

Environmental Reviews for COVID-19 Projects, 12/10/20

Liz Zepeda: All right. Hello, again. On behalf of HUD's Office of Environment and Energy, welcome and thanks for joining us in our last webinar of 2020 and in this series. Our topic today is "Environmental Reviews for COVID-19 Projects." We'll be discussing some special aspects of completing environmental reviews for HUD projects during this unusual time and particularly, for projects directly related to addressing the COVID-19 health threat.

We've got kind of a big team from OEE here today to cover a variety of different topics. So in order that we'll be speaking my name is Liz Zepeda, I'm going to be introducing the webinar and moderating your questions.

I'm joined by Kathleen McNulty, an environmental specialist in our environmental planning division, Lauren Hayes Knutson, the Program Environmental Clearance Office for HUD's Community Planning and Development office, or the CPD PECO and Nancy Boone, HUD's federal preservation officer.

We're also really happy to have Michelle Grainger and Orlando Velez from Enterprise Community Partners with us to host this webinar. Just a note we are recording the webinar and that recording will be posted on the HUD Exchange along with our slides after the webinar.

I think you also can already get those slides using the link that Michelle has posted in the chat. And now, before we get started with today's content, I'll pass it over to Michelle Grainger from Enterprise to go over some housekeeping.

Michelle Grainger: Thank you, Liz. Today's webinar attendees will be muted. So please note that. Also, we will be answering some common questions at the end of today's webinar. So to do so, please use the Q&A panel at the bottom of your screen to submit your questions.

Also note that the chat option will be disabled and we will not be able -- you will not be able to submit questions there. In order to have the best audio quality, we recommend that you switch from your computer audio to your phone audio and you can do that by following the steps at the bottom of the screen.

You can go to your lower panel and select the dropdown screen, they're your phone icon, and you can switch to phone audio. And now I'll pass it back to Liz. Thank you. Liz, are you there?

Liz Zepeda: Oh, thank you.

Michelle Grainger: You might have double-muted yourself.

Liz Zepeda: Yeah. I was still muted, apologies. Thanks. Our goal today is to familiarize you with the special considerations and procedures that apply during the current public health emergency and how to complete environmental reviews for projects that directly address COVID-19 safety and recovery.

There are a few different aspects of that we'll be covering and I'll get into those in the agenda on the next slide, but just wanted to let you know this will be a more advanced training in that we're going to assume that you're familiar with the basics of HUD's environmental review process so that we can focus on some of the more unusual circumstances we're dealing with right now.

So if this is new to you, I'd encourage you to check out some of our other trainings and resources, particularly WISER to learn the essentials and I'll talk a little bit more about that in a couple of slides.

So once I'm done introducing the webinar and where you can find our resources I'm going to pass it over to Kathleen McNulty to discuss levels of review, particularly the imminent threat exemption in Part 58 and how to determine when that exemption applies to COVID-19 projects.

Next, our federal preservation officer, Nancy Boone, will discuss some special aspects of conducting Section 106 consultation during this time and then we'll turn the webinar to Lauren Hayes Knutson, the CPD PECO to cover some program-specific environmental procedures affecting the CDBG-CV and ESG-CV funds and programs.

I only included those acronyms, so I'm sure Lauren will tell you what those stand for. And Lauren is also going to review public notice and comment procedures that apply to all environmental reviews completed under Part 58 regardless of the funding source. Then we will return to the imminent threat exemption.

Kathy and Nancy are going to answer some frequently asked questions about some specific scenarios when that exemption applies and finally, we will take some of your questions. So please start submitting any questions now or as you think of them to ensure that I see them and can read them out.

I'm going to be following along with those during the webinar, but you'll have better odds if you submit early. We do have a lot of attendees today, more than we usually have. We're going to do our best to get to as many questions as we can, but I can't promise that we will respond to every question individually.

We will make sure that you all know where you can go for help after the webinar if we don't answer all your questions. So before we really get going, I want to make it -- or yeah, we wanted to make it clear what we mean when we say that this webinar covers environmental reviews for COVID-19 projects.

So what do we mean by COVID-19 projects? We're using that phrase to describe any project to design -- designed to address the COVID-19 public health emergency, really in any capacity. Like I mentioned in the agenda, Lauren is going to cover some topics that apply specifically to projects funded through CARES Act programs, but the majority of this webinar could apply to projects assisted by any HUD program whether it's funded through the CARES Act or not.

A project fully funded through regular community development block grants, for example, could certainly qualify as a COVID-19 project as we're using it here. When the rules are program-specific, we're going to be really clear about that. So there shouldn't be any question.

On the funding source, we're discussing a really broad range of project types. This could be as simple as providing supplies, equipment or public services to help protect people from COVID exposure. So that could be distributing masks to providing telehealth equipment, installing temporary washing stations, whatever that looks like in your community.

This could also be projects related to the economic and financial burdens that people are facing. So financial support for renters, homeowners and small businesses who are struggling to pay their bills. And we're also talking about some larger-scale projects to expand communities' access to healthcare and quarantine facilities.

So that could be constructing or converting structures or outdoor space for use as a shelter or health facility or renovating an existing facility to better suit your current needs, like expanding capacity or creating space for quarantining and that can all take a lot of different forms from residential shelters, mobile homes, tiny houses for quarantining, field hospitals, warming stations as well as, of course, more traditional healthcare facilities.

We've seen a lot of examples already, but I'm sure some of you have more examples that we haven't thought of yet or haven't heard about yet. So this is really broad. If you're not sure, please let us know and we'll help work out what applies. So one last thing before we get going, and we will come back to all of this, but we wanted to make sure you knew where you could find all the written resources you might need.

