



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING—
FEDERAL HOUSING COMMISSIONER

Special Attention of:

All Multifamily Regional Center Directors
All Multifamily Satellite Office Directors
All Multifamily Asset Management Division
Directors
All Multifamily Operations Officers
All Multifamily Field Counsel
All Contract Administrators
All Multifamily Project Owners

Notice H–2024–10

Issued: 12/17/2024

Expires: This Notice remains in effect
until amended, rescinded, or superseded

Cross-References:

CPD Notice 2016–02

Notice H 2015–03

*Multifamily Accelerated Processing
Guide (MAP Guide)*

Section 8 Renewal Policy Guidebook

SUBJECT: Environmental Reporting Requirements for Covered Transactions

I. PURPOSE

This Notice provides guidance on the Multifamily Housing (MFH) environmental report process and required Owner environmental review submissions for the following five transactions, which shall be referred to throughout this Notice as the “covered transactions”:

- A. Section 8(bb) Transfers of Budget Authority (“Section 8(bb) Transfers”);
- B. Transfers of Rental Assistance with HUD Held or Insured Debt and/or Use Restrictions (“Section 209 Transfers”);
- C. Transfers of RAD PBRA Rental Assistance (“RAD Transfers”);
- D. Demolition and New Construction of RAD PBRA Covered Projects Post-Conversion (“RAD Demolition and New Construction”); and
- E. Section 8 Renewals with Capital Repair (“Chapter 15 Renewals”).

Additionally, this Notice affirms that owners must submit all environmental report documentation for the covered transactions through the HUD Environmental Review Online System (HEROS), superseding all references to HUD–4128–OHF or to the HEROS partner worksheets.¹

II. APPLICABILITY

This Notice outlines the environmental review requirements and processes applicable to the covered transactions. These requirements derive from HUD’s regulations found at 24 C.F.R. Part 50 and are further detailed in Chapter 9 of HUD’s *Multifamily Accelerated Processing (MAP) Guide*, with program-specific variances, particularly for Phase I Environmental Site Assessments.

¹ <https://www.hudexchange.info/resource/5119/environmental-review-record-related-federal-laws-and-authorities-partner-worksheets/>

A. Section 8(bb) Transfers

Section 8(bb) Transfers may occur in conjunction with mutual terminations of Housing Assistance Payments (HAP) contracts, Owner-initiated opt-outs, or as part of a HUD enforcement action. Currently these transfers are governed by Notice H 2015-03 while other 8(bb) transfers follow HUD memoranda.

Approvals of Section 8(bb) transfer requests are considered conditional; the transfer will only proceed once the receiving project satisfies MFH's standards for occupancy, such as obtaining a certificate of occupancy.

B. Section 209 Transfers

Section 209 of HUD's appropriations for fiscal years 2023 and 2024 under Division L, Title II of the Consolidated Appropriations Act 2023² authorizes the Secretary to transfer project-based assistance, debt held or insured by the Secretary, and statutorily required low-income and very low-income use restrictions associated with one or more multifamily project(s) to another multifamily project(s). Similar authority for such transfers has been provided through HUD Appropriations Acts since 2006.

C. RAD Transfers

Transfers of Rental Assistance Demonstration (RAD) Project Based Rental Assistance (PBRA) following conversion are governed by the RAD Implementation Notice H-2019-09 PIH-2019- 23 (HA) published on September 5, 2019, as may be amended, and any successor notices or supplements.

D. RAD Demolition and New Construction

The demolition and new construction of RAD PBRA covered projects after the initial conversion are governed by the RAD Implementation Notice.

E. Chapter 15 Renewals

Section 8 renewals that involve capital repairs are governed by Chapter 15 of the Section 8 Renewal Policy Guide, last updated on March 27, 2023.

