



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 50

[Docket No. FR-6598-I-01]

RIN 2502-AJ82

Removal of Environmental Clearance Officer Review and Comment for Assessments for Projects Over 200 Lots/Dwelling Units or Beds

AGENCY: Office of Community Planning and Development, Department of Housing and Urban Development (HUD).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule revises the Department of Housing and Urban Development's (HUD's) environmental review regulations by removing HUD's requirement that Environmental Assessments for projects over 200 dwelling units or beds shall be sent to the Field Environmental Clearance Officer (FECO) or Program Environmental Clearance Officer (PECO) for review and comment. This revision aligns with recent executive actions directing efficiency for environmental permitting and streamlines processing times for these projects while meeting all other regulatory and statutory requirements for environmental review. This interim final rule also requests public comment on this regulatory change.

DATES: Effective date: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Comments are due by: [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES:

Interested persons are invited to submit comments regarding this interim final rule. All submissions must refer to the docket number and title. There are two methods for submitting public comments.

1. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <https://www.regulations.gov>.

2. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 2415 Eisenhower Avenue, Alexandria, VA 22314.

In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Brian Schlosnagle, Acting Director, Environmental Planning Division, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 2415 Eisenhower Avenue, Alexandria, VA, Room W9164; telephone number (202) 402-7553 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

Federal agencies, including HUD, have responsibilities under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347) and other NEPA-related Federal environmental laws and authorities. (See 24 CFR 50.4). HUD’s regulations implementing NEPA and other environmental requirements for programs where HUD performs environmental reviews are in 24 CFR part 50, titled “Protection and Enhancement of Environmental Quality.”

HUD’s environmental procedures of July 16, 1971, published by the Council on Environmental Quality at 37 FR 22673 (October 20, 1972), established a “normal environmental clearance” and “special environmental clearance” for certain projects and set out thresholds for use of the “special environmental clearance”, including housing assistance or insurance for 100

unit multifamily structures and 100 bed nursing homes. HUD subsequently published a series of revisions to its environmental procedures, as well as a 1974 proposed rule that was not finalized. In 1979, HUD codified its environmental procedures in 24 CFR part 50, 44 FR 67906, which required completion of a “special environmental clearance,” to be concurred in by the Area Environmental Clearance Officer (ECO), for multifamily projects with over 200 units or mortgage amounts over \$5,000,000. The current version of part 50, promulgated in 1996, 61 FR 50916, requires in the last sentence of § 50.32 that Environmental Assessments for projects over 200 lots/dwelling units or beds be sent to the Field Environmental Clearance Office (FECO) or, in the absence of a FECO, to the Program Environmental Clearance Officer (PECO) for review and comment.

II. This Interim Final Rule

Through this interim final rule, HUD is removing the last sentence of 24 CFR 50.32 which contains the requirement that Environmental Assessments for projects over 200 dwelling units or beds shall be sent to the FECO or PECO for review and comment. This round of review and comment is not required under the relevant environmental legal authorities, including NEPA, nor is it discussed in the preambles of HUD’s 1996 rulemakings that promulgated § 50.32 in its current form. 61 FR 50914, 61 FR 15340.

Currently, the review and comment requirement in § 50.32 represents an extraneous step in the environmental review process. This requirement adds a third or fourth review to the environmental process for new construction and substantial rehabilitation projects over 200 units that have already been certified by environmental review preparers and supervisors. This extra step in the review process has the potential to add processing time to projects that often have tight closing deadlines and requires duplicative technical assistance when such assistance is already available, as needed, from HUD Program Environmental Specialists and ECOs.

This update ensures that HUD’s environmental review procedures are administered in accordance with Administration priorities while meeting the statutory requirements under NEPA

and other related laws and authorities, including Executive Order 14154 *Unleashing American Energy*. This EO directs relevant agencies, including HUD, to require efficiency and expediency for environmental permitting¹ and to streamline processing times for projects. Section 5(d) of EO 14154 specifies that HUD, in addition to other relevant agencies, must undertake all available efforts to eliminate all delays in permitting processes. Section 6(a) of EO 14154 directs all agencies to adhere only to statutory requirements for environmental considerations in all Federal permitting adjudications or regulatory processes, and to eliminate extraneous requirements. This interim final rule's removal of a time-consuming level of environmental review that is not required by statute aligns with EO 14154's directives.

This interim final rule makes no other changes to § 50.32 or other HUD regulations. Following this rulemaking, including consideration of any public comments received on this interim final rule, HUD will update relevant guidance documents² to reflect regulatory changes that result from this rulemaking.

III. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment in accordance with both the APA, 5 U.S.C. 553, and the agency's regulation on rulemaking at 24 CFR part 10. Both the APA and part 10, however, provide for exceptions from that general rule where HUD finds good cause to omit advance notice of the opportunity for public comment. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(B). See also 24 CFR 10.1. To publish a rule for effect prior to receiving and responding to public comments (*i.e.*, an interim final rule), the agency must make a finding that "good cause" exists.