HUD and OEE have been managing comprehensive and ever-growing web pages devoted to cataloguing all of our COVID-19 resources. On this slide on the right, we linked OEE's page with all of our environmental review references. That includes links to program-specific environmental resources and even with that, that isn't limited to CARES Act programs.

So of course, we have guidance on that, but it's broader programs as well. For example, the housing office has Q&As for the Office of FHA, multi-family housing stakeholders and how to adjust their procedures during quarantine.

If you're looking for more general information on HUD's environmental review policies and procedures, just cut off that last bit of the URL, go to [hudexchange.info/programs/environmental review](https://hudexchange.info/programs/environmental-review), you'll find a lot of guidance and training materials there. Again, if you're looking to start at the beginning, I'd recommend checking out the Web-based Instructional System for Environmental Review or WISER.

You'll find a link to that under featured topics on our main page on the HUD Exchange. You can also start with hud.gov/coronavirus or all of HUD's COVID-19 guidance in one place, including our environmental review materials. And now I'll pass you over to Kathy to talk about levels of review for COVID-19 projects and our imminent threat exemption.

Kathy McNulty: Thanks, Liz. Hi, everyone. Welcome. So we'll start with the Notice CPD-20-07 and that provides -- that's where there's more in-depth guidance on the environmental review processes for the different levels of review and the different activities that could be undertaken in response to COVID-19.

I want to point out that HUD's 2012 memorandum on environmental review processing during emergencies and following disasters is still in effect and remains in effect and it is still applicable when there is a disaster or natural disaster or an emergency. So COVID-19 -- the CPD-20-07 was developed and drafted.

It's specifically to respond to the COVID-19 public health emergency. The imminent threat exemption is one exemption listed at 58.34(a)(10) and the big takeaway is that the CARES Act and the public health emergency declaration didn't change the environmental review process.

24 CFR Part 58 and Part 50 still applied to the [inaudible] and there are the same categories of activities that require the same levels of review as prior to the COVID-19 public health emergency, but because there was a declare of public health emergency, we can activate the emergency threat exemption and make use of that for the projects and activities that can meet the conditions of that exemption.

So as I noted, the categories of the levels of environmental review are still the same, it's just that some of the activities that are undertaken within those categories will be in response to COVID-19. At the end of the CPD Notice 20-07, there's a chart in the appendix material.

There's this -- there is a chart that organizes the potential world of activities. It doesn't address each and every activity, but it organizes some exempt activities, CST activities that might be undertaken to respond to COVID-19 and it organizes them all by the level of environmental review that might apply to that particular activity.

The CPD notice also includes a description of the conditions that an activity must meet in order to utilize the imminent threat exemption. It provides a more in-depth description, but we're going to talk about it in this -- at these particular slides as well.

If an activity doesn't meet the conditions, that doesn't mean it cannot be carried out with HUD funds, it just means that it requires us to go back to Part 58 and review 58.35(a), (b) and 58.36 to determine the appropriate level of review. So this is going to sound obvious, but keep in mind that the imminent threat exemption is placed in the category of activities that are exempt at 58.34(a).

So this tells us that just like all the other exempt activities that are -- that this -- at the imminent threat exemption, an activity that's going to be used to respond to COVID-19 still needs to meet those same conditions, that they do not alter environmental conditions just like all the other exempt activities.

The other condition that an activity needs to satisfy in order to utilize this exemption is that it has to be taken in response to an immediate threat from COVID-19. So first question is, does the imminent threat exemption apply to all CARES Act-assisted projects?

And the answer is of course, no, it's not going to apply to every activity. Whether you can use the imminent threat exemption will depend upon whether or not your activity meets the two conditions that we're going to talk about in the next two slides. And we still want to read.

So if you have an activity that you are proposing to undertake to respond to COVID-19, we would look at Part 58 in the same way that we would for any other activity doesn't meet an exemption at 58.34. If it doesn't meet the imminent threat exemption, that's at 58.34(a)(10).

Does it -- if not -- doesn't meet an exemption at CENST, one of the cat ex not subject to, then we look and see if it meets CST and then EA. So that process hasn't changed.

Activities undertaken in response to COVID-19 that meet the imminent threat exemption are activities that do not alter environmental conditions and the meaning of do not alter environmental conditions means that it's -- that your activity's not going to irreversibly affect a significant element of a property that's listed on a national register or that is eligible to be listed on a national register.

And Nancy Boone is going to be talking about this particular aspect -- this particular condition in later slides. The activity also could not replace, reconstruct or substantially improve structures in a flood plain.

To meet the exemption, the property or the site of the proposed activity cannot be impacted by contamination or have any substances and we can't work on sites where a threatened or endangered species will be impacted or there will be impacts to critical habitat.

If the activity involves new construction in a wetland, it doesn't meet the exemption and if it involves new construction, generally it's not going to meet the imminent threat exemption and although these -- we've listed the four or five big ones that many projects run into, if there are other conditions that will be altered by the activity that you're proposing and you want to use the imminent threat exemption, it cannot alter any other environmental conditions even if they're not listed here.

The second condition is that we're -- is the limitation. Activities must be limited to temporary or permanent improvements but only those improvements that are necessary to control or stop the imminent threat. So some examples -- so for example, adding walls or renovating an interior space to create individual spaces in congregate housing situations and shelters, warming shelters or any other kind of shelter or residential structure.

So renovating interior spaces, moving areas around to create places where people can be quarantined or healthcare can be administered. These would meet the condition of a temporary or permanent improvement. Setting up temporary testing sites, sanitation facilities or food distribution places that are located on large parking lots, in auditoriums, using spaces that are already existing, land that's paved over.