III. BACKGROUND

The regulations at 24 C.F.R. Part 50 address HUD's obligation to complete environmental reviews for certain actions, activities, and projects to ensure compliance with the National Environmental Policy Act (NEPA) and related environmental laws and authorities. Environmental Reviews cover areas such as contamination, floodplain management, endangered species, water quality, historic preservation, and explosive hazards.³

For HUD to meet its regulatory obligation, Owners must submit Environmental Reports (see section VIII of this Notice), which are then evaluated and certified by HUD staff.

² P.L. 117-328, 136 Stat 4459, 5171 December 29, 2022

³ See 24 C.F.R. 50.4 for the full list of covered laws and authorities. <https://www.ecfr.gov/current/title-24/subtitle-A/part-50/subpart-A/section-50.4>

Effective 90 calendar days from the date of publication of this Notice, Owners must submit Environmental Reports for the covered transactions through the HEROS platform. Note that in some cases, subject to HUD discretion, reevaluation of existing environmental reviews is possible (see Section VI of this notice).

IV. DEFINITIONS

- A. Categorically Excluded Subject to Federal Laws and Authorities (CEST). See Sections IX and X of this Notice for information about CEST review and eligibility.
- B. Choice-Limiting Action. Refer to Section V for a discussion of Choice-Limiting Actions.
- C. Environmental Assessment (EA). A level of environmental review requiring all steps outlined for a CEST review, with additional compliance under NEPA. Most EA reviews also require a new Phase I Environmental Site Assessment. See Section XI for more details on EA reviews.
- D. Environmental Report. An Owner's (or their representative's) submission of required documentation to meet the regulatory and statutory obligations of environmental review, in this case as specified under 24 C.F.R. Part 50.
- E. Environmental Review. HUD's process of ensuring compliance with NEPA and related laws through evaluation and certification of the Environmental Report in HEROS. For properties covered by this Notice, environmental review levels are CEST and EA.
- F. Federal Nexus. The event establishing a proposal as being under federal consideration, which triggers the choice-limiting prohibition.
- G. HUD Environmental Review Online System (HEROS). An online platform for submitting and reviewing required environmental reporting.
- H. Phase I Environmental Site Assessment (Phase I). A baseline assessment of a property's land for past, present, and potential contamination. See Section XII for more details on Phase I requirements.
- I. Phase II Environmental Site Assessment (Phase II). A more thorough assessment conducted after a Phase I involving site-specific testing. See Section XII for more information.

V. CHOICE-LIMITING ACTIONS

The environmental review process creates safeguards for both tenants and the environment and must be completed before most project activities can proceed.

- A. Choice Limiting Actions: General Description

NEPA's implementing regulations at 40 C.F.R. § 1506.1 state that until an agency issues a finding of no significant impact or an environmental impact statement (EIS) and record of decision, no action concerning the proposal may occur that would cause adverse environmental impact or limit the choice of reasonable alternatives. Accordingly, once they have taken a trigger action outlined in

Section V.B., HUD funding recipients and their partners (including Owners) are prohibited from committing or spending HUD or non-HUD funds on or undertaking any activity if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives, including (but not limited to) acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions. Some actions are not choice-limiting; Section 9.2.1.C of the *MAP Guide* covers actions deemed to be choice-limiting and those that are deemed to be permissible.

B. Triggering Actions for the Choice-Limiting Prohibition

1. *Transfers.* For Section 8(bb), Section 209, and RAD Transfers, the Owner's submission of a written transfer approval request to HUD initiates the federal nexus, at which point choice-limiting actions are no longer permitted.
2. *RAD Demolition and New Construction.* Owner submission to HUD of written request for the approval of demolition initiates the federal nexus, prohibiting further choice-limiting actions.
3. *Chapter 15 Renewal.* Owner submission of a Chapter 15 renewal request in accordance with the *Section 8 Renewal Policy Guidebook* initiates the federal nexus, at which point choice-limiting actions are no longer permitted. The request must follow the requirements of Chapter 15.

