



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
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SUBJECT: Guidance on conducting environmental reviews pursuant to 24 CFR Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19¹

I. Purpose and Background

This Notice provides guidance on how to apply the environmental review exemption at 24 CFR 58.34(a)(10) and the streamlined public notice and comment period described at 24 CFR 58.33 for activities undertaken in response to a national or locally declared public health emergency.¹ HUD's 2012 Memorandum, *Environmental Review Processing During Emergencies and Following Disasters under 24 CFR Part 58*,² provides guidance on conducting environmental reviews for activities undertaken in response to Presidentially-declared disasters or local emergencies declared by the chief elected official. The 2012 guidance focuses on activities such as clearing debris, temporary strategies for protecting the public from damaged buildings, protecting buildings from further damage, and other activities to rebuild or repair structures damaged as a result of a storm, fire, earthquake, or other natural disaster. This Notice focuses on the types of activities needed to address COVID-19, a quickly spreading infectious disease, which requires taking actions that are different from those needed to recover from a natural disaster.³ The Table of Activities in Appendix A lists some examples of the types of activities needed to address a public health emergency organized by the level of environmental review required.

¹ On March 13, 2020, President Trump declared COVID-19 a national emergency under Section 501(b) of the Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §§ 5121-5207) and the National Emergencies Act (50 U.S.C. § 1601, *et seq.*). As of April 30, 2020, all 50 states as well as the U.S. Virgin Islands, Northern Mariana Islands, Washington D.C., Guam, and Puerto Rico have been approved for major disaster declaration.

² <https://files.hudexchange.info/resources/documents/Environmental-Review-Exemptions-Disasters-Imminent-Threats.pdf>

³ This Notice applies only to activities needed to address the public health emergency and disaster as a result of COVID-19. It does not supersede HUD's 2012 Memorandum, *Environmental Review Processing During Emergencies and Following Disasters under 24 CFR Part 58*, which is applicable to all non-COVID-19 emergencies and disasters.

II. Environmental review requirements for activities in response to the COVID-19 public health emergency

A. Exempt and categorically excluded not subject to § 58.5 (CENST)

An activity or project categorized as Exempt at 24 CFR 58.34 or CENST at 24 CFR 58.35(b) is not required to comply with the National Environmental Policy Act (NEPA) or the related environmental laws and authorities listed at 24 CFR 58.5. The environmental review for these activities is already expedited and requires only completion of the Exempt/CENST environmental review format to document the project complies with 24 CFR 58.6.

Examples of Exempt/CENST activities that prevent, prepare for, and respond to the COVID-19 public health emergency include, but are not limited to, tenant-based rental assistance; short-term payments for rent; purchase and distribution of equipment for telehealth, testing, diagnosis, sanitation, personal protective equipment and infection control measures,⁴ and other healthcare-related equipment; services such as job training to expand the pool of health care workers/technicians and expand in-home services, delivery of meals, medicine, and supplies; and economic development activities such as operating subsidies, inventory financing, payroll assistance, and other activities that are not associated with physical actions.

The Table of Activities in the Appendix provides additional examples. Note that activities needed to respond to this public health emergency will differ from location to location. If an activity is not specifically listed here or in the Table of Activities, but it meets one of the categories described in §§ 58.34(a) or 58.35(b), it is Exempt/CENST.

B. 24 CFR 58.34(a)(10) exemption for improvements necessary to respond to an imminent threat to public safety

Section 58.34(a)(10) provides an exemption for activities necessary to respond to a federal or state declared imminent threat to public safety. Responsible Entities (REs) should follow the guidance in this section to document that an activity meets the exemption.

Section 58.34 provides that:

- (a) Except for the applicable requirements of § 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in § 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities
...
- (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration

⁴ Personal protective equipment and infection control measures include products needed to protect individuals from contracting or spreading COVID-19. Examples include, but are not limited to, gloves, face masks and goggles, soap, paper towels/toilet paper, plastic bags, hand sanitizer, hand/bath wipes, tissues, thermometers, and alcohol wipes.

activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration.⁵

To document that an activity meets this exemption, the Environmental Review Record (ERR) must document compliance with 24 CFR 58.6 and also show that the action meets the following conditions:

1. Activities "do not alter environmental conditions," because they do not:
 - (i) Irreversibly affect significant elements of properties listed on or eligible for listing on the National Register of Historic Places, and all activities are limited to temporary interior improvements to such properties. Reversible building improvements are permitted;⁶
 - (ii) Replace, reconstruct, or substantially improve structures within a floodplain (SFHA) as determined by a current, preliminary, or pending Flood Insurance Rate Map (FIRM) that would require elevation or other changes;
 - (iii) Involve occupancy of a project site that is impacted by contamination or hazardous substances;
 - (iv) Involve work on sites that may affect threatened or endangered species or critical habitat;
 - (v) Involve new construction in a wetland; and
 - (vi) Otherwise permanently alter environmental conditions.