These types of activities do not alter environmental conditions, because they are in existing sites and also they are necessary just to address the imminent threat that's presented by COVID-19. The imminent threat exemption is an exempt activity at 58.34(a)(10) and because it is there, there's 2 documents that need to be completed.

One is the exempt/CENST environmental review format that documents that the exemption meets the 58.6 environmental review requirements, the three requirements there, coastal barrier

resources, flood insurance, etc. Also, in order to document that the activity meets those two conditions, there's an addendum that is called the imminent threat checklist.

I believe there's a sample on the next slide we'll look at, but that checklist -- you can use that checklist -- you don't have to, but you can use it to document that your activity meets those two conditions. And this is what the checklist looks like, it is on the website and available for you to download and use.

You would attach this checklist either to the exempt format, if you're using paper, or you could upload it to the project summary page in HEROS.

And so that's how you would document that the activity meets the imminent threat exemption and again, if the activity doesn't meet the imminent threat exemption, you can still move forward with funding the activity with regular HUD funds, just determine the applicable appropriate level of review and follow the normal environmental review procedures.

There are a few expedience -- few strategies to expedite the process that this webinar will also cover. And now Ms. Nancy Boone is going to explain to us the Section 106 consultation process for emergency situations.

Nancy Boone: Thank you, Kathy. So if a project does not meet the imminent threat exemption or another exemption, we want to talk briefly about some ways to expedite Section 106 review for compliance with the National Historic Preservation Act. The regulations that implement Section 106, known as 36 CFR 800, have some provisions for emergency situations.

They note that in cases of immediate rescue and salvage to preserve life and property, there's an exemption and Section 106 is not required. Typically, that applies to activities during natural disasters, but the regulations also allow an expedited seven-day review of disaster response projects within 30 days following a disaster declaration.

For COVID-19 projects, the expedited review period has been extended since the pandemic is ongoing. It's been extended through December 31st. Normally, the review time is 30 days. So an expedited seven-day review period is a much quicker route. HUD was the first agency to request an extension from the advisory council on historic preservation for that emergency review period.

The advisory council has since issued that extension to all federal agencies. It applies to COVID-19 projects that may be funded by HUD or FEMA or USDA or others. It covers all federal agencies and the extension may likely be extended further after December 31st. When the advisory council does that, the new date will be posted on the advisory council's website at the link that you see here and of course, we will also post that new date on our website.

Thank you. So if you have a COVID-19 response project that requires review, how do you use the 7-day expedited review? Well, first of all, you provide a project notification to the state historic preservation officer, tribal historic preservation officer, the advisory council and historic preservation and interested tribes and native Hawaiian organizations.

Like in a standard Section 106 review, if you are looking to identify which tribes and NHOs might be interested in a given project location, you would use the online Tribal Directory Assessment Tool, TDAT.

Your notification to those parties would include a project description, maps, location, information, photos and the notice would identify the project as a COVID-19 response project and formally request the 7-day review so that it's completely obvious, when the parties receive it, that they have 7 days to comment.

In this process, there is no concurrence required from SHPO. So this is really a comment period. The parties have an opportunity to comment. The responsible entity or HUD official then takes those comments into effect and makes a decision -- makes a final determination about the outcome of Section 106 and then is able to include Section 106 and proceed with the project.

It's advisable to notify the parties who expressed interest of the outcome of your review and obviously, you are always able to continue consultation if someone raises serious issues and you choose to continue discussing options with them, that's certainly allowed and advised.

For COVID-19 projects that require Section 106 review, there may be some additional ways to expedite review through an existing Programmatic Agreement, or PA, that applies to HUD-assisted projects. So these programmatic agreements are negotiated by responsible entities with state historic preservation officers and tribes and they identify exempt activities that don't require further Section 106 review.

So many exempt activities are included, like for instance, rehab work on a single-family house less than 50 years old or modification and bathrooms or accessibility, temporary ramps, utility works, mechanical upgrades, etc. So some of those things may very likely be activities that are being undertaken as a result of the pandemic as well.

If a PA exists for a locality, you can find it on the HUD Exchange at the link that's listed here on the screen. We try to include all of the programmatic agreements that are out there, but we sometimes miss them. If you have a programmatic agreement that we don't have on our database, please send it to us and we will get it posted.

Some PAs are specific to presidentially declared disasters and we hope that you're somewhat familiar with what we call the HUD addendum.

So this is a process -- an initiative that HUD developed with FEMA and the advisory council on historic preservation where HUD adopts -- and HUD grantees and reviewers adopt the procedures for Section 106 review on disaster recovery projects that FEMA has already negotiated with SHPOs and tribes.

So it piggybacks on the procedures and options and expedited measures in that FEMA PA. We call the addendum -- we call this the HUD addendum and it contains exempt activities like shortened review times, standard mitigation measures and also something that can come in handy, ways to efficiently resolve adverse effects.

So you see a list here on the screen of states and city and territories that currently have disaster programmatic in place through the HUD addendum. I would just note that Florida, which is listed in the list here, is pending at the moment. It is almost in effect but not quite.

Also, there are a couple states, Connecticut and Texas, that have developed their own independent programmatic agreements for HUD disaster recovery activities and those are also posted on the HUD Exchange.

So a few other things to note about Section 106 reviews during the pandemic, some state historic preservation offices and tribal offices are closed or operating at reduced capacity due to the pandemic and the advisory council on historic preservation has issued some guidance on how to address that.

They have suggested that the review timeframe, the normal 30-day review timeframe, be paused for as long as possible to give the option for a SHPO or a tribe to respond to a submittal that you've given them for their comments and concurrence in a regular Section 106 review.