C. Timing Considerations

An owner may begin a project in good faith as a private project and will not be precluded from later deciding to apply for HUD funding. Once an owner takes an action that triggers the choice-limiting prohibition however, the Owner must not take any additional actions until an environmental review has been completed and certified by the approving official. An Owner who takes additional actions beyond the point of triggering the choice-limiting prohibition may jeopardize HUD's ability to approve the associated transaction. Owners with questions about the federal nexus may consult with HUD multifamily staff.

VI. REEVALUATION OF EXISTING HUD-APPROVED ENVIRONMENTAL REVIEWS

If a property subject to this Notice has an existing FHA-insured mortgage or HUD assistance, it may qualify for reevaluation of its HUD-approved environmental review. Additional criteria that HUD may consider when deciding whether to reevaluate an existing approved review may include the contents and scope of the previous review, the age of the most recent review, and conditions at the property. If applicants believe they have an existing environmental review that would be sufficient for this purpose, they should alert local HUD asset management staff. HUD has the sole discretion on whether to allow reevaluation of an existing environmental review for this purpose.

VII. COORDINATED SUBMISSION OF PART 50 AND PART 58 REVIEWS

Projects with that have multiple HUD funding sources require close coordination between property owners, third parties, and MFH staff to ensure that environmental

reviews from multiple programs are closely coordinated or combined into one review.

This is particularly true when the HUD funding sources are under 24 C.F.R. Part 58, such as HOME or Choice Neighborhood Grants. A Part 50 review can include the Part 58 program, but a Part 58 review cannot substitute for a Part 50 review. Combining the funding into one Part 50 review will save time and effort. As a reminder, the covered transactions discussed in this Notice are all subject to 24 C.F.R. Part 50.

When combining Part 58 funding and Part 50 funding into a single Part 50 review, MFH must certify the review in HEROS, and the Part 58 HUD program office must sign the supplemental signature page (available [here](#)).

If HUD performs a joint Part 58 and Part 50 environmental review under Part 50 with a Part 58 responsible entity, HUD and the Part 58 responsible entity must coordinate closely to ensure proper documentation and timing of the combined review and project activities.

VIII. ENVIRONMENTAL REPORTS

MFH staff will consider all activities connected to a covered transaction when determining the correct level of environmental review, not just those activities paid for with HUD funds. For example, if a RAD Transfer is to be implemented as part of a mixed-use redevelopment, HUD's environmental review would cover the work being done as part of the whole transaction, not just the units receiving HAP funds through the transfer.

Owners must provide HUD with a clear and complete project description such as Community Development Block Grants, Green and Resilient Retrofit Program funds, or HOME Investments as these may trigger additional environmental review requirements. Early notification of funding sources helps HUD successfully coordinate the environmental review.

A. Levels of Environmental Review

To assess a project's compliance with environmental requirements, Owners must submit an Environmental Report through HEROS. Covered transactions will undergo one of the following levels of review:

1. *Categorically Excluded Subject to Federal Laws and Authorities (CEST)*. See Section IX for details; or
2. *Environmental Assessment (EA)*. See Section XI for details.

Regardless of whether the level of review for the transaction is CEST or EA, some transactions will additionally require a new Phase I and/or Phase II Site Assessment (see Section XII).

B. Relevant Factors

The level of environmental review required depends on factors including:

1. The transaction type and the scope of work, including the written scope of work submitted with the Environmental Report.

2. If the receiving property in a Transfer (including a conditional transfer) is being newly constructed, substantially rehabilitated, or already meets MFH’s standards for occupancy.
3. The extent of rehabilitation involved in the project, specifically if it exceeds the HUD definition of “maintenance” activities. According to HUD CPD Notice 2016-02⁴, “maintenance” includes “activities [that] slow or halt deterioration of a building and do not materially add to its value or adapt it to new uses.” “Deferred maintenance that has resulted in a need for extensive repairs and rehabilitation” is considered rehabilitation beyond maintenance. See Appendix for more information on qualifying maintenance activities.

