



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

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

Special Attention of:

Regional Directors
Field Office Directors
CPD Division Directors
Regional Environmental Officers
Responsible Entities
ONAP Administrators
Program Environmental Clearance Officers

Notice: CPD-19-06

Issued: July 29, 2019

Expires: This Notice is effective until amended, superseded, or rescinded.

SUBJECT: Defining “Special Environmental Clearance” as used in 24 CFR Part 51 Subpart B, Noise Abatement and Control

I. Purpose and Background

This Notice defines “Special Environmental Clearance” as used in HUD’s Noise Abatement and Control regulation, 24 CFR Part 51 Subpart B, as an Environmental Assessment (EA). This term is used three times within Part 51 Subpart B, but it is not defined in HUD’s current regulations.

The Noise Guidebook (HUD-953-CPD (1)) is the Department’s primary guidance document on compliance with 24 CFR Part 51 Subpart B. A note in the margin on page 14 of that Guidebook instructs readers to “Substitute Environmental Assessment (with ECO¹ concurrence) wherever you see Special Clearance.” This Notice amends that note in the Noise Guidebook to remove the ECO concurrence requirement in the Guidebook.

This amended definition means that projects triggering a Special Environmental Clearance no longer automatically require ECO concurrence; however, an ECO’s concurrence or review and comment may otherwise be triggered by regulation or program guidance.

II. Applicability

This notice applies only to new construction projects. For purposes of 24 CFR Part 51 and this Notice, projects that convert nonresidential sites to a residential use are treated as new construction.

¹ ECO stands for Environmental Clearance Officer. This is typically the Field Environmental Officer (FEO) or Regional Environmental Officer (REO) covering the jurisdiction where the project is located. When the FEO and REO are not available, the Program Environmental Clearance Officer (PECO) may also take this responsibility.

Two sections of Part 51 Subpart B require projects to complete a Special Environmental Clearance: Sections 51.104 and 51.105.

Subsection 51.104(b)(1) states that a Special Environmental Clearance is required for new construction² projects located in the Normally Unacceptable Noise Zone unless the proposal requires an Environmental Impact Statement (EIS). That same subsection states that an EIS is required for projects proposed to be located in largely undeveloped areas or proposals that are likely to encourage the establishment of incompatible land uses.

Under this Notice, new projects located in Normally Unacceptable Noise Zones do not require ECO concurrence if they meet the following requirements:

- An EIS is not required under 51.104(b)(1)
- ECO concurrence is not otherwise required by regulation or program guidance.

In addition, Section 51.105 establishes an exception wherein the Normally Unacceptable Zone for projects between 65 dB and 70 dB may be shifted to the Acceptable Zone on a case-by-case basis under certain conditions. One of these conditions is that the project receives both a Special Environmental Clearance and an ECO's concurrence. Because the ECO concurrence requirement is listed separately in the regulation, it would continue to be required under Section 51.105. Therefore, the change in this Notice will have no impact on projects processed under that section.

III. ECO Role in Environmental Reviews

HUD and Responsible Entity staff reviewing projects with elevated noise levels are still strongly encouraged to seek technical assistance from the responsible REO or FEO early in the environmental review process to ensure that HUD-assisted and HUD-insured projects are sufficiently protected from excessive noise and any potential problems are identified early in the process and resolved.

Note that even where ECO concurrence is not triggered under Sections 51.104 or 51.105, it may still be necessary to include an ECO in the environmental review process under 24 CFR Part 50 or program requirements. For example, 24 CFR 50.32 requires Environmental Assessments for projects over 200 units or beds completed pursuant to Part 50 to be sent to an ECO for review and comment. In addition, the Multifamily Accelerated Processing (MAP) Guide requires ECO review and comment for Multifamily FHA projects with certain risk factors. Finally, HUD staff and Responsible Entities completing environmental reviews for HUD projects are always encouraged to seek technical assistance from ECOs as needed.

If you have any questions about this Notice, please contact Marcel Tchaou at Marcel.K.Tchaou@hud.gov, or phone (202) 402-7077.

² While this is ambiguous in Part 51 itself, the Noise Guidebook clarifies on page 20 that Section 51.104 applies only to new construction.