The council encourages agencies to allow more time and it is open-ended and certainly, we have seen some instances where it's pretty compelling that a project needs to move forward and that it is difficult to accommodate a longer period and in that case, the advisory council has issued some guidance on next steps that you might take and you see a link to that here.

One last item, and maybe some of you are already familiar with this, the advisory council has an online portal for submitting any information that has to do with Section 106 reviews and that link helps speed things along on their end. Now I will turn it back over to Lauren.

Lauren Knutson: Thanks, Nancy. And good afternoon, everyone. So most of you are probably familiar with the Community Development Block Grant for CARES Act program, or CDBG-CV, and the Emergency Solutions Grant for CARES Act program, or ESG-CV, but I'm going to touch on a couple environmental requirements to keep in mind for these funding programs in particular.

The first is the statutory exemption for temporary emergency shelters under the ESG-CV program. The CARES Act exempts the ESG-CV program funding for temporary emergency shelters from environmental review standards and requirements.

The temporary emergency shelters are defined in Notice CPD 20-08 as shelters obtained through leasing of existing property, temporary structures or other means and only shelters that have been determined to be necessary for COVID response and prevention.

So this means that ESG-CV funds used for temporary emergency shelters that fit this definition do not require an environmental review or use of an environmental review form, but recipients must document this in their files and indicate that this exemption was used and that the property meets the definition of temporary emergency shelter, but beyond this documentation no further review or form is necessary.

And then a couple other notes on the environmental requirements for all other CARES Act funding cannot be waived. That is explicitly part of the CARES Act. This is only for temporary

emergency shelters for ESG-CV and if ESG-CV is not the sole source of HUD assistance, the exemption does not apply.

So if you're combining ESG-CV funding with another HUD funding source, like CDBG or even regular ESG funds, the standard environmental review requirements for those programs do apply. So reimbursement is another activity to consider for environmental review purposes.

Both CDBG-CV and ESG-CV funds may be used to reimburse allowable cost of activities used to respond to the coronavirus and environmental review requirements do not apply to activities that are undertaken prior to application for those funds, however, environmental review requirements do apply prior to reimbursement of preapplication costs with CDBG-CV or ESG-CV funds.

So this means that you would essentially do an environmental review after the activity has already been completed which doesn't really fit with the standard process for environmental review, but for reimbursement purposes, you can do an after-the-fact Part 58 review, however, this does not guarantee that the activity will be eligible for reimbursement.

So if you cannot document compliance with all Part 58 requirements, you cannot reimburse the preapplication costs with CV funds. So for example, if the activity occurred in a historic building and you cannot obtain concurrence from the state historic preservation officer, the funds cannot be reimbursed with CV funds.

So in general, it's probably more feasible to reimburse for exempt or nonphysical activities than for physical activity that requires a more complex environmental review. So just think about that in terms of planning when you're thinking about reimbursement using CV funds.

Next we'll cover the public notice and comment procedures for environmental reviews during the pandemic. Our office temporarily revised some of our procedures during this time to accommodate the things like widespread [inaudible], for example. So the first is emergency expedited comment periods for environmental review, which this one is not a temporary measure, this is in our regulations at 58.33.

And this regulation allows for the public comment period and the objection period to be combined and met simultaneously over 15 days during presidentially-declared disasters or local emergencies. So this means that the grantee can publish the notice of intent release of funds and the FONSI, if applicable, simultaneously with the submission of the request release of funds to HUD.

So if you do choose to use this expedited comment period, the public notice must indicate that the funds are needed on an emergency basis and that the public comment and objection periods have been combined. Also, the comments should be submitted to both the grantee and to HUD.

Something to note on this is that there is a statutory requirement for HUD's 15-day objection period. So the combined comment periods cannot be further streamlined beyond the 15 days, but it will save you some time if you do combine these periods. Then if there are no comments received or if all the comments are resolved, HUD can certify the authority to use grant funds following the 15-day period.

The next flexibility is for signing and submitting the request to release the funds and certifications. So because most HUD staff are currently teleworking, there likely will not be anyone in the office to receive your request release of funds but submitted via mail. So this is a great time to use HEROS, the HUD Environmental Review Online System for your environmental review if you're not already, because the HEROS process is completed electronically.

We certainly encourage all grantees to register for HEROS access if you have not already, but outside of HEROS there is also the temporary option for REs to submit the request to release of funds via email. REs must submit either a scanned copy of the signed paper request release the funds or a PDF with an electronic signature and there's additional guidance on this on the HUD Exchange under our coronavirus response resources.

Something to note on this is we received a couple questions about the timestamp of electronic signatures on the request release of funds. So I know that some grantees tend to get the certifying official signature before the expiration of the public comment period and then date and submit the RROF once the comment period has closed.

This is fine from an OEE perspective and we will refer to the date field on the signature line of the RROF and not the PDF timestamp of the electronic signature if there's a discrepancy if that signature is earlier.

So we are willing to be flexible on that. And in addition to emailing the request release of funds, the RE should also make the environmental review record available online during the pandemic if RE staff will not be available in the office to provide a paper copy or if your office is not open to the public coming in to look up the environmental review records.

So the public notice should now include a URL where the environmental review record can be accessed. This would most likely be the grantee website or you can include an email or U.S. mail address where the public can request a copy of the environmental review record, but a longer timeline a little trickier, but that is an option if you don't want to make the environmental review available on your website.

And then any objections to HUD's release of funds should be send via email during the objection period and this means that the public notice must include an email address for objections.

