



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MEMORANDUM FOR: Multi-Family Housing Directors
MAP-approved Lenders
Regional Environmental Officers

FROM: Lauren B. McNamara, Acting Director, Office of Environment
and Energy, DGE

SUBJECT: Determination of “No Potential to Cause Effects” under Section
106 of the National Historic Preservation Act and its
Implementing Regulations 36 CFR Part 800 for Multifamily
Housing Section 223(f) Projects That Do Not Exceed
Maintenance

The U.S Department of Housing and Urban Development has determined that Multifamily Housing Section 223(f) refinance transactions that have no reasonably foreseeable physical impacts beyond maintenance will not alter physical conditions in a manner or to an extent that would cause effects under Section 106 of the National Historic Preservation Act (NHPA) [54 U.S.C. § 306108] and have “No Potential to Cause Effects” to historic properties per 36 CFR §800.3(a)(1). Such qualifying transactions must not allow rehabilitation nor result in any physical impacts or changes except for maintenance¹ which is exempt from environmental regulations at 24 CFR 50.19(b)(13).

For qualifying Multifamily Housing 223(f) transactions, neither HUD nor the applicant are required to contact the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer

¹ Guidance for Categorizing an Activity as Maintenance can be found in HUD Notice CPD 16-02: <https://www.hudexchange.info/resource/3197/guidance-categorizing-activity-as-maintenance-environmental-regulations-24-cfr-parts-50-and-58/>

(THPO), or other interested parties. A copy of this memorandum in the Environmental Review Record for an individual Section 223(f) project will document compliance with Section 106, 36 CFR Part 800, and 24 CFR Part 50 regarding historic properties.

This Determination does not apply to 223(f) transactions where the scope of work exceeds maintenance, or for transactions where there is a reasonably foreseeable and well-defined activity involving rehabilitation, new construction, or demolition. If plans for future work on a property are well-developed at the time of application, reasonably foreseeable work must be aggregated in a standard Section 106 review that is completed prior to project approval.

Please direct any questions regarding this memorandum to Sara Jensen, Housing Program Environmental Clearance Officer, at sara.jensen@hud.gov or 206-220-5226 or Nancy E. Boone, Federal Preservation Officer, at Nancy.E.Boone@hud.gov or 202-402-5718.