

**Environmental Review Webinar Series**

**Emergency Repairs**

Kathryn Au: (In progress) -- specialist at ICF. And I'm joined today by my colleagues Sandy Frye at ICF, Danielle Schopp at HUD's Office of Native American Programs and Kathy McNulty at HUD's Office of Environment and Energy.

Today's webinar is the third in a series of webinars on environmental review hosted by HUD's Office of Native American Programs. We've had two other webinars so far. The first one on basic environmental review forms. And let's see. I'm not on mute. Great. And so, we talked about project descriptions, levels of review, what forms to use. And then the second webinar we talked about aggregation and how to group related activities into a single project that evaluates the full scope of what you're doing. Today's webinar is on emergency repairs, and next month we will be having a webinar on reevaluating completed environmental reviews.

As Chantel mentioned, the reviews will be the webinars will be posted on HUD's website, and I'll have Sandy share the link in the chat box of where those webinars are housed. So today we're going to talk about we're going to talk about emergency repairs. Things happen and addressing emergency situations or projects that have high priority can be very stressful and confusing because if your managers or if there's a real high need for this project to be done tomorrow or done very quickly or at a high priority, then that just adds a lot of stress. And what do you do? Environmental reviews are still required for emergency repairs and the type of review that you do or the type of environmental forms that you use depends on the actual scope of the work. And then one thing to know is that imminent threat projects are not the same thing as emergency repairs.

Today's objectives are twofold. First, we'll spend some time talking about the imminent threats exemption at 58.34(a)(10) and how to document it. Imminent threats and emergency repairs, again, are not the same thing. There are two HUD memos that talk about what that imminent threat exemption is and how to use it. And then the second half of the webinar will talk about emergency repairs and how to do those environmental reviews. What level of review to use and ways to increase efficiency when performing those types of environmental reviews. First off, there is a lot of terminology that is related and similar and thrown around. I have such terms bolded on this slide. So, when you have an activity that addresses an imminent threat to public safety, there is an exemption under 58.34(a)(10) in the HUD environmental review regulations. And these types of activities to address imminent threats are not deferred maintenance.

If you're doing that type of repair, you would call that emergency repairs instead, which would be rehab or maintenance activities proposed to bring building up to code or to improve the health and safety of the occupants. And unlike the imminent threat exemption, the level review for emergency repairs really depends on what the actual activity is. And then there is guidance on categorizing activities as maintenance versus rehab, which we'll talk about more later. And then all of this can easily get confused with the ICDBG imminent threat grants, which you might have dealt with in recent years, especially with funding availability from the CARES Act, American Rescue Plan, and all that. So, for those projects, again, level of review depends on what your project is and what the scope of work is. And just one caveat for any projects that are in response to a disaster or presidentially or tribally declared emergency, the local and HUD public comment periods can be combined. There is a HUD memo on environmental reviews for emergencies and disasters and all those terms we just talked about. And this is what it looks like.

And I think I'm going to have Sandy paste in a link to this memo for those of you who are joining us live today. And this memo, the first part talks about emergencies and condensed comment periods, which I won't go over. And then the second part is basically a reminder that projects that fall under the normal exempt activities or categorically excluded, not subject to 58.5 activities, those still apply. So even if your project is purchase of tools, supplies and equipment, supportive services, inspections, or base rental assistance, those don't change. You still can use those exemptions or the categorical exclusions, even if those projects are in response to disasters. And then the next section on this memo talks about the exemption for improvements related to disasters and imminent threats as it relates to the citation 58.34(a)(10). And I won't go over the full text of this, but basically, it's for assistance for improvements limited to protection, repair, or restoration activities to control or risk the effects from disasters or imminent threats.

Those of you who might have seen the first two webinars in our series might recognize this list of exemptions in the HUD regulations. And in those earlier webinars, we said that number 10, the temporary or permanent improvements, that we would go over it later in a later webinar. And so that's what we're going over today. So that 58.34(a)(10) is that exemption that says, if you are doing these types of activities, then you can do an exempt environmental review on it. And so, then the rest of the memo talks about how you can be eligible for that exemption. Three conditions do have to be met. The first one is that the activities do not alter environmental conditions. What that means is the project cannot affect significant elements of historic properties, replace any structures in a floodplain, occupy a contaminated site, affect endangered species, or alter a buildings footprint. And what that's getting at is making sure that you're not affecting a wetland.

The second condition is that the activities must be limited to the protection, repair or restoration activities that are necessary to control or arrest the effects. So, you cannot be doing any new additions, enlargements, changes to the primary use or density of occupancy. It does include work that provides temporary protection from further damage to a building or permanent repairs to a damaged building or structure or is for the restoration of essential community services. For example, some scenarios that will go over in the next few slides. Let's say you have a structure that has been damaged after a natural disaster such as a tornado, earthquake, or hurricane. And the building needs to be shored up or stabilized. Another example that will go over is maybe you found out that this building has widespread exposed asbestos, which can be a real threat to human health in terms of developing lung cancer in the future if people are exposed to asbestos.

And so, the public cannot safely enter the building until asbestos abatement activities are performed. So, we'll just hold those examples in our mind for now and I'll go over them in a couple of slides. The third and final condition is that these activities are necessary only to control or arrest the effects from disaster or imminent threats to public safety. Which means a threat to the general public outside the building who may be harmed by the collapse of the building and not the people inside the building itself. If a building has been condemned, that's not adequate for demonstrating that it is an imminent threat. Below, I have two pictures of a building on a main street in a small town in Arkansas from last summer. And this building is a historic building that has been condemned by the city and been slated for demolition.

That by itself is not an imminent threat. But as you can see from the second photo, the back wall has already collapsed. So, this building is super unstable and could fall at any moment, which could threaten the stability or safety of or structural integrity of the neighboring buildings and also harm anyone who might be walking or driving in front of that building. And so, this is an example where at least repairing the back wall or putting stabilizers on that back wall could be an example of an activity that would control or arrest the effects from this imminent threat. And so, in that example or other examples, let's say you have a building that could collapse onto the street and hurt people. And this again is it could be from physical deterioration or following a disaster. Shoring up or stabilizing the building would qualify for that 58.34(a)(10) exemption.