2. Activities must be limited to temporary or permanent improvements necessary to control or stop the imminent threat to public safety. Projects necessary to control and stop the rate of infection and treat patients with COVID-19 include, but are not limited to, improvements that: expand the capacity of healthcare facilities; use vacant or under-utilized property with only minimal ground disturbance or renovate facilities to use as temporary hospitals, healthcare facilities, clinics, quarantine, mortuary facilities, or homeless shelters; allow the use of hotels/motels to provide quarantine and treatment facilities, shelter, and alleviate overcrowding to prevent the spread of infection; expand the production and distribution of prepared food, groceries, equipment, and supplies; and provide mobile sanitation facilities.

Responsible Entities (RE) must document the project meets the § 58.34(a)(10) exemption by completing the Exempt/CENST environmental review format and attaching an addendum to the ERR that describes how the activity or activities meet the two conditions stated in this section, including why the project is necessary to respond to the coronavirus. If using HUD Environmental Review Online System (HEROS), upload the addendum to the Project Summary page. Refer to the Table of Activities in Appendix A for additional examples of activities that may meet the § 58.34(a)(10) exemption requirements.

If the project does not meet the § 58.34(a)(10) exemption, REs should complete the appropriate level of environmental review and follow Part 58 procedures. Contact the Regional

⁵ Improvements qualify as temporary improvements if, after the imminent threat to public health and safety is over, the improvements are removed with minimal impact to the site.

⁶ Examples of reversible improvements include temporary removable walls, window treatments such as shades or blinds, or putting in a temporary wheelchair ramp.

or Field Environmental Officer for further guidance regarding the applicability of this exemption.

Note: The types of activities described in this section as exempt pursuant to § 58.34(a)(10) differ from those described in the 2012 Memorandum. As noted previously, the 2012 Memorandum is not superseded and remains the standard for conducting environmental reviews for all non-COVID-19 disaster and emergency activities.

D. Requirements for categorically excluded subject to § 58.5 (CEST) or environmental assessment (EA) reviews

Before completing a CEST or EA level of review, the RE should first confirm that the project does not meet the exemption at § 58.34(a)(10) and refer to Section IV of this Notice for guidance on expediting the National Historic Preservation Act, Section 106 procedure for activities in response to a declared emergency.

CEST activities require completion of the CEST format to document compliance with §§ 58.5 and 58.6. If the activity does not require formal compliance steps with any of the laws and authorities listed at § 58.5, the environmental review may convert to exempt. In order to convert to exempt, the Section 106 review must result in a “No Historic Properties Affected” determination. An environmental review that cannot convert to exempt requires compliance with the public notice and Request for Release of Funds (RROF) requirements at 24 CFR Part 58.

An activity that does not qualify as Exempt, CENST, or CEST requires completion of an Environmental Assessment (EA).

III. Expedited public notice and condensed comment periods for environmental reviews during a Presidentially declared disaster or a locally declared emergency

During Presidentially-declared disasters or local emergencies declared by the chief elected official of the RE, 24 CFR 58.33 allows the RE to publish the combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/NOI-RROF) simultaneously with the submission of the RROF to HUD (or to the State, for State-administered programs where the RE is a unit of general local government).⁷ This expedited process may be used for projects undertaken to address the COVID-19 emergency, if the funds are needed on an emergency basis and adherence to separate comment periods would prevent the provision of assistance to address the imminent threat to public health and safety. The notice must state that funds are needed on an emergency basis due to the declared emergency, that the public comment and objection periods have been combined into one 15-day comment period, and that all comments should be submitted to both HUD (or the State) and the RE issuing the notice. The notice must advise commenters to email their comments to HUD (or the State) and provide the email address of the local HUD/State office. If after the 15-day comment period ends, no comments are received or all comments received have been resolved, HUD (or the State) may issue the Authority to Use Grant Funds (AUGF).

⁷ For CEST environmental reviews that cannot convert to exempt, REs may publish the NOI-RROF simultaneously with the submission of the RROF to HUD.

