



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

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Expires: This Notice is effective until amended, superseded, or rescinded.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

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

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 Act¹ 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.

¹ 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.² 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.³ Simultaneous maintenance work in multiple units or buildings is still considered maintenance.

² 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.

³ 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 , or phone (202) 402-5718.

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

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

* 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).

| Feature or System | Maintenance Activities ⁴ | Rehabilitation Activities ⁵ |
|----------------------------|---|---|
| Circulation | <ul style="list-style-type: none"> • in-kind replacement of broken stair treads or balusters • inspection and servicing of elevators | <ul style="list-style-type: none"> • rebuilding stair or constructing new stair • installation of new access ramp • elevator replacement |
| Kitchen | <ul style="list-style-type: none"> • replacement of stoves, refrigerators, and microwaves* • replacing cabinet hardware* | <ul style="list-style-type: none"> • complete or substantial kitchen remodel |
| Bathroom/Laundry | <ul style="list-style-type: none"> • unclogging sink or toilet • replacing deteriorated toilet in an occupied housing unit* • replacing broken medicine cabinet* • replacing washing machines and dryers* • installation of grab bars | <ul style="list-style-type: none"> • complete or substantial bathroom remodel |
| HVAC | <ul style="list-style-type: none"> • servicing and maintenance of mechanical systems • changing air filters • cleaning air ducts • installing or replacing a window air conditioner • replacing a malfunctioning part of a HVAC system like a thermostat * | <ul style="list-style-type: none"> • installation of new furnace or heat distribution system • installation of central air conditioning |
| Electrical/Lighting | <ul style="list-style-type: none"> • changing light bulbs • replacing malfunctioning light fixture, electrical switch or outlet* | <ul style="list-style-type: none"> • major rewiring of building • installation of new electrical service • replacing or moving electrical panels |
| Plumbing | <ul style="list-style-type: none"> • fixing plumbing leaks* • repairing damage from frozen pipes* • repairing water or sewer connection within existing utility trench alignment • replacing malfunctioning water heater* | <ul style="list-style-type: none"> • installation of new plumbing system • new water or sewer connection |
| Security | <ul style="list-style-type: none"> • repair of security alarm systems • boarding up a vacant building with protective plywood • installation of temporary security fencing • installation of security devices needed for an individual health facility patient | <ul style="list-style-type: none"> • installation of permanent security bollards • installation of new security alarm system |
| Life Safety | <ul style="list-style-type: none"> • servicing smoke, fire and CO2 detectors • installation of smoke, fire and CO2 detectors | <ul style="list-style-type: none"> • making substantial physical changes to a building to comply with fire and life safety codes • installing fire suppression system |
| Pest Infestation | <ul style="list-style-type: none"> • pest inspection/treatment | |

⁴ 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).

⁵ 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.

