life Safety	<ul style="list-style-type: none"> <li>•Servicing smoke, fire &amp; CO2 detectors</li> <li>•Installation of smoke, fire &amp; CO2 detectors</li> </ul>	<ul style="list-style-type: none"> <li>•Making substantial physical changes to a building to comply with fire &amp; life safety codes</li> <li>•Installing fire suppression system</li> </ul>
Pest Infestation	<ul style="list-style-type: none"> <li>•Pest inspection/treatment</li> </ul>	

\* These maintenance items may require purchase of flood insurance if they occur in a Special Flood Hazard Area (SFHA), and costs exceed the standards deductible of the specific type of structure or unit under the National Flood Insurance Program (NFIP).

4. Categorically Excluded from NEPA & not subject to the related authorities listed in 24 CFR 58.5 unless Extraordinary Circumstances apply pursuant to 24 CFR 58.35(c)

5. Generally Categorically Excluded from NEPA and generally require review under related authorities listed in 24 CFR 58.5, but an RE or HUD reviewer may make a determination that an EA or EIS is required due to individual project circumstances.

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## Expectations regarding environmental reviews for my ESG annual or ESG CARES contract

- **Q: Ultimately, who is responsible for ensuring the environmental review is processed correctly and timely?**
- **A: The Responsible Entity (RE).**
  - Part 58 authorizes “units of general local government” to conduct environmental reviews and they are known as the Responsible Entity.
    - If the subrecipient is a city or county, they are the Responsible Entity.
    - If the subrecipient is a non-profit organization, TDHCA is the Responsible Entity.
- Traditionally, the environmental review is completed by the Responsible Entity's staff, program partners (the non-profit organization), and/or a hired consultant, for example.

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## What will the subrecipients be submitting to TDHCA?

To expedite the environmental reviews, for private non-profit organizations, TDHCA as RE will be assembling the environmental reviews on their behalf

Local units of government:  
Subrecipients as RE will be providing signed checklists to TDHCA for review.

- It is the responsibility of the ESG annual and ESG CARES subrecipient, to timely respond to requests for additional documentation.
- Responsibilities of the RE are to fill out the checklists, provide the support documentation, and to timely respond to requests for additional documentation.
- TDHCA staff cannot sign checklists and documents reserved for another RE.
- TDHCA staff will offer assistance with completion of form(s).

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## CENST checklists and support documentation

- Part 58 Environmental Review - Exempt or Categorically Excluded (Not Subject to 58.5)
  - <https://www.hudexchange.info/resource/3141/part-58-environmental-review-exempt-or-censt-format/>
  - Include what ESG activities are being proposed to accomplish with the funds and if you choose to move funding around within the contract period, what you might accomplish. (We're building in flexibility for this possible adjustment)
- Support Documentation
  - Map of service area
  - Map of Coastal Barrier Resource Area (if applicable to service area)

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## CEST checklists and support documentation

- HUD form(s): Part 58 Environmental Review - Format for Activities Categorically Excluded under 58.35(a) (CEST)
  - <https://www.hudexchange.info/resource/3139/part-58-environmental-review-cest-format/>
  - Include what ESG activities are being proposed to accomplish with the funds and if you choose to move funding around within the contract period, what you might accomplish. (We're building in flexibility for this possible adjustment)
- Support Documentation will depend on activity, but the CEST checklist consist of 12 laws and authorities.
  - Contact TDHCA environmental for assistance with this level of review: [environmental@tdhca.state.tx.us](mailto:environmental@tdhca.state.tx.us)

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## Choice Limiting Actions

You Must Obtain Environmental Clearance before engaging in a "Choice Limiting Action"

- Examples of Choice limiting actions -
  - execution of contracts,
  - real property acquisition,
  - Loan closing,
  - leasing (project based rental assistance, shelter leases or renewals),
  - disposition,
  - demolition,
  - rehabilitation,
  - repair,
  - site improvements



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## 24 CFR 58.22 - Limitations on activities pending clearance

- (a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in Sec. 58.1(b) on an activity or project until HUD or the state has approved the recipient's Request for Release of Funds and Certification (RROF) and the related certification from the responsible entity.
- In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in Sec. 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

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## Rehabilitation/Renovation/Conversion Contracting Requirements

Additional documentation required before contracting:

- Project description of the renovation, including budget;
- Proof of monetary value assigned to the building, from an independent real estate appraiser;
- Proof of ownership or notice from the owner that the Applicant has rights to perform renovation; and
- Letter from owner\* that renovation funds will be subject to a 3-10 year Land Use Restriction Agreement after completion of the renovation.