IV. Expedited Consultation under Section 106 of the National Historic Preservation Act (NHPA)

The regulations implementing the NHPA at 36 CFR 800.12(b)(2) provide for an expedited Section 106 review of seven (7) calendar days for projects undertaken within the first 30 days of a federal, state, or tribe's declared emergency or disaster. To invoke the 7-day review, the RE must notify the Advisory Council on Historic Preservation (ACHP), SHPO/THPO, and Tribes or Native Hawaiian Organizations (NHOs) (if the project involves significant ground disturbance or may otherwise affect historic properties of religious and cultural significance to Tribes or NHOs)⁸; describe the project; and state that the proposed undertaking is in response to the March 13, 2020 Presidential declaration of COVID-19 as a national emergency and that they are requesting comments within 7 days as provided by 36 CFR 800.12(b)(2). If the RE determines that circumstances require a consultation period shorter than 7 days, the RE shall state the shorter timeframe in the notifications. The ACHP has granted an extension of the 30-day emergency period until September 30, 2020, for HUD-assisted COVID-19 response projects. For further updates and more detailed information consult, <https://www.achp.gov/coronavirus>. Recent [ACHP guidance](#) issued in response to the COVID-19 emergency declaration requests email communications as much as possible.

Note: REs that have existing Section 106 Programmatic Agreements (PAs) for program activities may apply those PAs, including exempt activities, to expedite the Section 106 review. Many PAs include exemptions for properties less than fifty years old.

Related resources for additional information:

- [Office of Community Planning and Development COVID-19 Resources](#)
- [Office of Public and Indian Housing COVID-19 webpage](#)
- [Office of Native American Programs COVID-19 Resources, including PIH-2020-06, IHBG-CARES Implementation Notice and PIH 2020-11, ICDBG-CARES Implementation Notice](#)
- [Link to the COVID-19 and ACHP Operations webpage](#)
- [HUD.gov: Additional guidance on environmental review procedures in response to COVID-19](#)
- FEMA [COVID-19 Fact Sheet, Floodplain Considerations for Temporary Critical Facilities](#)

Questions? Please contact the local Office of Environment and Energy (OEE) office. Contact information is available at https://www.hud.gov/program_offices/comm_planning/environment_energy/staff.

Disclaimer

“The contents of this document, except when based on statutory or regulatory authority or law, do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.”

⁸ [When to Consult with Tribes Under Section 106 Checklist](#)

Appendix A. Table of Activities

This Table does not replace the categories of activities in 24 CFR Part 58; it provides examples of the types of activities that may be undertaken to prevent, prepare for, and respond to the coronavirus. The activities are organized according to the categories listed at 24 CFR 58.34-58.37. Contact the program representative regarding any questions about whether activities are eligible for assistance under that program. Links to HUD’s environmental review formats are located at https://www.hud.gov/program_offices/comm_planning/environment_energy.

Level of review and type of activity	Regulation citation
Exempt and CENST activities	§§ 58.34 and 58.35(b)
Planning, capacity building, technical assistance.	§ 58.34(a)(1) and (9)
Gather data and develop non-project specific emergency infectious disease response plans.	§ 58.34(a)(1)
Supportive services activities that prevent, prepare for, and respond to coronavirus. Assistance accessing government benefits and services; mental health services; legal services; housing services; employment assistance; nutritional services, and homeless prevention services.	§ 58.35(b)(2)
Payment of principal and interest on loans made or obligations guaranteed by HUD.	§ 58.34(a)(11)
Carry out job training to expand the pool of health care workers and technicians that are available to treat disease within a community.	§ 58.34(a)(9)
Provide outpatient services, testing, diagnosis, or other services at a fixed or mobile location.	§ 58.35(b)(2)
Provide in-home services such as delivery of meals/groceries, medicine, supplies, housing cleaning to quarantined individuals or individuals that need to maintain social distancing due to medical vulnerabilities or are under shelter-in-place orders.	§ 58.35(b)(2)
Economic development activities, such as those to avoid job loss caused by business closures related to social distancing and shelter-in-place orders by providing short-term working capital assistance to small businesses to enable retention of jobs held by low- and moderate-income persons.	§ 58.35(b)(4)
Public service activities to prevent, prepare for, and respond to coronavirus, including public education services.	§ 58.34(a)(4)
Provide technical assistance, grants, loans, and other financial assistance to microenterprises for in-home services, food/medicine delivery, cleaning, and other services to support home health and quarantine without acquisition, construction, or rehabilitation.	§ 58.35(b)(2) § 58.34(a)(9)
Provide equipment, supplies, and materials necessary to carry out a public service. For example, protective equipment for healthcare workers, patients, homeless people, and others, including telehealth equipment, personal protective equipment and infection control measures (gloves, sanitizers, face mask/goggles, soap, hand/bath wipes), and temporary washing/shower stations.	§ 58.35(b)(3), (4)

