

Summary of Changes to HUD's Environmental Review Regulations under Consideration

Element	Scope of Edit	Discussion
Adoption	<p>In order to reduce repetitive and duplicative environmental reviews (ERs), new sections in Parts 50 and 58 would encourage HUD and responsible entities (REs) to adopt existing ERs where another RE or federal agency has already prepared an ER for the same project.</p>	<p>OEE envisions an adoption taking the form of a short memo signed by the approving official or certifying officer certifying that HUD or the RE has taken all of the steps required by these sections.</p> <p>OEE is seeking feedback on: (1) whether the requirements in these sections are appropriate and (2) any potential scenarios that are not adequately addressed by these sections.</p>
Updating completed environmental review records (ERRs)	<p>New sections in Parts 50 and 58 s clarify how ERRs should reflect supplemental assistance (e.g. a new funding source added to a project with a completed ERR), when reevaluation is appropriate, and when ERRs should be updated to reflect changes in conditions or proposals without triggering reevaluation. In both Parts, these sections were moved so that they apply to all levels of review.</p> <p>In Part 50, this section requires HUD to assume responsibility for completing one part 50 review to avoid the need for an additional part 58 review whenever possible. This would eliminate the need for any RE to adopt HUD's Part 50 review. The Part 58 requirements differ from Part 50 in a key way. If a new funding source is added to a proposal with a completed Part 58 review, but the new program would normally require a review from HUD or a different RE, the original RE cannot simply update the existing ERR to reflect the new program. To avoid duplication, HUD/the new RE should adopt the existing ERR.</p>	<p>OEE anticipates that these changes will reduce duplicative ERs by clarifying when an existing ER can be updated and encouraging continued reliance on completed ERs.</p> <p>The requirements for updating a review will depend on context. In some cases, HUD/REs will need only to edit the review in HEROS to include any new information. Reevaluation or supplemental assistance may require a memo demonstrating compliance with these sections. These sections will require additional guidance to clarify requirements beyond the regulations.</p> <p>OEE is seeking feedback on: (1) whether the requirements in these sections are appropriate and (2) any potential scenarios that are not adequately addressed by these sections.</p>
Expanding Categorical Exclusions in sections 50.20 and 58.35(a) (CEST)	<p>HUD is proposing to expand its categorical exclusions in both Parts 50 and 58. The broader categorical exclusions are balanced to some extent by a broader definition of extraordinary circumstances.</p> <p>These sections contain a great deal of changes, as HUD seeks to require fewer EAs for rehabilitation and small construction projects. OEE is also proposing a new exclusion that would exclude certain activities from Section 106 of the National Historic Preservation Act.</p>	<p>Categorical exclusions designate certain classes of activities that are, as a group, excluded from NEPA, meaning that they do not require an Environmental Assessment (EA). Activities may be categorically excluded from NEPA if HUD finds that they will not individually or cumulatively have significant impacts on the human environment. Activities that are categorically excluded under sections 50.20 and 58.35(a) are still subject to the related environmental laws and authorities listed in 50.4.</p> <p>Many of the new categorical exclusions and extraordinary circumstances were drafted to make HUD's standards more consistent with other agencies' regulations. OEE is especially interested in feedback regarding the new exclusions and the criteria for identifying categorically excluded projects.</p>
Changes to Exemptions and Categorical Exclusions in sections 50.19, 58.34, and 58.35(b) (exempt/CENST)	<p>HUD is also proposing organizational changes and technical updates to the categorical exclusions and exemptions listed in sections 50.19, 58.34, and 58.35(b). In Part 58, these edits would consolidate exempt and CENST activities into one group, listed in 58.35(b).</p>	<p>The organizational changes in Part 58 would have no substantive impact; the intent is to eliminate the category of "exempt" activities, as they are treated identically to CENST activities. Most of the other changes are technical in nature, designed to clarify points of confusion or update an outdated reference or requirement.</p>

Choice Limiting Actions	Proposed revisions would define choice limiting actions (in Parts 50 and 58) and explicitly permit conditional contracts to acquire properties pending environmental review (in Part 58 only). The proposed revisions to Part 50 would modernize section 50.17 by eliminating outdated references and codifying requirements.	HUD is pursuing multiple paths to improve and clarify its requirements regarding choice limiting actions and decision points. These regulatory reforms are supplemented by two notices, both currently in draft form. As these notices are refined and finalized, the regulatory drafts may be updated to reflect the notices.
Publishing notices online	HUD is proposing to allow responsible entities to publish public notices on the jurisdiction's official government website in lieu of a newspaper.	This change would apply to both notices published pursuant to Part 58 (NOI-RROF, FONSI) and 8-Step Process notices published under Part 55. One aspect of this proposal that is still unclear is where 8-Step Processes completed for projects processed under Part 50 should be published online.
Related Laws & Authorities	<p>HUD is considering various minor clarifications and updates to the related federal environmental laws and authorities, including:</p> <ul style="list-style-type: none"> ◆ Adding an exclusion from Section 106 of the National Historic Preservation Act for certain projects without potential to cause effects to historic properties ◆ Excepting Disaster recovery projects from Part 51 Subpart D - Airport Hazards and updating terminology throughout the Subpart ◆ Permitting projects processed under Part 58 to rely on private flood insurance meeting NFIP minimum requirements 	OEE received many suggestions regarding the related laws and authorities listed in sections 50.4, 58.5, and 58.6. Please note that HUD's authority over most of these laws and authorities is minimal. While HUD has the ability to make changes to Part 51 and 55 (within the confines of various Executive Orders and other authorities), most of the other related environmental laws and authorities, such as the Endangered Species Act, Clean Air Act, and National Historic Preservation Act, are managed by other federal agencies. While HUD can work with these agencies to improve procedures, it cannot alter the regulatory requirements unilaterally except in limited cases.
Other minor changes	<p>HUD is proposing to codify and clarify existing requirements in a number of areas, including:</p> <ul style="list-style-type: none"> ◆ Updating Part 58 to reflect current procedural requirements for Environmental Impact Statements ◆ Codifying analytical requirements for EAs in Part 50 ◆ Clarifying timelines for tiered reviews in Part 58 ◆ Defining who may act as a Certifying Officer in Part 58 	
Roles & Responsibilities in Part 51 Subpart B	<p>OEE is considering changing the roles and responsibilities in Noise processing in two ways:</p> <ol style="list-style-type: none"> (1) By eliminating the special environmental clearance requirement in normally unacceptable zones (2) By allowing the program Assistant Secretary to issue EIS waivers. 	The intention of these edits is that OEE would continue to review and comment on waivers and projects in unacceptable zones, but the ultimate decision would be left to the program. At this time, HUD does not intend to make any substantive changes to the Noise rule. However, OEE is open to changes to the management and operations aspects of this Subpart, while maintaining the rule's substantive requirements pending further research.