If you want to rehab the building, that would require a CEST or an EA, just depending on the scope of work and the type of building or use or building use it is. And if you want to demolish and reconstruct it, that would also be either CEST or environmental assessment. In our second example, if you had widespread exposed asbestos in a building, if you cordoned off sections of the building and limit building access so that people are not exposed to that asbestos, that would qualify for the exemption. But if you want to rehab the building or remediate the asbestos and remove that asbestos, that actually would require a CEST or an EA depending on the scope of work. Demolition and reconstruction would be probably an EA in this case. Knowledge check. So, see how much this is sinking in.

Let's say the tribe wants to redevelop an abandoned building into a homeless shelter. Buildings in rough shape and could collapse, which would affect the stability of the adjoining building and be dangerous to people using the sidewalk. What action can the tribe take using the 58.34(a)(10) exemption? Can you demolish the building? Fence off the building at temporary support beams? None of the above because you need to do an EA or environmental assessment or both B and C. I'll give you guys a few seconds to look that over. And you should be seeing a poll question on the right-hand side of your screen so you can select an answer A, B, C, or D or E. And once we get a critical mass of people answering that question, then we'll go over the answer.

What actions can the tribe take using the 58.34(a)(10) exemption? In other words, which of the following below can be performed after doing an exempt environmental review? All right. Let's see what the audience thinks. A couple folks think that you need to do an EA. And then the majority of folks think both B and C, and that is correct. E is the correct answer. You can fence off the building and add temporary support beams. Both of those would qualify. You don't have to do both, but they are things that you can do. Any questions on applying this exemption? It is very narrow. So, it's not the easiest one to use and it doesn't really come up that often.

Okay. In the meantime, we'll move on to the 2020 COVID-19 notice. And if Sandy could put that link in the chat box and share that with those of us who are live today. Here is a screenshot of what the 2020 notice looks like for environmental review processing for COVID-19 projects. And it basically talks about the same things as the previous memo in terms of disasters and imminent threats. But it gives a focus on applying that reasoning to projects that are conducted in response to the pandemic. And so, it has a lot of charts of potential activities that you might be doing and what levels of review they are. So that's a useful resource for those of you who might still be conducting those types of activities.

Here, I just have one chart listed as an example of different projects that would meet that 58.34(a)(10) exemption, such as increasing the capacity of existing health facilities, providing water, and setting up temporary water stations and interim improvements to residential properties to allow for quarantining and treatments. I'm rarely using or utilize land with no ground disturbance or using existing buildings, set up temporary hospitals or other facilities. And then this exemption does not apply if your project involves any acquisition. So, this is just the list of other examples of projects that would meet that exemption. Otherwise, again, it is a pretty limited and narrow exemption that you can't really apply to too many types of projects, but here are just a list of other ones. How do you document that you're using that 58.34(a)(10) exemption? There is an imminent threat exemption checklist that was developed for the COVID-19 guidance. And here we've modified that checklist to make it apply to any type of project and not just pandemic response projects.

We'll have a copy of this checklist uploaded to the webinar materials page once we post this webinar online. This form is not a required form. It's just a suggested or optional form that might help you. So just showing you basically you list the name of your project and then check the boxes below to confirm that the project won't alter any environmental conditions. And then it lists what those what those environmental topics are. And in italics you can see what type of documentation they're expecting for you to document this with. For example, that you're not involving any historic properties or that all work is limited to interior improvements. That you're not working in a special flood hazard area, that you're not being impacted by contamination or hazardous substances. You don't have any threatened or endangered species you're not constructing in a wetland or otherwise altering environmental conditions permanently. And then here's an example hypothetical of what such a review would look like. Let's say your project is removing a tree.

You have a large old tree within a housing subdivision that's mostly dead and in danger of falling on the road or on the sidewalk or on someone. The housing authority has scheduled it to be removed because it is a threat to public safety. And so, you would use that exempt or categorically not excluded subject to 58.5 form. Call it tree removal at the subdivision, insert the project location and then describe what your project is. Removing an 80-year-old tree that's infested by an ant colony. And then on the bottom just listing out that the project won't affect any of those five environmental conditions. That it's not affecting a historic property. See the letter that we had in the original environmental review, the project is not located in a floodplain. See FEMA map. There's no contamination. See the NEPA assist report and the site visit checklist.

There is an endangered species, but we've talked with the Fish and Wildlife Service and determined that we're okay. So, then the level of review is exempt as per the 58.34(a)(10) imminent threat exemption, the funding information, and then the 58.6 checklist -- which I don't have shown there.

Okay. Here's another knowledge check just to see if this is becoming clearer. You have a community building that has toxic mold problems. The building's occupants, which include the staff and members of the public who come in and out, are concerned for their health. What steps can be taken to protect public health without a CEST review or environmental assessment, assuming that we're using HUD funding? A) Remediation/replacing the sheetrock and all areas

affected by mold; B) Demolition and reconstruction of the building; C) Purchasing high-quality air filters; D) Renting another building and temporarily relocating the community services and employees; Or E) C and D.

And I'll give you guys another minute to think about that. There's a poll question that should be on the right-hand side of your screen so you can select one of the answers and click submit when you're ready. Okay, let's see what we said. Some of you said remediation by replacing the sheetrock and all areas affected by mold and then, another portion of you said C and D, the correct answer is E, and so both C and D are correct. Purchasing high quality air filters. That's basically just purchasing equipment or supplies. And then if you want to rent another building and just temporarily relocate people, you're not really doing anything physical to a building at least. And so, both of those could qualify for exempt, if you're just paying rent. If you're remediating and replacing the sheetrock and all of the areas affected by mold, that you do need to have a CEST review or an environmental assessment.