Some HUD program offices, CPD in particular, have centralized inboxes for environmental documents and those are listed on the HUD Exchange using the link on this slide, but please make sure to reference either these inboxes or the appropriate HUD email address for receiving objections in the public notice and you can work with your field environmental officer or HUD program staff to determine the appropriate HUD email address to include if your program office doesn't have existing inboxes for environmental documents.

And then finally, we just want to reiterate these new processes and a couple points just to really make sure that REs can avoid having to republish the public notice. We've run into a few issues and want to avoid this situation.

So please remember during the pandemic, you must include a HUD email address or inbox where the public can send objections to the request release of funds and do not instruct the public to review the environmental review record at an office that is closed due to the pandemic.

You will need to make this -- the environmental review record available online or available via email.

So please refer to these guidance documents on the HUD Exchange for more information and to make sure your public notice is correct the first time around so you don't have to republish and you can also follow up with your field environmental officer with any questions. And with that, I will turn it back over to Kathy to go through some frequently asked questions.

Kathy McNulty: Hello, again. This is the frequently asked questions section. So also included in -- on the webpage for that includes all of OEE's online guidance. HUD has posted a FAQ document related to the environmental review process for projects carried out in response to COVID-19.

So some frequently asked questions that we've seen between the publication of CPD notice and currently. The FAQs are focused on parsing out the types of activities that may meet the imminent threat exemption and on the next several slides; we're going to look at examples of different types of activities that could possibly meet the imminent threat exemption and the circumstances that may cause it to not be able to meet the imminent threat exemption.

So first question is, "Can a single-family rehab project be exempt under 58.34(a)(10)?" So yeah, if you have temporary or permanent interior improvements to a single-family residential property, it could meet the imminent threat exemption. I mean, we always have -- you know, you have all the facts of your project activity.

So you would need to take all your complete project description to ensure that it meets the two conditions, but temporary interior improvements to provide quarantine space, to provide room for a caregiver, accommodate a family member/s impacted by the economic effects of COVID-19 may be exempt as long as the project meets the 58.6, other related laws and authorities, and it meets the 2 conditions.

And as I noted before, there's the imminent threat checklist that can be used by responsible entities to document that their project meets that condition, that there are no -- there's -- it doesn't alter environmental conditions and it's an activity that's needed in response to the imminent threat posed by COVID-19.

And I noted that you don't have to use the checklist, but if you don't use the checklist, you do need to provide some other document that shows that your project meets those two conditions.

So acquisition and setting up of other movable residential units, so the imminent threat exemption doesn't allow the physical expansion of structures, but it could allow setting up movable residential units as -- you know, in order to meet -- you know, if you need to quarantine a family member or provide space to alleviate some overcrowding.

A temporary movable unit could be set up on existing residential property and then removed, as long as it's removable, after the person recovers or the quarantine period is over.

So placing a movable unit on an existing residential property means that it doesn't involve -- and in order to meet the imminent threat exemption, it doesn't involve acquisition of land or property, doesn't involve putting in footings or grading or foundations.

So the residential unit can be set up, it can be used and then it can be easily removed without altering site environmental conditions. A really common question was, providing short-term rental assistance for sheltering in motels and hotels and to provide quarantine space or for treating people or for housing patients and those -- these short-term rental assistance does meet the imminent threat exemption.

Again, you would document using the exempt/CENST format and the imminent threat exemption checklist. There are no physical impacts to using short-term rental assistance. So it's - the other thing to think about, though, when you are providing short-term rental assistance or any other types of activities that are already exempt under 58.34(a) or 58.35(b) categorically excluded not subject to.

So if the activity already meets the exemption at 58.34 or 58.35(b), it's faster to use the normal exempt format, because you do not have to do -- you do not have to complete the imminent threat checklist, because it already meets the exemption. That wasn't very elegantly stated, but I hope that was clear.

So anything that already meets an existing CENST or exempt activity does not require using the imminent threat exemption. Workplace improvements, so there are certain types of workplace improvements that do meet the conditions of the imminent threat exemption, whether it's CARES Act funding or your regular CDBG funding.

So improvement to workspaces include putting in temporary barriers to protect the reception desk from the public, putting in temporary barriers between desks to protect office workers from spreading COVID-19, providing hand sanitizing stations, providing gloves, face masks, disinfecting equipment.

All these things do meet the imminent threat exemption and you would just complete the two documents, the exempt/CENST format and the imminent threat checklist. Providing things like masks, gloves, things that are considered equipment or putting in place -- if you're -- alterations, such as putting in temporary barriers could be considered maintenance, those are already exempt and you would not need to follow the extra imminent threat exemption step.

In a few slides, Nancy will be talking about the types of activities and renovations that might -- in historic properties, sorry.

Nancy Boone: Thanks, Kathy. We're asking the question here, "Are improvements to historic buildings permitted under the imminent threat exemption?" And as you think back to the condition about not altering environmental conditions, the divisions that -- related to historic structures -- if I can get the next slide, please. Thanks.

The revisions that -- related to the historic structures say that if a building is eligible or listed on the national register, then only temporary interior improvements may fall under that imminent threat exemption. So temporary interior improvements are sort of further defined by saying they must be reversible, meaning that they can come out, what you have done in your activity can be removed with minimal impact.

And it's not necessary absolutely that you have to remove that improvement, but that it can be removed and leave the original building intact and its historic features intact. So some examples of reversible improvements could include things like temporary removable walls, treatment of windows, putting in a temporary wheelchair ramp, that's -- those kinds of things.

And of course, if a COVID project on an historic building does not meet the imminent threat exemption, then it goes through the regular Section 106 review which may use the 7-day expedited review process or it might even fall under the provisions of a programmatic agreement. Now I'll turn it back to Kathy.