Operating costs including equipment, supplies and maintenance to clean and disinfect buildings, public spaces, units, spaces for quarantine and treatment of patients, training and recruitment of staff on infectious disease prevention, proper sanitation and disinfecting procedures, provide staff with personal protective equipment and infection control measures, install a lockbox for rent payments to maintain social distancing. Purchase equipment such as beds/cots, privacy curtains, and other equipment for isolation/quarantine centers.	§ 58.35(b)(3)
Short-term payments for rent/mortgage/utility costs: to unsheltered and sheltered homeless individuals to obtain/maintain housing, those at risk of becoming homeless, individuals unemployed due to business closures as a result of coronavirus, persons living with HIV/AIDS or household members not living with HIV/AIDS, and to others who must self-isolate or quarantine, and to provide lodging at hotels, motels, or other locations.	§ 58.35(b)(2)
Provide assistance to communities to address the needs of low- and moderate-income students to access online classes where schools have been closed to prevent the spread of infection.	§ 58.35(b)(2)
Provide assistance to community food banks and mobile food pantry services to increase food inventory and provide pick-up/drive-up food services.	§ 58.35(b)(2)
Administrative expenses, management activities	§ 58.34(a)(3)
Complete the Exempt/CENST format	

Examples of activities that may meet the §58.34(a)(10) exemption if they fit within the conditions described in Section II, 1-2 and are undertaken to prevent, prepare for, and respond to coronavirus	§ 58.34(a)(10)
Increase the capacity and availability of targeted health services for infectious disease response within existing health facilities.	
Providing water and setting up mobile or temporary water and sanitation stations to prevent the spread of infection.	
Provide grants or loans to support new businesses or business expansion to create jobs and manufacture medical supplies necessary to respond to infectious disease.	
Assistance for interim improvements to -residential properties to enable an individual patient to receive in-home treatment and remain quarantined on a temporary basis.	
Renovate, reconfigure, or expand healthcare facilities to serve increased number of patients and increase the number of available intensive care units.	
Renovate a community center or other existing buildings to establish an infectious disease treatment center.	
Improvements to motels or hotel buildings to expand the capacity of healthcare facilities to accommodate isolation of patients during recovery.	
Improvements to existing residential buildings, group living facilities, and homeless shelters, to prevent the spread of COVID-19 by providing a separate area to treat and quarantine residents.	
Set up temporary shelters; renovate motels, hotels, existing residential buildings, and community centers for homeless individuals to provide quarantine space to prevent the spread of infection and address overcrowding.	

Temporarily use vacant or underutilized land with only minimal ground disturbance or existing buildings to set up temporary hospitals, healthcare facilities, clinics, quarantine areas, or mortuary facilities, provide health checkpoints, and other services.	
Expand or repurpose food distribution facilities or other commercial facilities to prepare meals for delivery to quarantined individuals or individuals that need to maintain social distancing due to local requirements or medical vulnerabilities.	
Complete Exempt/CENST format and attach Addendum documenting compliance with the conditions stated in Section II.	
Note: § 58.34(a)(10) does not apply if the project involves acquisition.	

Categorically Excluded Subject to 58.5 (CEST, 58.35(a))	§ 58.35(a)
Acquisition and rehabilitation of existing multifamily residential buildings (5 or more units) if improvements are in place, do not involve a change in unit density of more than 20 percent, do not involve a change in land use from residential to non-residential, and the cost of rehabilitation is less than 75% of the replacement value after rehabilitation.	§ 58.35(a)(3)(ii), (5), & (6)
Acquisition and renovation of existing healthcare facilities, commercial facilities, other non-residential buildings if improvements are in-place, without change in size or capacity by more than 20 percent, and there is no change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.	§ 58.35(a)(3)(iii), (5), & (6)
Acquisition or leasing of single-family units (up to 4 units on any one site) for use as quarantine facilities or patient care.	§ 58.35(a)(4)
Complete the CEST format⁹	

Environmental Assessment (EA)	§ 58.36
Project is not exempt, CENST, or CEST.	
Acquisition and new construction of a permanent testing and diagnosis, or treatment facility.	
Acquisition and new construction of a group living facility for patients undergoing treatment.	
Acquisition and rehabilitation of a motel or hotel building to expand capacity of hospitals or community to accommodate isolation of patients.	
Acquisition and/or new construction of manufacturing facilities to provide medical supplies.	
Complete the EA format¹⁰	

Environmental Impact Statement	§ 58.37
Project will have a significant impact.	
Complete an EIS in accordance with 40 CFR Parts 1500-1508.	

⁹ See Section III, Expedited public notice and condensed comment periods for environmental reviews during Presidentially-declared disaster or locally declared emergency, herein.

¹⁰ See Section III, Expedited public notice and condensed comment periods for environmental reviews during Presidentially-declared disaster or locally declared emergency, herein.