Okay. Any questions on the imminent threat exemption before we move on to the second part of our presentation? And again, you can share any questions or comments in the chat box throughout the webinar. So now we'll move on to tribal emergency repair programs and how to handle environmental reviews for maintenance or rehab activities that you might deem as emergency repairs. Certain types of assistance need to be addressed quickly right away, within the week or within the day sometimes. And these can include septic tank overflows. I have a photo of a septic field on the bottom, but that one's functioning normally. But yeah, if you have overflowing septic tanks, broken water, main lines, malfunctioning heating, and cooling systems ahead of extreme weather events, you still have to meet all of the environmental review requirements before you carry out those projects. And how you do the environmental review depends on what the scope of work is. So that always that always determines which environmental review forms to use. So, at this point, I want you guys to share with me what you think emergency repairs are.

What examples of emergency repairs have you encountered in your communities, in your programs, in your work with tribal housing departments or tribal housing authorities? Or another way of looking at it is what would you consider an emergency repair? And I'll give folks some time to think about it. And, working at HUD or ICF or trying to manage policy at a DC headquarters level, it's not always apparent what's happening on the ground. So, this is your chance to let us know. Now what is happening in your communities and what is it that you refer to when you're talking about emergency repairs? Okay. We have a few people are starting to start to share. So, while you guys think about that some more, let me just share things that I've encountered, at least in my daily life that I might consider an emergency repair, broken window. Let's say someone just broke into a place and broke some windows or it's going to be negative 20 next week in South Dakota. If it were January and that window is going to be a real challenge for the house to be heated. So, I might call that an emergency repair.

Really depends. Similarly for water heater, if it's malfunctioning, that might be something that I would want to take care of right away if I were in the middle of a winter snowstorm season. And then this might be a fun one, pest control. And this is subjective. I mean, this was on my house, and I was like, "Okay, I'll just let these paper wasps -- I'll just let them freeze to death in the

winter and then knock them off with a baseball bat.” But other folks might have a lower risk tolerance and think that's those wasps are a threat to public health and could threaten the health of the tenants or occupants of the building. So, let's get pest control to come and remove that in a professional manner. So, it really all of these really could go either way, just depending on the context. So, Sandy, what have people shared so far?

Sandy Frye: I'm not seeing anything in the chat box yet so far.

Kathryn Au: Oh, you're not? Okay, so I'm seeing a couple of things. So, make sure that you guys send your chats to everyone because I'm in the middle of the webinar. I am, it's not as easy for me to see the chat and monitor the chat box.

Sandy Frye: Now I can see one comment and a couple more are coming in. I think that was probably the issue. People were directing them to you, not to everyone.

Kathryn Au: Yeah, yeah, yeah. So, I have- -

Chantel Key: I can tell you what I see as well. I see rain damage, roof issues. Exterior meter boxes with exposed wires that pose fire danger according to inspection from city. Emergency repair may be a home with a family of five living in the home and a fire resulted causing major repair requirements. Someone running into a house with a vehicle. I'm wondering why these examples are requiring an ERR. I would consider these as cat-ex activities. That was a question. Another comment was overflowing skeptics, mold, water heater, furnace, wasp, leveling off the house. Would that be exempt? And that's all I see so far.

Kathryn Au: Okay. Yeah.

Sandy Frye: Wouldn't the wasp be maintenance?

Kathryn Au: Yeah. So, I think it's, I'm probably seeing everything, so I'll let me go in order. So, I had one that was a tornado damage, a broken water main or sewer line. And so, yeah, there were a couple of questions of wouldn't wasps be maintenance or let's see. Yeah. HVAC, HVAC issues with high temperatures. The damaged roofs. So, let's see. Meth contamination on a house. Yeah, that actually that's a really good one, because you definitely want to remove that type of contamination ASAP or move the occupants out. Some said flooding, electrical, such as smoking outlets, clogged toilets, broken window repairs of an exterior door. Overflowing septic tanks, mold, water heater, furnace.

Yeah. So, it sounds like a lot of folks are on the same page about what might be an emergency repair. And so, one question that we got was when wasps, that just be maintenance? Yeah. So even though we call these things emergencies, the level of review really depends on, is this maintenance or is this rehab? And then if there was that question on when you just do a CADX review. So, maintenance and rehab are both categorically excluded. Maintenance is categorically excluded, not subject to 58.5, which is a shorter environmental review. And then the rehab would be the longer type of environmental review, the cat-ex subject to 58.5. And then Sandy, I think we just had a few more come in, if you could read those.

Sandy Frye: Right. Flooding, water leaks. So also, if an air conditioner were to go out, that could be an emergency for somebody who had health conditions or were considered elderly. Those were the last few we got.

Kathryn Au: Yeah. So basically, emergencies can come in all shapes and sizes and the proper environmental review to do for that type of repair or to address that situation depends on what you're going to do to address that situation. And so, then we go back into our guidance's on maintenance versus rehab, as well as just categorizing, "Okay, is this exempt? Is the CENST? So, kind of going back to the basics, there is no one rule of thumb about which type of environmental review to do for emergency projects. For example, and again, thank you everyone for sharing those examples. It's really good to get a perspective locally. So, it depends on the scope of work, on what you're doing to address that emergency. If you're doing exempt activities or non-physical categorical exclusions, for example, inspections and testing or public services would be exempt. Lodging assistance or purchasing supplies or even purchasing an air conditioning unit, that could be categorically excluded, not subject to 58.5. If you're doing maintenance, so repairing a broken water main line or emptying a septic tank, removing a wasp nest.

All of those would qualify as maintenance, as would replacing roof shingles on part of a leaking roof or and maintenance would qualify as CENST, which is a shorter environmental review than the CEST. If you're doing rehab, such as replacing entire roof or furnace or replacing entire window, that would be CEST, which is a longer review with a longer checklist at 58.5. And then less common other types of activities might require an environmental assessment. If you are acquiring and renovating a building or demolishing reconstructing a building. Let's say if you had a community building that was highly contaminated and you decide to demolish and reconstruct it, that would be an environmental assessment. So, no one type of review for emergency activities, just you just have to break it down into what actual activities are you doing and then those activities, how would you categorize them?