Kathy McNulty: Thanks, Nancy. So some of the more -- some of the imminent threat exemptions that aren't obvious that don't meet the already -- don't meet the 58.34(a) -- another exemption under 58.34(a) are healthcare. So healthcare, public services, providing -- renovating a community center, all these activities that are done in order to expand services, provide sanitation to public sanitation spaces, provide testing sites --

If these activities take place or the testing sites are stood up or the food distribution centers are stood up on land that's already vacant or it's in a large parking lot or in a conference center or just in a space that is already developed, these could meet the imminent threat exemption and of course, documenting is the same, it's the CENST format and the imminent threat checklist.

So expanding -- training for healthcare workers to expand the team of healthcare workers, that could meet the imminent threat exemption. Yeah. Documenting the imminent threat exemption means documenting that the project complies with 58.6 using the exempt/CENST format and using the imminent threat checklist.

So you can still carry out activities that don't meet the imminent threat exemption, just go to Part 50, find the applicable level of review, if it's categorically excluded subject to, complete the CENST format. You know, either it will convert to exempt or you will be following the expedited public notice period and then you can move forward with your project.

Part 50 also includes an emergency exemption at 50.19(b)(10) and it is available to be used for Part 50 environmental reviews and it would follow the -- it's the same exact language, must meet the 2 conditions that you do not alter site conditions -- sorry, environmental conditions and that it's needed in order to respond to the public health emergency, that is COVID-19. And I believe this -- turn it back to Liz.

Liz Zepeda: Yes. Okay. And I unmuted myself this time. I'm not going to go through the next few slides in detail, but our last few slides organize all of the resources that we referenced throughout this webinar organized by topic and I see a few of you have asked about where you can get the PowerPoint slides, will this be available? Yes, it is already available on HUD Exchange and it will be posted along with the recording of this webinar shortly.

So just to answer that question up top, want to make sure that you will have access to these slides so that you can continue referring to these links as a reference, because we hope that this is -- resources that you can come back to when you're wondering what resources are out there or where you can find things you need, just can refer to these slides.

So first up we have OEE's environmental review guidance documents that Kathy and Lauren discussed. These are all of OEE's resources. Then we have some program-specific COVID-19 guidance, including the CDBG, CV and ESG-CV notices that Lauren talked about, information from the office of housing and FHA programs that I mentioned earlier and other resources from CPD, public housing and the Office of Native American programs.

And here are the resources on Section 106 consultation that Nancy talked about. So with that, we're ready to take your questions. I already have a huge list of them assembled. So because we've got so many questions, we definitely will not be able to get to all of them today.

This slide shows some contacts that you might want to talk to later on if you still have questions after the webinar. So depending on who you're working with, what you're comfortable with, there are a lot of different resources available to help you find answers to your questions.

So like I said, we have a lot of great questions. I'm going to focus on the broadest questions, the ones we received the most times and the ones that are most relevant to this topic. So there's a lot to get through here. I'm going to start with a question for Lauren that we got a lot, which is, "Are environmental reviews required for short-term rental assistance or utility assistance or mortgage assistance provided through CARES Act funding?"

Lauren Knutson: Thanks, Liz. Yes, we did see that question come up a lot, that is a good question and the answer is, yes, those kinds of activities [inaudible] things like short-term rental payments, short-term mortgage payments and utility costs are categorically excluded not subject to level of review.

So you would complete that level of review for those activities and we would encourage you to complete one for all of these short-term payments within a potential area of assistance. You do not need to complete separate CENST reviews for each project site and you do not need to list specific -- list the project locations and addresses.

So we encourage you to kind of group those -- aggregate together into one environmental review. And there were some questions about what insurance related to those activities and these kinds of rental payments would not trigger flood insurance requirements and also note that HUD does not require flood insurance for project valued less than \$10,000.

So payments under that would not require them looking up flood maps and flood insurance either.

Liz Zepeda: Great. Thank you. And I think you covered my follow-up questions on those. One more question for you for now, we got several questions about whether homeless related activities could be grouped into one environmental review regardless of funding source and also questions about whether they can complete separate environmental reviews under one grant for various activities.

So in some cases, there were questions about whether a number of different homeless activities could be reviewed together and in some cases, whether they could be separated so that a subgrantee could, for example, begin working on exempt activities while they're completing the environmental review for a construction activity. So could you talk a little bit about that?

Lauren Knutson: Sure. So in general, we would encourage aggregating as much as possible to aggregating activities in one review.

If it's something like exempt activities, like supportive services and admin costs that you want to start using before doing an -- completing an environmental review for construction, for instance, you can do -- I would say that you could do a separate CENST review for those kind of programmatic -- or for the full grant program, you would just have to specify the grant numbers and the specific activities, like administrative costs.

So that's not a super clear answer. I would say aggregate as much as possible, but it is acceptable to pull out those kinds of CENST or exempt activities if you need to. Would you agree with that, Liz?

Liz Zepeda: Yes. I would, if they're less related, but you can always disaggregate exempt activities so that you can get started on those parts without waiting for the larger EA or CENST level environmental review. So Nancy, I'll ask you a couple of questions. So first, could you remind us of the name of the tribal assessment tool?

Nancy Boone: Yes. It is TDAT and if you, in your browser, search for HUD TDAT, T-D-A-T, it will immediately pop up.

Liz Zepeda: Next, "Does the seven-day SHPO review only apply to projects that meet the imminent threat exemption?"

Nancy Boone: No. It's separate from imminent threat exemption. It's its own special provision related to Section 106. So if you have a project that does not meet the imminent threat exemption and you need to conduct Section 106 review for that project, you can use the 7-day expedited review if it's a COVID response project.