\*The owner of the emergency shelter must be a government entity or private nonprofit.

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## Rehabilitation/Renovation/Conversion Environmental Clearance

- Cannot incur costs for any emergency shelter activity before environmental clearance is received, including:
  - Essential services
  - Operations

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## Land Use Restriction Agreement (LURA)

The LURA's length depends on the amount of rehabilitation/conversion/renovation:

- *Major rehabilitation.* Rehab costs exceeds 75 percent of the value of the building before rehabilitation:
  - 10 years LURA
- *Conversion.* Conversion cost exceeds 75 percent of the value of the building after conversion
  - 10 year LURA
- *Renovation other than major rehabilitation or conversion.*
  - 3 year LURA

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## **Rehabilitation/Renovation/Conversion Review before Start**

You must submit a document for a construction plan review to TDHCA.

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## **During Rehabilitation/Renovation/Conversion**

- 24 CFR §576.408, Persons may be eligible for *Assistance required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)*.
- Costs may include relocation payments and other assistance to persons displaced by a project assisted with ESG funds.

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### **Section 3 requirements**

- Employment Opportunities for Low-Income People (HUD Section 3) encourages funding recipients to document procedures and practices currently used, or to better utilize those currently available, to maximize community benefits and economic opportunities for low-income persons and households.
- <https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

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### **After Rehabilitation/Renovation/Conversion**

- Within 30 calendar days after rehabilitation/renovation/conversion:
  - Subrecipient must request a final construction inspection.
- The inspection will cover:
  - Shelter and Housing Standards
  - Uniform Physical Construction Standards
  - 2000 International Residential Code (or municipality adopted later version)
  - Minimum Energy Efficiency Requirements for Single Family Construction Activities
  - the Accessibility Standards in Chapter 1, Subchapter B, as applicable for the Homeless Program and activity

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# Thank you

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FOR QUESTIONS RELATED TO THE  
ENVIRONMENTAL CONTENT, PLEASE EMAIL  
[ENVIRONMENTAL@TDHCA.STATE.TX.US](mailto:ENVIRONMENTAL@TDHCA.STATE.TX.US)

FOR QUESTIONS RELATED TO ESG  
PROGRAM, PLEASE EMAIL  
[ESG@TDHCA.STATE.TX.US](mailto:ESG@TDHCA.STATE.TX.US)



STATE OF TEXAS  
DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS



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

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Special Attention of:

Regional Directors  
Field Office Directors  
CPD Division Directors  
Regional Environmental Officers  
Responsible Entities  
Healthcare Directors  
PIH Staff  
Public Housing Agencies  
Program Environmental Clearance Officers  
Multifamily Office Directors  
Multifamily Regional Center Directors  
Multifamily Satellite Office Directors

**Notice:** CPD-16-02

Issued: February 8, 2016

Expires: This Notice is effective until amended, superseded, or rescinded.

Supersedes: March 28, 2006 CPD policy memorandum on this subject

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**SUBJECT: Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58**

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**I. Purpose and Background**

This Notice provides guidance on categorizing an activity as maintenance for purposes of compliance with HUD's environmental regulations, 24 CFR Parts 50 and 58. Under 24 CFR 50.19(b)(13) and 58.35(b)(3), maintenance is categorically excluded from environmental assessment under the National Environmental Policy Act (NEPA) and not subject to compliance requirements of the related federal environmental laws in 24 CFR 50.4 and 24 CFR 58.5, including the National Historic Preservation Act of 1966. Similarly, 24 CFR 50.19(b)(21) excludes refinancing of HUD-insured mortgages from NEPA and the related laws if associated physical impacts are limited to routine maintenance, and do not include new construction or rehabilitation. HUD-assisted maintenance activities do not affect the environment, and do not require compliance with federal environmental laws, other than the Coastal Barrier Resources Act<sup>1</sup> and sometimes the National Flood Insurance Program. The Responsible Entity (RE) or HUD reviewer must make a determination of the level of environmental review required for every project and document it in the Environmental Review Record (ERR) before any project activities may occur, including activities determined to be Categorically Excluded and not subject to related laws under the provisions of this Notice.

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<sup>1</sup> The Coastal Barrier Resources Act prohibits HUD assistance in the designated Coastal Barrier Resources System.