Going around and offering training and technical assistance over the last few years, sponsored through HUD, and traveling to all around Indian Country and working with tribes, I've encountered a number of questions regarding tribal emergency repair programs. The most frequent one other than how do I do the review is "Can I do a blanket review for the Tribal Housing Authority's emergency repair program?" And the answer depends. How you define emergency repairs, for one. And what are you doing the repairs to? If you are working on your rental units, you should already have a five-year environmental review in place aggregating rehab and maintenance. So then if you have any emergency situations come up with your own rental units, you don't need a new review. You already have a review that covers any type of rehab and maintenance activity on that unit.

The harder part is when you're trying to assist homeowner occupied units. You can aggregate your nonphysical activities, so you're exempt and non-fiscal categorically excluded, categorically excluded, not subject to 58.5 activities. You might be able to aggregate your maintenance activities just depending on where your community is located. And then another question that I get is, "Well, you know, winter is about to come, and we really need the roof and windows



replace for that unit as soon as possible. This project cannot wait even if it's a week or five weeks. No, we have to do this tomorrow because we're getting a snowstorm this weekend." In that case, I would say, "Well, there are other solutions that you can do that you can do in the meantime that would not trigger a CEST environmental review." So, I'll talk about that at the very end of the presentation. First aggregating rehab and maintenance for your rental units.

We went over this in the last webinar on aggregation, so you can look at that webinar and those slides for a refresher on what that means and what that looks like. But here's an example pulled from that webinar where you would be doing a CEST environmental review, aggregating all of your rental units, rehab and maintenance, making sure that you list all of the addresses and that all of the documentation covers all of those locations. And then for the description, you cover rehab and modernization and define what that means to you. So, interior, and exterior rehab over the next five years, will there be any ground disturbance also covering maintenance and admin costs. Okay. See if that sunk in. You have an environmental review in place for rehab and maintenance for your rental units, and that was completed three years ago. Tree fell on one of the units during a tornado and now you need the roof replaced. You probably removed the tree earlier.

Do you need a new environmental review to replace the roof? And again, you can use the pull on the right-hand side to answer this. So, A) Yes, you need a new review because the old review expired or yes, because of the scope of work is now different or no replacement is covered under the existing review or no, this is an imminent threat under 58.34(a)(10). What would you do in this scenario? You have a review from three years ago. You need a new roof now. Do you do a new review or do you not? And why or why not? So, you can select an answer and click submit. And now the poll has ended. So, let's see what we said. Okay. Couple of people call this an imminent threat.

Under 58.34(a)(10). Now the (a)(10) exemption, could probably apply to remove the tree, but to actually replace the roof and do the rehab, you do need to have a CEST review. But the majority of you said, C, you don't need a new review because roof replacement is covered under the existing review. And that is correct. You have a review already on any type of rehab or maintenance on those units. And so, tree fell down and now you need a new roof. You can go ahead with a new roof without a new environmental review. The one caveat is if you're using a different funding source than what is listed in the original review. In that case, you would perform a shorter CENST review for what we call supplemental assistance, basically adding in that new grant source. And then, Sandy, I think I just saw a few questions or comments come in.

Sandy Frye: Yeah. Question would be would the 58.34(a)(10) cover the tarp, cover a tarp or temporary fix, but CEST would cover the roof replacement?

Kathryn Au: My understanding is yes.

Sandy Frye: So that was the only one I see other than a comment that that was a tricky one.

Kathryn Au: Yeah. Yeah. So, this is why I'm having these examples, because these I think are realistic examples that you may encounter someday, especially those of you in tornado country

or anywhere where there could be disasters. And so, kind of knowing which part is what. So know, removing the tree is exempt and putting a tarp on the roof is exempt under that imminent threat and then actually putting in the new roof would be CEST. But it's all okay if it's your rental unit and you already have your five-year review in place. Do we have a new comment?

Sandy Frye: There was a question about environmental review is only for five years is only good for five years?

Kathryn Au: As far as current HUD policy that I know about the environmental reviews are in general good for five years and then every five years you should renew them, do another one, get new signatures, recheck all of the maps and make sure that nothing's changed. Kathy from a HUD Environmental HUD Office of Environment and Energy, do you have anything to add on that?

Kathy McNulty: No, that's all right. And is this, is just a CEST review? Or CENST review?

Kathryn Au: Yeah. In the case of rehab, would just be a CEST review on aggregating all of the rehab.

Kathy McNulty: Yeah, the environment. The other rule of thumb is that the environmental review is valid for five years.

Sandy Frye: And I think somebody was wondering where the five years comes from.

Kathy McNulty: Under part 58, under EIS section, it talks about how if you have an EIS and you are, if you're I think it's adopt -- I don't have it right in front of me -- but if you have -- if there is an EIS and you are using either using another agency's EIS, the information, you can do it as long as the information is less than five years old. So, HUD extrapolated and interpreted that to apply to CEST and EAs.

Sandy Frye: And is that from the time it's signed? Is that from the time the certifying official signs or when you get your release of funds or?

Kathy McNulty: From the time it's signed.

Sandy Frye: From the time it's signed.

Kathy McNulty: Yeah. And tiered reviews and such, there they have a time frame in the project description. It's a five-year time frame. It also comes from -- that's the time frame of a consolidated plan or the housing plan for public housing. So, that five-year rule kind of permeates through.

Kathryn Au: Okay. So, in general, when you're planning for your community, just five years is a rule of thumb, is what Kathy was saying with the different strategic plans or consolidated plans that different municipalities might have when planning out for the communities. So just sort of a

rule of thumb, just kind of an easy marker of when people might want to renew their planning. We have a couple of more comments and then we'll move on.

Sandy Frye: Yeah. Question about how early can you start. If you're doing a new five-year plan? When would you start kind of the scoping process of that?

Kathryn Au: The plan or the environmental review?

Sandy Frye: The environmental review. If one is beginning to expire, you know it's going to expire. And when would you want to start working on your new environmentally?