Liz Zepeda: Thanks. And one more question about that for now, "Does the expedited seven-day comment period apply to all consultations completed as part of the environmental review, like consultation with the U.S. Army Corps of Engineers, EPA or fish and wildlife service?"

Nancy Boone: It's a -- it's available under Section 106 review for all federal agencies. Exactly how they're presenting that and how they're rolling that out to their users I'm not really aware, but it is part of the Section 106 regulations and should be available to all federal agencies.

Liz Zepeda: Okay. I think the way I was reading this, and just to be clear, that this -- the expedited comment period only applies to consultations completed for Section 106 of the National Historic Preservation Act.

Nancy Boone: That's correct. Yeah. I see what you're saying.

Liz Zepeda: Yeah. You can't use the seven-day expedited period for your Endangered Species Act consultation or for a Section 404 permit. Those are going to be different processes.

Nancy Boone: Thank you.

Liz Zepeda: Thanks. So Kathy, I'm going to ask you a couple of questions about the imminent threat exemption. First, do the laws and authorities in Section 58.6 -- are those requirements applicable to projects covered under the imminent threat exemption?

Kathy McNulty: Yes. Those -- the 58.6 are the 3 authorities, laws that apply to all levels of environmental review. So they apply to exempt activities and the imminent threat exemption is an exempt activity.

Liz Zepeda: Okay. Next, "Should the checklist be included in the environmental review record file if the project is determined to be exempt under another exemption, for example, if it's short-term rental assistance?"

Kathy McNulty: Right. So if your project -- if your activity meets another exemption or CENST activity, then you just want to complete the exempt CENST format and document that and put it in the environmental review even if your project is in response to COVID-19. If it meets one of the other exemptions, then document the other exemption, because you don't have to do that second step, that imminent threat checklist.

Liz Zepeda: Let's see, one more there, "Could exterior improvements, such as roof repair or replacing windows and doors, be considered under the imminent threat exemption?"

Kathy McNulty: Probably not, because the other -- not only can you -- so the second condition - - what we call the second condition is that the activity has to be in response to COVID-19. So the -- specifically, an activity that is in response to the COVID-19 health emergency.

It doesn't sound like windows and roofs would meet that exemption, but they might. I mean, it is project-specific and you would have to talk to your field office, but the things that meet the imminent threat exemption that address COVID-19 are things like protective -- protecting from the spread of COVID-19 by providing masks and gloves, providing space for quarantining.

When you start replacing roofs or fixing roofs, which is maintenance but replacing a roof would be rehab or fixing windows, you start moving into categorically excluded subject to and you're changing environmental conditions because they might trigger a SHPO compliance determination -- SHPO concurrence.

Lauren Knutson: Kathy, I would add that those might apply to the imminent threat exemption for natural disasters, though, but probably not for COVID response.

Kathy McNulty: Right. If there's another disaster that you're also dealing with.

Liz Zepeda: Yeah. Thank you, Lauren. Keep in mind that we have a whole different class of imminent threats out there in natural disasters. So Lauren, "Will [inaudible] walk users through these various exemptions?"

Lauren Knutson: No. HEROS does not have this guidance for COVID response. Some of it's already built in; right? Like you won't need to separately email in a request release of funds. If you're using HEROS, that will be submitted electronically in the system, but other things like what to include in your public notice, if people are emailing objections to HUD, that's a big one, you'll need to refer to our guidance on the HUD Exchange for that.

I will also add that HEROS does have the CARES Act funding programs included in those. You can select that to complete your reviews in HEROS.

Liz Zepeda: Yeah. Thank you. I'm going to take a couple of questions myself. The first is, got a few requests for us to remind you of where you can get basic environmental review information.

That is also on the HUD Exchange. So if you take the link that's at the top of your screen right now, just cut off that last COVID-19 guidance so it's just <https://www.hudexchange.info/programs/environmental-review>, that will get you to our main environmental review page.

From there, you can find WISER, which is great orientation to HUD's environmental review process, information on the various related laws and authorities, basic information on Parts 50 and 58, if those are new to you, and where you can get more information.

There's a lot on there. There are a lot of other webinars on there. So I would encourage you to get started on [hudexchange.info/programs/environmental review](https://www.hudexchange.info/programs/environmental-review). Lauren, could you remind me of where they can find that on [hud.gov](https://www.hud.gov)?

Lauren Knutson: Sorry, what was the question? Oh, all of this on [hud.gov](https://www.hud.gov)?

Liz Zepeda: Well, where on basic -- our main environmental review information is on [hud.gov](https://www.hud.gov).

Lauren Knutson: Oh, sure. So it is under -- I don't have an easy web address --

Liz Zepeda: Oh, sorry.

Lauren Knutson: -- but go to the community planning and development page on [hud.gov](https://www.hud.gov). So it's [hud.gov/program offices/comm_planning](https://www.hud.gov/program-offices/comm_planning). Sorry that's not very clean, but there is a link to environment and energy under resources.

Liz Zepeda: All right. Thank you. I was [inaudible].

Lauren Knutson: Yeah. I can post this in the chat. That's probably more helpful.

Liz Zepeda: Great. Yeah. That is a good idea. If you could include the basic HUD Exchange link, that is probably better than me [inaudible] all to you.

Lauren Knutson: It will have both links.

Liz Zepeda: Thank you. The other question I'm going to take is we got a lot of follow-up questions about flood insurance related to rental assistance and mortgage payments. So I'll just follow up on that. First, flood insurance is never required for leasing or rental assistance.