## **II. Applicability**

This Notice applies to HUD activities that require an environmental review. HUD activities include grants, loans, financing, subsidies, insurance, and approvals. Some HUD activities do not require an environmental review.<sup>2</sup> The guidance in this Notice describes how Responsible Entities and HUD reviewers should interpret maintenance in the environmental review of HUD-assisted, HUD-insured, and HUD-subsidized activities, including those in Community Planning and Development (CPD), Housing, and Public and Indian Housing (PIH). It is not meant to define maintenance for other program purposes.

When making an environmental determination, distinguishing between maintenance activities and more extensive repair and rehabilitation activities requires careful consideration. The information provided below will assist in determining whether an activity is maintenance and therefore exempt from further environmental review, or, if it is rehabilitation and therefore requires further environmental review, which in most cases will be review under the authorities other than NEPA listed in 24 CFR 50.4 and 58.5.

## **III. Discussion**

In general, maintenance activities slow or halt deterioration of a building and do not materially add to its value or adapt it to new uses. Sometimes, maintenance of a building feature or system requires periodic replacement of individual component parts that are subject to normal wear and tear. While maintenance is often budgeted as an operating expense, and repairs and rehabilitation are treated as capital expenses, it is the nature of the activity itself, not its budget category that determines whether it qualifies as maintenance for environmental review purposes.<sup>3</sup> Simultaneous maintenance work in multiple units or buildings is still considered maintenance.

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<sup>2</sup> Consult Program Environmental Clearance Officers (PECOs) for information on which program activities do not require environmental review. For example, issuance of Single Family FHA mortgage insurance in the 203(k) program does not require environmental review. For some programs, like Multifamily Section 223(a)(7) refinancing transactions, the environmental review can be done on a programmatic basis so that individual reviews are not necessary.

<sup>3</sup> For example, Public Housing activities assisted with Capital Funds and Operating Funds are subject to environmental review requirements pursuant to 24 CFR 905.308(b)(2) and 24 CFR 990.116 respectively. Although minor repairs and replacements are often budgeted as a PIH operating expense in accordance with section 9(g) of the United States Housing Act of 1937, some minor repairs and replacements may be considered rehabilitation for environmental review purposes. Likewise, nonroutine maintenance as defined in 24 CFR 905.200(b)(5) is not maintenance for environmental review purposes. In addition, the following activities are not considered maintenance in PIH assisted programs: (1) Modernization (as defined in 24 CFR 905.200(b)(4), (5), (6), (9), (11), (12)(ii) and (vii)(A), (B), and (E), (14)(iii), (iv), (v), and (vi) and (18) and (2) Development activities (as defined in 24 CFR part 905, subpart F). If maintenance activities are done as part of a broader modernization or development activity, then the entire activity would generally be considered as modernization or development and not maintenance for purposes of environmental review compliance.

For environmental review purposes, deferred maintenance that has resulted in a need for extensive repairs and rehabilitation does not qualify as maintenance. If items that would otherwise be considered maintenance are done as part of an extensive remodeling or renovation of a building that amounts to rehabilitation, the entire job is considered rehabilitation. Depending on the extent of damage, activities performed after a disaster event will typically not be considered maintenance.

General examples of maintenance activities for environmental review purposes:

- (1) Cleaning activities;
- (2) Protective or preventative measures to keep a building, its systems, and its grounds in working order;
- (3) Replacement of appliances that are not permanently affixed to the building;
- (4) Periodic replacement of a limited number of component parts of a building feature or system that are subject to normal wear and tear;
- (5) Replacement of a damaged or malfunctioning component part of a building feature or system. (Replacement of all or most parts or an entire system is not maintenance.)

For specific examples of activities that do and do not qualify as maintenance, see the attached Table. Responsible Entities and HUD reviewers should use the Table and the general examples above, taking into account the scope and extent of the activity, to properly categorize activities as maintenance for environmental review purposes.

#### **IV. Scope of Review for Rehabilitation**

When a Responsible Entity or HUD reviewer makes a determination that project activities are rehabilitation and therefore require compliance with related environmental laws and authorities, the scope of the environmental review may be limited if the work is minor and does not involve ground disturbance. Consult Regional Environmental Officers, Field Environmental Officers, and Program Environmental Clearance Officers for information and examples of Environmental Review Record documentation for limited reviews. The scope of an environmental review relates to the nature and extent of the rehabilitation activities. Some activities, especially those limited to interior spaces, may not have the potential to affect the natural environment, and therefore not require analysis under some of the related laws and authorities like those addressing Wild and Scenic Rivers, Endangered Species, Farmland Protection, or Protection of Wetlands. A reviewer can quickly document such instances in the Environmental Review Record, and focus effort and further analysis on those environmental areas that may be impacted by a project. In residential rehabilitation, those typically include Floodplain Management, Historic Preservation, Noise Abatement, Toxic Chemicals and Radioactive Materials. Historic Preservation review (Section 106) may be expedited through Programmatic Agreements and other program alternatives.