Kathryn Au: Yeah, in general, I think it depends on how long it takes for you to get the information for the environmental review. So, it depends on how many units you have. So, if you only have 20 units and you just have your up note, they have to update all the documentation. The hardest part will be just getting the site visits, checklists and make sure that there's no new contamination and photos and also historic preservation. Just checking in with the historic preservation officer with a new letter saying that, "Hey, this these properties weren't historic five years ago. A couple of them are all older now. Are any of them historic now?" And so just how long it takes for you to get that documentation across? It might if you were really good about it, you could do it in a month. So, you could do it one month before your current review expired. If it might take more time than that, or if you have hundreds of units, then you might want to start several months sooner than that. Okay.

Sandy Frye: A couple more questions related to that. I think maybe there's a lot coming in, but maybe we can address them later. We go on as there seems to be a lot of comments on this topic.

Kathryn Au: Yeah. So, this topic is not completely related to emergency repairs, but more rather about having environmental reviews in place for your units. So that's almost like another discussion. So, we'll return to those if we have time at the end. But thank you, Sandy, for reading those aloud.

Next question. That's similar to the previous one, but a little bit of a trick question. Let's say you assisted an elder homeowner with a new roof two years ago. The HVAC system is now broken and needs to be replaced ahead of extreme weather. Do you need a new environmental review? Yes, because the original scope of work did not cover HVAC system. Yes, because the original review expired. No. Because the original review is sufficient or no, because of this imminent threat under 58.34(a)(10). Similar to the previous question with a couple of nuances or a couple of variations. So now you're doing a home homeowner occupied unit.

Where we did a new roof two years ago, but now it's an HVAC system. Do we need a new environmental review? And one thing that we don't know from the details here is what the original scope of work was. What did they say in the project description? Did they say we are giving this, or we are helping this elder homeowner with a new roof? Or did they say, is this helping them with rehab? We don't know. Or I'd have to dig up the original review. But what do you think would be the best answer here? Again, this one is a little bit tricky. It's not completely obvious. Okay. Couple of you said the original scope of work did not cover HVAC and then

actually more of you said this is an imminent threat under a 58.34(a)(10) and then a couple more people said that the original review is sufficient. The answer is C. Even if your original review only said we're replacing the roof. Roof and HVAC systems, they're both rehab with similar levels of effects. And HVAC, in fact, is interior rehab, which would most likely have fewer effects unless there were contamination somewhere.

You would reevaluate the original review, if necessary, just depending on what you're doing. Such as for endangered species or ground disturbance, contamination, things like that. But in this specific example, the original review, even if it didn't say HVAC system or any type of rehab, you don't need a new review. It's really the almost the same scope of work. This one is probably confusing, but is there any question on that? Yeah. If you're doing single family rehab and then doing more single-family rehab on that same unit, even if you didn't list the different types of or even if you didn't cover all types of rehab in your original review, it's not really that big of a deal. As long as the project cleared the first time, and nothing was found. No historic resources, no endangered species, no contamination, then you don't need to do anything new, even if the scope of work is a little bit different.

Sandy Frye: One person asked, "Would this be an amendment to the original CEST?"

Kathryn Au: You could do an amendment to the original CEST. And several years ago, I would have said, "Yeah," I would just do an amendment and just pack a sticky note on and say, "Hey, we also decide to do an HVAC system." But Danielle, can you speak to this on the necessity of updating the original review for something as simple as a single-family rehab?

Danielle Schopp: I think, like you said, the devil is in the details and how the project description was originally written up. Which is why now it's important to be as expansive as you might need to be. We do not expect to see an amended project description for everything, for instance, that might require a work change order. So, we look at this with kind of common sense. Does the file tell the story? So, it really depends.

Kathryn Au: Yeah, I think that's a great characterization. Folks are reasonable, so you don't have to document every single thing as long as the original one was sufficient and cleared all of the topics. And then there are a couple of questions that came in. I think there was one on IT and some other ones.

Sandy Frye: Basically, asking is a memo to the file sufficient? And I think Danielle just answered that question.

Kathryn Au: Yeah, you could do it, but it's also not even necessary. Just kind of be reasonable. There was an IT question, IT being imminent threat?

Sandy Frye: So, it could be both. Basically, saying is it's kind of a trick question. You could note it in the environmental review as a change in the scope and move ahead. It's their comment.

Kathryn Au: Let's see. Yeah. Yeah. Just a note. This project, the HVAC system is not an imminent threat project. You could call it emergency repair under your own program. But for the

HUD, Environmental review is not an imminent threat project. Maybe it's getting an imminent threat grant from HUD, but this would not be an exempt review under the 58.34(a).

Sandy Frye: Another person recommended maybe developing a comprehensive rehab list that you could include kind of to cover potential items that you might do as your scope of work.

Kathryn Au: Yeah. So, one thing I like to do with homeowner occupied rehab is a list. These are the potential types of rehab activities we might do. What we're planning to do is the siding and the roof and the other stuff. But, in the future we could amend that. And so that will cover you in the future. But if you didn't do that in the past, then you just said we're doing a roof. No, that's fine. Just it's moving forward. It's easier for everyone if you just be more inclusive and then also specifically say, this is what we are planning to do for that homeowner at the moment.

Okay, so that was kind of talking about existing reviews. So, moving on for blanket reviews, the first thing is for your exempt and nonphysical activities, you can create a blanket review and basically aggregate them into one single review, as we talked about in the aggregation webinar. And so, if they have no physical impact, you can really clear them up front such as inspections, rental assistance, etc. I'll show an example. So, you're exempt in nonphysical emergency activities. And again, we talked about this in the aggregation webinar where you really can just aggregate all of your exempt and non-school CENST activities regardless of whether emergency, you just put them all into one review. But let's say you get a new funding source that wasn't covered in your original blanket aggregated review. So maybe you want to do a new review just for your nonphysical emergency activities. And so, this is what it might look like. And then the level review would be both exempt and categorically excluded, not subject to. And then you would just list all of the applicable citations.