So when you're dealing with anything in the rental assistance realm, you don't need to worry about mapping the flood plain, that is going to be exempt from flood insurance requirements. If you're dealing in mortgage insurance, they likely already have flood insurance if they need it.

The other thing that we keep in mind is that we do not require flood insurance for projects valued under \$10,000. So if you're providing less than \$10,000 to one mortgage, that would also not trigger flood insurance requirements. I don't know that we have thought through every possible permutation of this.

So if you have any more shades there, we might want to talk those through with your field or regional environmental officer or me, the flood plain management person in headquarters. Speaking of, I guess, Kathy or Lauren, who would you recommend people start with if they have questions about whether the imminent threat exemption applies to their project?

Kathy McNulty: I would say if you have questions, start with your local office of environment, because then you can discuss all the parameters of your project, you're -- they're familiar with the environmental conditions in that jurisdiction. So I think that you already have a relationship with that person in that office. So I would say that's where you should start.

Well, after going -- looking at the CPD notice and looking at the HUD Exchange, that that might be helpful as well.

Liz Zepeda: Hopefully.

Lauren Knutson: The contact information for your local field or regional environmental officer is on the link on this screen.

Liz Zepeda: Thank you. Kathy, what should people do if they can't get access to a site during quarantine? So whether it's a COVID-19 project or not, people might have trouble with getting access for radon testing, site visits for phase 1s and that kind of thing. Do you have any advice there?

Kathy McNulty: Yeah. So most of the laws and authorities that require a site visit require an external site visit only. So that might be helpful. You could use -- so you should make an appointment ahead of time with the manager to ensure that people are not congregating while you are conducting the site walk.

If that's not possible, you could have a contact at the property who will do a video walkthrough with the audio on, the video as well so you can see and direct that person -- you know, direct them to where to point the camera and then do an external site walk that way.

The phase 1s standard does allow exterior inspections only and for part 50, if it's an office of housing project, the office of housing has specific guidance on strategies when a site inspection

is not allowed or prevented by quarantining or sheltering in place or any other orders that are active in the jurisdiction that prevent access.

Liz Zepeda: Thank you. Another question for you, Kathy. We've gotten a lot of questions that are asking whether various activities would be exempt under the imminent threat exemption, too many to go through all of them, but could you kind of remind us what steps somebody would take to get that answer for themselves if they're trying to work that out?

Kathy McNulty: Yeah. I -- you know, in the CPD Notice 20-07, in the appendix, there's a chart that categorizes activities. It's not going to name every single possible activity that you could undertake in response to COVID-19, but it gives you examples of the parameters of the activities that do meet the imminent threat exemption.

So I would start there. I would also look at the Part 58 to ensure that your activity doesn't meet one of the normal exemptions or CENST categories. If that doesn't help, then you could refer to your local OEE office. Did I answer that whole question?

Liz Zepeda: Yeah. I think so.

Kathy McNulty: Just to make sure I didn't forget something.

Liz Zepeda: [inaudible].

Kathy McNulty: FAQs, oh, I forgot. Yeah. FAQs are posted where the notice is posted. So there's FAQs there as well. That might help you parse out your activity. Sorry.

Liz Zepeda: No. All right. Lauren, I've got a couple questions about notices. "Can the expedited public notice period be used for any project during the pandemic?"

Lauren Knutson: Yeah. Well, it can be used for any project that requires a request release of funds and as needed, on an emergency basis. So as long as you include that in the public notice, you can use that combined comment period.

Liz Zepeda: So it wouldn't apply to just a standard CDBG project that they already had planned unless there's a reason that the pandemic is making it urgent?

Lauren Knutson: Correct. It does still need to be an emergency kind of response need, but it wouldn't be limited to CARES Act programs.

Liz Zepeda: Thanks. My other one is, "If responsible entities' public offices are still open, do they still need to publish their environmental review record online or does that only apply when public offices are closed?"

Lauren Knutson: You wouldn't be required to publish online if your office is open. That's an option. I guess it might still be best practice to publish online just so we don't encourage the public coming to your office during a pandemic, but that is up to the discretion of the RE.

Liz Zepeda: Okay. I'm going to throw in one more that I don't know the answer to and I'm going to see if any of you do, which is whether rental assistance programs trigger lead-based paint testing requirements. Anybody know? And our office does not handle lead-based paint. So we're not necessarily the best resource there, I'm afraid.

Kathy McNulty: Yeah. They should go to the Office of Healthy Homes website. They do have a tool that walks you through an activity, like a decision tree, but it asks you a question, you answer the question, it keeps walking you through until you get a determination of whether or not the lead-based paint requirements apply.

But the other option is to also go to the Office of Healthy Homes website and look for your local contact person and contact them with your question.

Liz Zepeda: Great. Thank you. I think we're at a good stopping point here. I know we still have a lot more questions to get to. So please take note of these resources that are still available after the webinar and we will keep looking at your questions and updating our frequently asked questions in our resources as we notice things that we need to provide more guidance and information on.

So Michelle is going to leave the question pod open for a few more minutes after we wrap this up. Feel free to submit any more questions. We can't promise that we're going to respond to them individually, but we will reviewing those questions after the webinar and updating our guidance accordingly.

Again, take notice of the contacts on this slide for help with any remaining questions that you have and I'll turn it over -- Michelle, do you have any comments before we close out?

Michelle Grainger: Hi, Liz. No, I do not. With that, I will be leaving the webinar open for the next three minutes or so just so that you can send all of your questions to us and then I'll be ending the webinar.

Liz Zepeda: Thank you. Thank you, again, all so much for joining us. Thank you for your many questions and your patience with us as we weren't able to get to all of them, but we hope this was helpful and have a great rest of your day.

(END)