It is also possible to group multiple years of expected activities into one environmental review. For instance, rehabilitation activities could be outlined in a 5-year environmental review for a property and be reviewed once, without requiring individual reviews each time a single activity occurs during the time period.

If you have any questions about this Notice, please contact your [Regional Environmental Officer](#) or Nancy Boone at [Nancy.E.Boone@hud.gov](mailto:Nancy.E.Boone@hud.gov) , or phone (202) 402-5718.

**EXAMPLES OF MAINTENANCE ACTIVITIES vs. REHABILITATION ACTIVITIES  
FOR ENVIRONMENTAL REVIEW PURPOSES**

<b>Feature or System</b>	<b>Maintenance Activities <sup>4</sup></b>	<b>Rehabilitation Activities <sup>5</sup></b>
<b>Site</b>	<ul style="list-style-type: none"> <li>• lawn care (litter pickup, mowing, raking), trimming trees and shrubs</li> <li>• snow/ice removal</li> <li>• neighborhood cleanup</li> <li>• application of pavement sealants, parking lot restriping, directional signage or marking for handicapped accessibility</li> <li>• repair of cracked or broken sidewalks</li> </ul>	<ul style="list-style-type: none"> <li>• new landscaping throughout an area</li> <li>• construction of new walkways, driveways or parking areas, or replacement thereof</li> </ul>
<b>Building Exterior</b>	<ul style="list-style-type: none"> <li>• cleaning and fixing gutters and downspouts</li> <li>• repainting previously painted surfaces (including limited wet scraping and low-pressure washing)</li> <li>• replacing deteriorated section of siding</li> <li>• removal of graffiti</li> </ul>	<ul style="list-style-type: none"> <li>• cleaning masonry or stripping painted surfaces by sandblasting, acid wash, or high pressure washing</li> <li>• applying new exterior siding</li> </ul>
<b>Roof</b>	<ul style="list-style-type: none"> <li>• fixing leaks</li> <li>• application of waterproof coating to a flat roof</li> <li>• replacement of deteriorated flashing</li> <li>• in-kind replacement of loose or missing shingles or tiles</li> </ul>	<ul style="list-style-type: none"> <li>• complete replacement of roof with new shingles, tiles, roll roofing, membrane, or new metal roof</li> <li>• installation of solar panels</li> </ul>
<b>Windows and Doors</b>	<ul style="list-style-type: none"> <li>• washing windows</li> <li>• caulking, weather stripping, re-glazing windows and doors</li> <li>• fixing broken windowpane(s), storm window(s) or damaged entry door</li> <li>• replacing broken door lock</li> <li>• replacing a vandalized entry door to restore security of a building or unit</li> <li>• replacing a single severely damaged window to match</li> <li>• annual switch out of storm and screen panels</li> </ul>	<ul style="list-style-type: none"> <li>• replacement of windows</li> <li>• replacement of exterior doors</li> <li>• adding storm windows or storm doors</li> </ul>
<b>Interior Walls and Ceilings</b>	<ul style="list-style-type: none"> <li>• patching or mending cracked plaster</li> <li>• patching or fixing holes or cracks in drywall</li> <li>• replacing stained ceiling tiles</li> <li>• painting or wallpapering</li> </ul>	<ul style="list-style-type: none"> <li>• installation of new drywall or paneling</li> <li>• installation of new acoustical ceiling</li> <li>• installation of dropped ceilings</li> </ul>
<b>Flooring</b>	<ul style="list-style-type: none"> <li>• cleaning floors</li> <li>• stripping wooden floors and resealing</li> <li>• installation or replacement of carpeting or vinyl flooring*</li> </ul>	<ul style="list-style-type: none"> <li>• installation of new wood floor</li> </ul>

\* These maintenance items may require purchase of flood insurance if they occur in a Special Flood Hazard Area (SFHA), and costs exceed the standard deductible for the specific type of structure or unit under the National Flood Insurance Program (NFIP).