Okay. Moving on to blanket reviews for maintenance, this one is trickier. If you're able to do it. And again, this is in the context of homeowner occupied rehab and whether you're able to do that. You can clear maintenance activities for homeowner rehab if all of the homes in your service area are not located near an airport. And if flood insurance won't be required for any of those homes. And then furthermore, this only applies for maintenance. You can't really blanket homeowner occupied assistance units. You can't really blanket that for rehab. So, make sure that you use the HUD guidance on categorizing activities as maintenance versus rehab to match your activities to rehab versus maintenance or maintenance versus rehab. So here is a screenshot of the chart in that guidance. And the second column shows maintenance activities. There is a third column that I don't have pictured here that would show the rehab activities. So, it's a good idea to be familiar with this list. And then if I could have Sandy paste that link in the chat.

That's where you can find the guidance. For those of you who are joining us live today. And so, what could that look like? If you let's say in this example, emergency maintenance activities of homeowner occupied homes in central Oklahoma, basically covering any maintenance activity listed on in HUD's notice. And this is CENST under number three maintenance and operations. The 56 checklist for airports. The town of Sentinel is not near an airport. See the map? Oklahoma was a landlocked state with no coasts. And then for flood insurance. None of the homes in Sentinel are in a 100-year flood plain. See the map and therefore in compliance. The supporting documentation would look like this, where you could see on the left within a 15,000-

foot radius of sentinel, there is no airport and then the closest airport is 15 miles away. And then on the right and center is a FEMA floodplain map where you can see the entire community. And then there is a floodplain to the northwest, but there are no homes located in that flood plain.

So here I'm comfortable saying that there are no homes in this town that are in the floodplain. So, any of the homes that I want to assist in this town would not trigger any of these laws and authorities. So, then you can just clear your program for the entire community. But in this case, it's a small town where you can find one flood map for the entire town. More likely for a lot of you, you're not going to be able to do that. So, another example of what you could do here, I have an example of an entire county in Montana. This county has only one airport. And then no homes are located within the runway protection zone. I don't have the documentation shown here, but basically, I would show a map of the runway protection zones or airport hazards of any of the airports that are located in that county and just show that there are no homes in that county. So, any home that you assist in that county will not be in a clear zone. Coastal barrier, same thing, landlocked state, no coasts.

And for flood insurance, in this case, there might be hundreds of floodplain maps that I'm not going to pour over. So instead, I'm going to say, "Well, the maps, we're going to set our program so that the maximum assistance for maintenance is \$10,000, which is equal to the deductible for minor repairs." So even if the property is in the floodplain. If the total assistance is less than \$10,000. Then I don't need to get flood insurance. So that way, by setting my program this way, I can clear the 58.6 checklist and then not have to do separate reviews for each home just for maintenance. And where do I get that \$10,000 from? That is now on the HUD Exchange Environmental Review website under the flood insurance section where HUD policy says that you don't need flood insurance for a project consisting of minor repairs. If all of the aggregated repairs is less than \$10,000. Any questions on that? I think I just saw a question come in just before I go into rehab.

Sandy Frye: What if they're not in 100-year flood plain? Let's say, what if they are not in the flood insurance but are in a 100-year flood plain? I'm not sure the question.

Kathryn Au: Okay. Yeah. Not quite sure what that's asking. So, if you could clarify that we'll come back later. But that's just sort of an example of how to aggregate maintenance reviews.

Sandy Frye: Right. And somebody commented about not participating, being a participating community in the National Flood Insurance Program.

Kathryn Au: Right. If you are in a floodplain but aren't participating, then HUD assistance cannot be provided. I believe. Okay. Won't get too into the weeds with that. Moving on to the main topic, which would be planning ahead for emergency homeowner occupied rehab. Or emergency rehab in general. If it's your own housing stock, your own rental units. We mentioned this earlier, but again, just make sure that you have active environmental replacements, environmental reviews in place for rehab for all of your rental units. So then if you need to do a repair, you don't need a new environmental review. The rest of this will really apply just to the homeowner occupied units. So, to increase efficiency or to expedite these types of reviews.

There are several strategies you can use. There's no one answer to making this quicker. It's really just a combination of strategies.

Becoming more familiar with environmental reviews and getting more proficient at them so that you can do them quicker. And so different ways to do that. One basic one would be just to set up a template review for your rehab projects, for your homeowner assistance projects. More advanced but could even save more time in the long run, is setting up tiered environmental reviews for the whole community, where you have a tier one review, completing most of compliance steps and getting HUD approval up front and then doing tiered reviews for site specific homes or projects once you receive applications for assistance. And then streamlining compliance for the environmental analysis. So, I'll talk about those three strategies. And we just had a question about template reviews.

Here is an example of a template review using the CEST form. Basically, once you've done one review, the rest are easier to do because if you're working in the same community that a lot of those maps and language and determinations aren't really going to change and you just highlight the sections that you need to change for each review. Here I have the addresses, the airport, know the distance from the airport, it's going to be different for each home. But I just highlight that section and then the rest of it I keep the same unless anything else changes. Flood insurance. I just changed the flood map. That panel number and the effective date for that area was all the same contamination. I just highlight the section that I change. Did we see any facilities? And if we did, how many and what was the outcome? And then the rest of it, I just keep the same. So, I don't need to keep retyping things. This does increase efficiency but requires that you understand the environmental review really well. There is a question on the \$10,000 deductible, I think?

Sandy Frye: Is the \$10,000 deductible for the five-year life of the review?

Kathryn Au: I believe that's really for the life of the property. So, if you are going to do more than \$10,000 over the life of the property or over whenever you have that, then as soon as you have more than \$10,000 than the flood insurance requirements would kick in. I think either Danielle or Kathy might have a better understanding of that. But that might also be a tangent. Yeah, that's something you can follow up with the HUD Office of Environment and Energy staff about interpretation of floodplain requirements, which is not the topic of today's webinar. Okay, so that was template reviews. And I don't have an example of this available just because it really depends on the community. Like I have templates for Oklahoma because there are a lot of tribes in Oklahoma, so it's just easier to have that. But for other states, other situations, it's going to be very different, and the documentation is not going to be the same. A four-tiered environmental review.