C. Determining the Correct Level of Review

Owners can consult Sections IX and X or contact local HUD MFH staff⁵ to determine the appropriate level of review for a proposed transaction.

Levels of Environmental Review: Summary Table

Type of Project (conditioned on project meeting MFH’s standards for occupancy)	Level of Environmental Review
Includes Any New Construction	EA
Transfer to Property with no rehabilitation above maintenance	CEST
Transfer to Property with rehabilitation above maintenance	CEST or EA
Section 8 Renewal with Capital Repairs (“Chapter 15”)	CEST or EA

IX. CEST REVIEW REQUIREMENTS

Under a CEST review, Owners must submit documentation demonstrating compliance with HUD’s environmental requirements and Office of Housing requirements.

A. Environmental Requirements

The laws and authorities listed in 24 C.F.R. 50.4 and the policy in 24 C.F.R. 50.3(i). These appear as screens in HEROS and include:

1. Airport Hazards (Clear Zones and Accident Potential Zones; 24 C.F.R. Part 51 Subpart D)
2. Coastal Barrier Resources (Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501))
3. Flood Insurance (Flood Disaster Protection Act of 1973 and National

⁴ <https://www.hud.gov/sites/documents/16-02CPDN.PDF>

⁵ As of the date of publication of this Notice, MFH is working with a technical assistance provider to develop additional resources for Owners.

- Flood Insurance Reform Act of 1994 (42 U.S.C. 4001–4128 and 42 U.S.C. 5154a))
4. Air Quality (Clean Air Act, as amended, particularly section 176(c) & (d); 40 C.F.R. Parts 6, 51, 93)
 5. Coastal Zone Management (Coastal Zone Management Act, sections 307(c) & (d))
 6. Contamination and Toxic Substances (24 C.F.R. 50.3(i))
 7. Endangered Species (Endangered Species Act of 1973, particularly section 7; 50 C.F.R. Part 402)
 8. Explosive and Flammable Hazards (Above-Ground Tanks) (24 C.F.R. Part 51 Subpart C)
 9. Farmland Protection (Farmland Protection Policy Act of 1981, particularly sections 1504(b) & 1541; 7 C.F.R. Part 658)
 10. Floodplain Management (Executive Order 11988, as amended by Executive Order 13690, particularly section 2(a) of Executive Order 11988; 24 C.F.R. Part 55)
 11. Historic Preservation (National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 C.F.R. Part 800)
 12. Noise Abatement and Control (Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 C.F.R. Part 51 Subpart B)
 13. Sole Source Aquifers (Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 C.F.R. Part 149)
 14. Wetlands Protection (Executive Order 11990, particularly sections 2 & 5)
 15. Wild and Scenic Rivers (Wild and Scenic Rivers Act of 1968, particularly section 7(b) & (c))
 16. Environmental Justice (Executive Order 12898)

More information on these requirements can be found via the following link: <https://www.hudexchange.info/programs/environmental-review/federal-related-laws-and-authorities/>.

B. Office of Housing Requirements

In addition to federal environmental regulations, CEST reviews must meet specific Office of Housing requirements, including:

1. *Lead-Based Paint*. A survey for lead-based paint and, if present, an abatement plan and/or an Operation and Maintenance Plan, per *MAP Guide* Chapter 9.5.A.
2. *Asbestos*. A survey for asbestos-containing materials (ACM), and, if asbestos is present, an abatement plan and/or an Operations and Maintenance Plan, per *MAP Guide* Chapter 9.5.B.

