



OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

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

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MEMORANDUM FOR: Regional Environmental Officers
Field Environmental Officers
FROM: *Danielle Schopp*
Danielle Schopp, Director, Office of Environment and Energy, DGE
SUBJECT: Environmental Review Processing During Emergencies and
Following Disasters under 24 CFR Part 58

When responding to emergencies using HUD assistance, responsible entities can perform many activities without completing an environmental review or with shortened comment periods. If a project is exempt under 24 CFR 58.34 or categorically excluded not subject to the related laws and authorities (CENST) under 24 CFR 58.35(b), the project file only needs to make a reference to the applicable exemption or CENST and document compliance with 24 CFR 58.6 requirements. Additionally, comment periods for projects that are not exempt or CENST may be combined during Presidentially declared disaster or local emergencies declared by the chief elected official for the responsible entity.

Emergencies and Condensed Comment Periods

During Presidentially declared disasters or local emergencies declared by the chief elected official for the responsible entity, emergency activities that are not exempt or CENST can receive expedited processing. Under 24 CFR 58.33(b), if, during these situations, funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance, responsible entities can publish the combined Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF) simultaneously with the submission of the RROF. The notice must state that funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined. The notice must also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice. By combining these comment periods, the comment period obligations of 24 CFR 58.45 and 24 CFR 58.74 can be met simultaneously over 15 days.

Exemptions and Cat Ex Not Subject to §58.5 Related Laws and Authorities

In the immediate aftermath of a disaster event, responsible entities can fund many activities without the need for an environmental review. These activities include the (1) purchase of tools, supplies, and equipment (including generators that are not permanent fixtures); (2) supportive services for health care, housing, housing placement, day care, and short-term rent payment; (3) public services related to crime prevention and health; (4) inspections and testing for hazards; (5) engineering and design costs; (6) technical assistance and training; (7) environmental and other studies and planning and development strategies; (8) tenant-based rental assistance; and (9) assistance for temporary or permanent improvements that do not alter environmental conditions and

are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety. Refer to 24 CFR 58.34 and 24 CFR 58.35(b) for the complete list of exempt and CENST activities.

Exemption for Improvements Related to Disasters and Imminent Threats

Responsible entities must follow this guidance when using the exemption at 24 CFR 58.34(a)(10) for activities necessary to control or arrest the effects from disasters or imminent threats to public safety.

Sec. 58.34(a)(10) reads:

"(a) Except for the applicable requirements of Sec. 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 Sec. 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 activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;"

To be eligible for the exemption provided by 24 CFR 58.34(a)(10), the responsible entity must document the presence of certain conditions that justify the determination of the exemption. The following three conditions must be met:

1. The activities "do not alter environmental conditions" including any of the following: The activity does not: (i) affect significant elements of properties listed on or eligible for listing on the National Register of Historic Places, *either* per consultation with the SHPO *or* per a determination under 36 CFR 800.3(a)(1) that the undertaking is a type of activity that does not have the potential to cause effects on historic properties assuming that historic properties are present; (ii) replace, either through rebuilding or major rehabilitation, structures within a floodplain (SFHA) as determined by the most recent FEMA maps or FIRM that would require additional elevation or other changes; (iii) involve an inappropriate occupancy of a known hazardous site or of a site contiguous to a known hazardous site; (iv) involve work on sites that could adversely impact the known critical habitat of endangered species; or (v) alter a building's footprint.
2. The activities are "limited to protection, repair, or restoration activities necessary to control or arrest the effects": The activity does not include new additions, relocation, or enlargements, or changes to the primary use or density of occupancy; and includes work that (i) provides temporary protection from further damage to a building or structure, or that makes permanent repairs to a damaged building or structure; or (ii) is for restoration of essential community services and related utilities and facilities to their condition prior to the disaster without significant change in size or capacity.

3. The activities are necessary "only to control or arrest the effects from disaster or imminent threats to public safety including those resulting from physical deterioration": Disasters are state or federally declared disasters. An imminent threat to public safety is a threat to the general public outside the building who may be harmed by the collapse of the building. Condemnation for occupancy of a building is inadequate to demonstrate an imminent threat to public safety because it does not demonstrate a harm to the general public outside of the building.

Should you have any questions, please contact Danielle Schopp, Director, Office of Environment and Energy, (202) 402-4442 or her staff Jerimiah Sanders at (202) 402-4571.