Here is an example of a tier one review. And in the next few months, we'll be having -- we'll be putting out a case study on tiered environmental reviews, and I will be setting up templates for tiered reviews and showing the different documentation and templates for all of that. So, stay tuned in the next few months. Probably within six months. So, you basically clear the program for your activities. So, if you're doing elder homeowner rehab for the next five years, then you complete a tier one review, complete the checklist to the best of your ability. And if you're able to clear it, then you say yes in the middle column, if you're not able to clear it because you need

to know the address of the home, then you check no and you basically shelve that or table that for later for the tier two review. Tiered reviews cannot convert to exempt. So, you do need to issue a public notice and have a public comment period and then get the HUD approval through the request for release of funds.

There is a specific public notice for tiered projects, and that's on the HUD website. And again, in the future we'll have a tribal specific example with templates for how to set up tiered reviews. And then once you have an application come in, then you can fill out a shorter tier two review just for that unit clearing that one unit. So, remember in that earlier slide, I had noise abatement and control. We were not able to clear it at the first level, so I included it on the form for tier two. The tiered reviews are efficient because you can receive HUD clearance beforehand. So then if you end up having a home where there was lead based paint or other contamination or any historic preservation concerns, then instead of having to wait another month for the HUD clearance, you've already gotten the HUD clearance upfront. Okay. So that's tiered reviews. Of course, even having a template review, you still need to do the environmental compliance.

You still need to demonstrate compliance with the different environmental topics. So different strategies for streamlining specific laws and authorities, especially under 58.5. A historic preservation, this is this is the big one because during the section 106 consultation can hold a project for over a month, just depending on how fast your historic preservation officer can respond to you. Endangered species, you can often clear up front, but I want to point out that in some states or for some endangered species, you can't actually clear this up front for rehab projects. So, it really depends. And I want to go over a few examples and a couple of slides and then I'll just mention here, contamination is something that can also hold projects up because getting testing for lead-based paint and other materials or substances can take several weeks just to find an inspector or someone to do the testing and getting the report.

So, it might be something where you try to use grant money to test units upfront or know that once you get an application, do that right away, for units older than 1978 or something so that you can get that part done quicker. In the meantime, for historic preservation, I want to call your attention to the strategy of having programmatic agreements. If you enter into a programmatic agreement with your historic preservation officer that basically lists, it's a document or agreement that lists of certain types of activities where you do not need to consult with the historic preservation officer. And if you're not able to do a programmatic agreement, you can still at least develop relationships with your state or tribal historic preservation officer so that you understand the process and how long it takes. And if you've done it several times, then you know, okay, for Oklahoma, it might take two to five weeks to get a response.

For Utah, it might take a day or two and then you'll know, do I do an online system, online submission? Do I send by mail? Can I email? So, the earlier you work with them to know how they want the consultation request to be sent in, then the faster it will be for you to clear your projects for those topics. But here is an example of a programmatic agreement for from the Alaska State Historic Preservation Officer for HUD Projects. So, this appendix lists all of the activities that do not require consultation with the state. For example, any structure less than 45 years old, they don't care about. You don't need to write to them. It's fine. If your property is over



45 years old, as long as you're just doing maintenance or repair or replacement of the following systems.

That does not affect the exterior appearance of the property. So that includes electrical, water and plumbing and heating and cooling. Then you do not need to consult the Alaska SHPO. And for those of you who are in Alaska, something to keep in mind for this programmatic agreement, the tribe must sign on to be party of it in order to use this pragmatic agreement. There is a separate appendix. I think it's appendix B that you have tribes sign on to and submit it to the state and possibly a couple of other organizations and then you can use it. Also, every year you have to send the state an annual report about which homes you cleared through this programmatic agreement, just so that they have a record of how you used this PA. Okay. Another knowledge check. Let's say a tribally designated housing entity in Alaska is assisting a homeowner with replacing the furnace. Does the Alaska SHPO need to be consulted? Yes, because consultation is required for all CEST reviews. Yes, if the tribe has not signed on to the programmatic agreement.

No, if the tribe has signed on to the programmatic agreement or no, this is an imminent threat under the (a)(10) exemption, or both B and C. Now, I'll give you folks a minute to look at that. And not most states don't have PAs in place. This is just an example that I did find. Sometimes you'll have a municipality or a city that will have a PA in place. You can always work with your tribal or state preservation officer on a personalized or customized PA just between you and them. But that does take some upfront work and investing in those relationships. Okay. A couple more questions before we end, but let's see what you think about this one. That's what I think people found most confusing. But yeah, most people got this one right. The answer is E, B and C. If the tribe has not signed on to the pragmatic agreement, then you do you need to consult with the state. If you have signed on, then you don't need to. Hopefully that makes sense. So, the answer is E. Okay. And then I'll just spend a few minutes on endangered species.

Just a couple of caveats. Some states have No Effects guidances. Basically, US Fish and Wildlife Service and or the National Marine Fisheries Service. They might have guidance for certain states saying which types of activities will have no effect on endangered species. In general, for interior and exterior rehab, you'll want to learn about what species are in your area and talk with the US Fish and Wildlife Service or other qualified professionals or wildlife biologists to determine whether those types of activities can affect endangered species or critical habitat. And in most cases, rehab isn't going to affect endangered species. But there are a couple of species that can be more complicated. For example, for roof replacement, you actually do need to inspect for endangered bats before you do any roof work, if bats occur in your region. And so that's something that you want to check with Fish and Wildlife Service. And then in the Pacific Northwest galvanized metal roofs, though the runoff from those roofs.

So, when there's rain from it, that rainwater, if it gets into water, bodies that can be toxic to eggs of endangered fish species. And so, there are some specific requirements for roof replacement in the Pacific Northwest. So, here's an example, knowing the species in your area. Three mammals, two shorebirds. I have a little bit of a background in wildlife ecology, and the habitat that these species have does not really overlap with developed lots. So, I can reasonably say that we're just doing rehab limited to a structure or rehab limited to an already developed lot. No, there is no

habitat on those lots for these endangered species. I'm pretty confident to say that. Here is an example of endangered species guidance for those of you joining in from Oklahoma. All of the highlighted activities do not need to worry about endangered species because the US Fish and Wildlife Service has determined for Oklahoma that these activities have no effect. And that's an easy one. Then another example, Alaska.