3. *Radon*. A radon report, and, if radon is detected, a remediation plan and an Operation and Maintenance Plan, as outlined in *MAP Guide* Chapter 9.5.C.
4. *Additional Nuisances and Hazards*. Consideration of any additional site-specific nuisances and hazards

More information on the Housing-specific requirements can be found via the following link: <https://www.hud.gov/sites/dfiles/OCHCO/documents/4430GHSGG.pdf>

X. CONDITIONS FOR CEST ELIGIBILITY

Covered transactions eligible for CEST review include:

- A. Transfers to an existing building with no rehabilitation⁶; and
- B. Transactions at or Transfers to an existing building that includes rehabilitation, provided the following conditions are met:⁷
 1. Unit density (i.e., the number of units in the project) does not change by more than 20 percent;
 2. The project does not involve a land-use change from residential to non-residential; and
 3. The estimated rehabilitation cost is less than 75 percent of the total estimated replacement cost post-rehabilitation.

All other transactions will be required to complete an environmental assessment, discussed in Section XI of this notice. Additionally, if a CEST project meets the criteria outlined in Section XII of this notice, then a new Phase I Site Assessment is required.

XI. ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Rehabilitation projects that do not qualify for CEST and all projects involving new construction require an Environmental Assessment (EA). An EA requires all steps outlined for a CEST review and compliance with the NEPA.

Additionally, most EA-eligible actions will also require a new Phase I Environmental Site Assessment. See Section XII of this notice for more details on specific actions that trigger a Phase I requirement.

To meet NEPA compliance, Owners must submit a range of additional information in HEROS to address EA Factors, which include:

- A. Land Development;
- B. Socioeconomic;
- C. Community Facilities and Services;

⁶ See 24 C.F.R. § 50.20(a)(4) and CPD 2016-02 for HUD's definition of maintenance.

⁷ 24 C.F.R. § 50.20(a)(2)

- D. Natural Features; and
- E. Climate and Energy (including considering and mitigating climate risks and energy efficiency measures).

The Environmental Assessment E-Guide⁸ is the most comprehensive resource for EA requirements, including the new climate change and environmental justice factors.

XII. PHASE I AND PHASE II ENVIRONMENTAL SITE ASSESSMENT

A. Phase I Environmental Site Assessment (Phase I)

All projects require a Phase I. In some cases, an existing Phase I may be sufficient. A new Phase I ASTM E 1527–21 (or most recent edition listed at 40 C.F.R. § 312.11) is required if the project includes any of the following:

1. Significant ground disturbance or construction beyond what was contemplated in the original application or incompatible with existing engineering or institutional controls;
2. A change in land use that was not covered by the original site mitigation conducted on the site;
3. Site expansion or addition;
4. Any other activities that may result in contaminant exposure pathways or activities not contemplated in the original application or incompatible with current engineering or institutional controls; or
5. Transfer to a site for which a Phase I ESA in accordance with ASTM E–1527–13 or –21 (or more recent addition listed at 40 C.F.R. § 312.11) has not been prepared previously.

B. Requirements for a New Phase I

When a new Phase I is necessary, it must meet the following criteria:

1. Comply with ASTM E 1527–21 (or the most recent edition listed at 40 C.F.R. § 312.11).
2. Be conducted (meaning the earliest of the date of the site visit, records review documents, or interviews) within 1 year of the submission to HUD. HUD may require updates or additional analysis in specific circumstances. A Phase I ESA that was conducted more than 180 days prior to the submission date to HUD, but within the allowable 1-year period, must be updated pursuant to Section 4.6 of ASTM E 1527–21. A Phase I ESA prepared more than 1 year prior to submission to HUD, even if updated within 180 days of being submitted, is not acceptable.
3. Include a Vapor Encroachment Screen (VES), in compliance with ASTM E 2600–22 (or the most recent version).

⁸ <https://www.hudexchange.info/news/environmental-assessment-guide-and-resources/>

4. Contain a completed User's Questionnaire and completed Owner's Questionnaire.
5. List HUD as an "Authorized User."

The guidance for the covered transactions allows HUD to accept a previously completed final Phase I if the project does not meet the criteria requiring a new Phase I. However, HUD staff may require a new Phase I and/or Phase II if there are any concerns about contamination on the site not sufficiently addressed in the older Phase I. These concerns could include but are not limited to site disturbance since the previous Phase I, activities on the site involving toxic chemicals, newly designated superfund or brownfields sites on or adjacent to the property, and missing information in the Phase I report.