<b>Feature or System</b>	<b>Maintenance Activities</b> <sup>4</sup>	<b>Rehabilitation Activities</b> <sup>5</sup>
<b>Circulation</b>	<ul style="list-style-type: none"> <li>• in-kind replacement of broken stair treads or balusters</li> <li>• inspection and servicing of elevators</li> </ul>	<ul style="list-style-type: none"> <li>• rebuilding stair or constructing new stair</li> <li>• installation of new access ramp</li> <li>• elevator replacement</li> </ul>
<b>Kitchen</b>	<ul style="list-style-type: none"> <li>• replacement of stoves, refrigerators, and microwaves*</li> <li>• replacing cabinet hardware*</li> </ul>	<ul style="list-style-type: none"> <li>• complete or substantial kitchen remodel</li> </ul>
<b>Bathroom/Laundry</b>	<ul style="list-style-type: none"> <li>• unclogging sink or toilet</li> <li>• replacing deteriorated toilet in an occupied housing unit*</li> <li>• replacing broken medicine cabinet*</li> <li>• replacing washing machines and dryers*</li> <li>• installation of grab bars</li> </ul>	<ul style="list-style-type: none"> <li>• complete or substantial bathroom remodel</li> </ul>
<b>HVAC</b>	<ul style="list-style-type: none"> <li>• servicing and maintenance of mechanical systems</li> <li>• changing air filters</li> <li>• cleaning air ducts</li> <li>• installing or replacing a window air conditioner</li> <li>• replacing a malfunctioning part of a HVAC system like a thermostat *</li> </ul>	<ul style="list-style-type: none"> <li>• installation of new furnace or heat distribution system</li> <li>• installation of central air conditioning</li> </ul>
<b>Electrical/Lighting</b>	<ul style="list-style-type: none"> <li>• changing light bulbs</li> <li>• replacing malfunctioning light fixture, electrical switch or outlet*</li> </ul>	<ul style="list-style-type: none"> <li>• major rewiring of building</li> <li>• installation of new electrical service</li> <li>• replacing or moving electrical panels</li> </ul>
<b>Plumbing</b>	<ul style="list-style-type: none"> <li>• fixing plumbing leaks*</li> <li>• repairing damage from frozen pipes*</li> <li>• repairing water or sewer connection within existing utility trench alignment</li> <li>• replacing malfunctioning water heater*</li> </ul>	<ul style="list-style-type: none"> <li>• installation of new plumbing system</li> <li>• new water or sewer connection</li> </ul>
<b>Security</b>	<ul style="list-style-type: none"> <li>• repair of security alarm systems</li> <li>• boarding up a vacant building with protective plywood</li> <li>• installation of temporary security fencing</li> <li>• installation of security devices needed for an individual health facility patient</li> </ul>	<ul style="list-style-type: none"> <li>• installation of permanent security bollards</li> <li>• installation of new security alarm system</li> </ul>
<b>Life Safety</b>	<ul style="list-style-type: none"> <li>• servicing smoke, fire and CO detectors</li> <li>• installation of smoke, fire and CO detectors</li> </ul>	<ul style="list-style-type: none"> <li>• making substantial physical changes to a building to comply with fire and life safety codes</li> <li>• installing fire suppression system</li> </ul>
<b>Pest Infestation</b>	<ul style="list-style-type: none"> <li>• pest inspection/treatment</li> </ul>	

<sup>4</sup> Categorically Excluded from NEPA and not subject to the related authorities listed in 24 CFR 50.4 and 58.5, unless Extraordinary Circumstances apply pursuant to 24 CFR 50.19(a) or 58.35(c).

<sup>5</sup> Generally Categorically Excluded from NEPA and generally require review under related authorities listed in 24 CFR 50.4 and 58.5, but an RE or HUD reviewer may make a determination that an Environmental Assessment or Environmental Impact Statement is required due to individual project circumstances.

Number	Question Asked	Texas Department of Housing and Community Affairs Staff Answers
1	So environmental clearance only applies if you are doing the work described with ESG funds, correct? Or if you were doing work on a partially ESG funded structure entirely with other funding, would it still trigger this?	If ESG funds are used in part or in total for renovation/rehabilitation or conversion, then an environmental clearance for the construction needs to be received before any construction starts.
2	Can you explain about the private nonprofit role in conducting an environmental clearance?	For private nonprofit organizations, the Texas Department of Housing and Community Affairs is the responsible entity, and will be completing the environmental forms on your behalf. However, you will need to answer any questions in a timely manner.
3	Do we need to have the construction plan submitted in the initial application?	No, but if you submit a construction plan with your ESG Application, it may speed up the contracting process.
4	We need to fix an existing deck and fence, would this be maintenance?	Please submit a project description, including proposed budget, to help us make that determination.