You have Fish and Wildlife Service where their guidance lists the communities that have no endangered species. And then for all other communities that aren't listed. Does your project occur within the existing village footprint? If yes, then your project may affect, but is not likely to adversely affect any of the species. So that sounds scary because it's not a 'no effects' finding, but really there's just a very simple online reporting form that you have to submit to U.S. Fish and Wildlife Service, and then you're done with the section. So, it's a pretty useful guidance. Also for Alaska is guidance from NOAA Fisheries under the Department of Commerce. And so, they talk about how to make a 'no effect' finding. And so, for interior rehab, you can say that even if there are endangered species, there is no plausible route of effect for that interior rehab to affect those species. Some other examples, guidance for Washington state, you have US Fish and Wildlife Service. So here, even for interior rehab and exterior rehab, it can be a 'no effect' finding, but only if it meets the conditions listed on the right-hand side.

And specifically roofs or galvanized materials, there are certain requirements for that use. And then for Washington state, you also have to make sure that you comply with the National Marine Fisheries Service. And same thing, their guidance also talks about interior rehab and exterior rehab and requirements for roofs and other types of materials. And I won't go over that in too much more detail. And we have a couple more minutes, so let's spend a minute on this one just in case any of you are from Washington state. You are preparing an environmental review for an interior rehab project in the state of Washington. How do you demonstrate compliance with endangered species protection? Interior rehab activities have no potential effects. You show a map of your project. Do you obtain a species list, or do you check the guidance from both agencies?

Sandy Frye: There was a comment if you could put the NOAA Alaska guidance in the chat?

Kathryn Au: Okay. I will have to look that up. So, if you stay a few minutes.

Sandy Frye: I didn't have it either.

Kathryn Au: Yeah. I have to search for it. But I can find it. I just have to pull it up after the webinar. In general, all of these NOAA effects guidance's. I basically went online and search for the state and search NOAA effects guidance, endangered species, Alaska, or Washington State. And then I was able to find that. I think there is also there might also be website, or the websites might be listed on the HUD Region ten Environmental Review website and that should be pretty up to date. And if Sandy, if you could, while I'm talking, look up the Region 10 website too - -

Sandy Frye: Yeah. I'll look it up.

Kathryn Au: Yeah. And put that in the chat box. That might be easier to, that might just list everything, hopefully. Okay. Let's see what people said for the poll. Okay. Yeah. Most people got this one right. Some people said interior rehab activities have no potential effects on endangered species, and that's going to be true for most places in the country. But I'm not comfortable making that call until I know what species are there. And yes, we do want to check if there's any specific guidance from your state or from Fish and Wildlife Service for your state. In this particular example in Washington State, we want to check the guidance from US Fish and Wildlife Service and National Marine Fisheries Service. So, answer is D. And then, if you're trying your best to do these reviews, but let's say you have a project that really cannot wait.

You have to take action now or someone's going to die from extreme heat or extreme cold. In that case, you want to be mindful of human life and health and safety. So, you'll want to respond in a way that would not trigger an environmental review or CEST environmental review. So, things you could do could be providing temporary lodging assistance, which would only require a CENST review until you can complete the rehab. So that could get expensive. And it depends on if there are hotels or other types of assistance available for lodging. You could purchase a space heater or air conditioning unit for them until you can get the work done. Or if you really need to get the work done and you can't wait, then as a last resort, you can always use nonfederal funds to perform the work.

So, program income or tribal funds or local funds, any nonfederal fund would not trigger the environmental review requirements. And as a note, if you do, do that, you cannot reimburse yourself with the HUD funds afterwards. So basically, you want to use common sense and prioritize public safety. So, in summary, congratulations to everyone for making it to the end of the webinar. The 58.34(a)(10) imminent threat exemption has very narrow applications. You'll want to use a blanket environmental review for emergency actions when you're doing exempt and nonphysical CENS activities. You can try to do that for maintenance where flood plains and airport hazards can be cleared.

For your homeowner of repairs that qualify as maintenance. For your emergency rehab activities, make sure that you just have a five-year review in place for your rental units. And then for your homeowner units, set up a template review or tiered review, a streamlined compliance process for individual environmental topics, such as through programmatic agreements and developing relationships with state and federal agencies and tribal agencies, and otherwise finding solutions that can be implemented without a CEST environmental review.

And I think we had a couple more questions and comments. So, we'll stay extra to answer any of those. So, some folks wanted to get copies of those templates and stuff. So, I think what would be easier is I'm going to put my email in the chat box and so anyone who's attending live can just email me about your specific ask and I can send you what I have in terms of those programmatic agreements and the examples. A copy of those form. Let's see. Yeah. And yeah. So, anyone who wanted a copy of something, just email me and be specific about which form you're talking about, because we went over several different types of guidance's for different states. So, I'll just be specific about that. Any other questions that we were not able to get to earlier or that might have come up in the last couple of minutes?

Sandy Frye: I'm not saying any other questions other than may want to talk about the flood insurance, about the coverage. I know you said we weren't talking about specific flood insurance as a requirement, but that the \$10,000 deductible would always apply to the flood insurance requirements. So as long as that's still a FEMA amount, I guess a deductible under FEMA, that'll be the limit, I guess, as far as that goes. But do we need to talk about flood insurance coverage for the life of the loan versus if it's a grant or if it's a loan?

Kathryn Au: Oh, very interesting. Yeah, I think that's almost another topic entirely, that we cover in our normal three-day trainings on when we talk about flood insurance. Yeah. If in doubt, if you do need to get flood insurance. Basically, what Sandy is saying is use a forgivable loan rather than a grant. And that way the flood insurance will only be required for the period of the loan and not for the life of the property. If you use the grant, then flood insurance will be required for the life of the property.

But yeah, thank you everyone for attending today's webinar. Recording will be available in about a month or so whenever we clean up everything and get the transcripts ready. All of that will be put online at that website that Sandy shared at the beginning of the webinar. And otherwise, I think we are out of time. So yeah, we can end the webinar and then go into a private chat room.

(END)