C. Phase II Assessments

A Phase II Environmental Site Assessment involves sampling (e.g., soil, groundwater, or air) to determine the presence or absence of contaminants.

XIII. REQUIRED USE OF HEROS

The form titled *Environmental Assessment and Compliance Findings for the Related Laws* (form HUD-4128-OHF), is no longer accepted for Environmental Report submissions for the covered transactions. Instead, all Environmental Reports must be submitted via HEROS, HUD's online system for processing environmental reviews.

A. Complex Transactions

HEROS guides users through the environmental reporting process with clear requirements. However, complex transactions -such as those involving a new Phase I or historic preservation - may benefit from the expertise of a qualified environmental consultant with HEROS access. Although HUD cannot endorse specific consultants, Owners may find potential consultants by reviewing completed environmental reviews in HEROS (available at <https://cpd.hud.gov/cpd-public/environmental-reviews>) which can be filtered by location.

B. Environmental Review Resources for Office of Housing Projects

Local MFH staff are available to assist Owners with environmental review questions.. Additionally, HUD offers trainings and resources on the HUD Exchange platform (accessible at <https://www.hudexchange.info/programs/environmental-review/housing/#heros>). This site includes instructions for accessing HEROS and information on assigning the review to HUD staff.

XIV. POST-SUBMISSION: NEXT STEPS

Upon submission of a correct and complete Environmental Report in HEROS, MFH staff will begin the review process within **30 days**. Staff may contact Owners for additional information if necessary, particularly if the submission level is incorrect or documents are missing. Approval timelines for approval will vary based on transaction complexity, the level of review (e.g., whether a new Phase I is required), and the need for consultations with external agencies. The review process concludes once an approving official, typically Regional Division Director, certifies the review in HEROS.

If an Owner submits an incorrect or incomplete Environmental Report, MFH staff will notify the Owner and provide additional time to correct or complete the submission. This may extend the overall review time. HUD retains final discretion on determining the level and completeness of the Environmental Report.

Owners should notify their local MFH account executive once they submit the Environmental Report in HEROS. After submission, neither Owners nor their consultants (if applicable) will have access to the report in HEROS, but they may request status updates from MFH staff. MFH staff will inform Owners if additional information is needed and notify them upon completion of the review.

XV. SUMMARY

Owners are now required to submit Environmental Reports to HUD through the HUD Environmental Review Online System (HEROS) following the guidelines outlined in this Notice. While most transactions will require a CEST review, Owners should consult the guidance to ensure they submit the correct level of review, as additional requirements may apply depending on the complexity of the project and its relationship with HUD. HUD's environmental review considers all activities associated with the transaction, not just those funded by HUD.. Comprehensive resources, including training on environmental reviews, are available on the HUD Exchange (accessible at <https://www.hudexchange.info/programs/environmental-review/>).

XVI. PAPERWORK REDUCTION ACT (PRA)

The information collection requirements outlined in this notice are approved under OMB Approval numbers 2506-0202 and 2502-0541, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Under the act, an agency cannot conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

XVII. CONTACT

Please address any questions to Sara Jensen, Housing Program Environmental Clearance Officer; Sara.Jensen@hud.gov, 206–220–5226.

Julia R. Gordon
Assistant Secretary for Housing — FHA
Commissioner

APPENDIX I

Definition of Maintenance vs Rehabilitation

CPD Notice 16-02, Section III.

“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... that determines whether it qualifies as maintenance for environmental review purposes. Simultaneous maintenance work in multiple units or buildings is still considered maintenance.

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.)”

See the following link for additional information on the difference between maintenance and rehabilitation: <https://www.hudexchange.info/programs/environmental-review/housing/fact-sheets/#AdditionalGuidanceMaintenanceinERofOfficeofHousingPrograms>.