¹ "Permitting" as used in relevant executive actions including Executive Order 14154 refers to NEPA processes and environmental reviews more broadly.

² For example, HUD's Multifamily Accelerated Processing (MAP) Guide at 9.2.2.E. <https://www.hud.gov/sites/dfiles/OCHCO/documents/4430GHSGG.pdf>.

The last sentence of 24 CFR 50.32 requires relevant HUD program staff to send assessments for new construction or substantial rehabilitation projects that are over 200 lots/dwelling units or beds to the Field Environmental Clearance Officer (FECO) or, in the absence of a FECO, to the Program Environmental Clearance Officer in Headquarters for review and comment. This is the third or fourth of several rounds of environmental review under HUD's existing regulations, and it is not required by statute or regulation. See the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347), and the Council on Environmental Quality's recently removed³ regulations at 40 CFR parts 1500-1508. HUD promulgated this requirement in its current form in 1996 through a proposed and final rule, neither of which discuss the requirement or the reasoning behind its promulgation. 61 FR 50914, 61 FR 15340. HUD believes the requirement was preexisting before HUD established CEST (categorically excluded from NEPA, but subject to the related laws and authorities at 58.5 or 50.4) and Environmental Assessment level reviews and stayed in the promulgated regulation.

The additional HUD staff review required at § 50.32 for new construction or substantial rehabilitation projects that are over 200 lots/dwelling units or beds has the potential to add processing time to projects that often have very tight closing deadlines. It also requires a duplicative technical assistance process where technical assistance is already available, as needed, from HUD Program Environmental Specialists and ECOs. Additionally, this additional review would affect approximately 80 projects each year. Given that the number of projects and stakeholders affected by this IFR is minimal, HUD finds that the requirement under § 50.32 is unnecessary for HUD to implement.

Additionally, HUD's regulations at 24 CFR 10.1 state that notice and public procedure may be omitted with respect to rules governing the Department's organization or its own internal practices or procedures. This rule is limited to removing one requirement in the Department's environmental review procedures in 24 CFR part 50. HUD created the regulatory requirement

³ 90 FR 10610; 91 FR 618.

removed by this rule; it is not required by statute and unnecessarily added to statutory requirements implemented in HUD's environmental review regulations. Therefore, the requirement concerns only HUD-created policy and procedure. The rule does not revise or change any statutorily required policy and procedure. Thus, this rule is not establishing policy outside of HUD's own internal procedures.

Since the requirement under § 50.32 is not required by legal authorities, would only add unnecessary, time-consuming levels of environmental review, and concerns internal practices or procedures, HUD has determined that it is unnecessary to solicit advance public comment.

IV. Findings and Certifications

Regulatory Review – Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made regarding whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget in accordance with the requirements of the order.

Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” As previously discussed, this final rule removes unnecessary regulations and is consistent with Executive Order 13563.

This interim final rule was determined not to be a significant regulatory action under section 3(f) of Executive Order 12866 and therefore was not reviewed by OMB.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this interim final rule without prior public comment, this rule is not subject to the

requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Executive Order 14192, Regulatory Costs

Executive Order 14192, entitled “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025. Section 3(c) of Executive Order 14192 requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. This interim final rule removes unnecessary and time-consuming levels of environmental review that are not required by law and therefore is a repeal of a regulation that results in reduced regulatory costs for purposes of Executive Order 14192.

Federalism (Executive Order 13132)

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either: imposes substantial direct compliance costs on State and local governments and is not required by statute; or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This interim final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Executive Order.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available through the docket file at <https://www.regulations.gov>. The FONSI is also available for public inspection during regular business hours in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 2415 Eisenhower Avenue, Alexandria, VA 22314. Due to security measures at the HUD Headquarters building, you must schedule an

appointment in advance to review the FONSI by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This interim final rule does not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Part 50

Environmental impact statements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 50 as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

1. The authority citation for part 50 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 4321-4336e.

Subpart E— Environmental Assessments and Related Reviews

2. Revise § 50.32 to read as follows:

§ 50.32 Responsibility for environmental processing.

The program staff in the HUD office responsible for processing the project application or recommending a policy action is responsible for conducting the compliance finding, EA, or EIS. The collection of data and studies as part of the information contained in the environmental review may be done by an applicant or the applicant's contractor. The HUD program staff may use any information supplied by the applicant or contractor, provided HUD independently

evaluates the information, will be responsible for its accuracy, supplements the information, if necessary, to conform to the requirements of this part, and prepares the environmental finding.

Ronald J. Kurtz,

Assistant Secretary for Community Planning and Development.

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