

FAQ: HUD's EIS waiver process for sites in the Unacceptable Noise Zone

Q: HUD's Noise regulations require an Environmental Impact Statement (EIS) for new construction, conversion, or substantial rehabilitation projects at the Environmental Assessment (EA) level of review that have noise over 75 db (DNL). What are the options for processing an environmental review for this type of project and what information am I required to provide to HUD?

A: When evaluating EA-level projects with unacceptable noise levels, HUD has three options:

1. Reject the project;
2. Complete an EIS, which would take over a year and require two notices published in the federal register; or
3. Pursue a waiver of the EIS requirement. This option is available only if the requirement to prepare an EIS for noise impacts is the only unresolved environmental issue at the site. This means that compliance with all related laws has been achieved including completion of any required consultation processes and completed design of required mitigation measures; analysis of NEPA factors has documented that there are no significant impacts to the environment or that the impacts are mitigated; and all noise sensitive outdoor uses have been designed to achieve HUD's noise standard of 65 dB DNL or below.

Lenders considering requesting an EIS waiver for noise must work closely with their Multifamily contact, who will work with the Regional or Field Environmental Officer (REO/FEO), the Housing Program Environmental Clearance Officer (PECO) and HUD's noise expert.

Information required for an EIS waiver request:

- A complete environmental review in HEROS where all environmental impacts have a mitigation plan, related laws compliance steps are completed, and all outdoor noise-sensitive uses are designed to achieve 65 db (DNL) or below using site configuration or existing or proposed barriers.
 - i. The environmental review record must include documentation that consultation processes have been completed, such as Section 106 of the National Preservation Act. Correspondence for Section 106 consultation or other consultation processes must be based on designs and plans that incorporate noise attenuation requirements such as specific window components or planned barriers.
 - ii. The HEROS review must include all necessary environmental documentation.
 - iii. The need for a complete environmental review means that the EIS waiver request must wait until other issues have been resolved.
- Site plan with detailed noise exposure and attenuation plans so HUD can confirm that the noise mitigation proposed for the project will meet HUD's requirements. Noise attenuation design must be incorporated into the approved architectural and construction plans for the project. This information should either be uploaded to the HEROS report or saved in an electronic format that is accessible to the full waiver review team.

Review Process

Lender Role. Lenders must note in the application/pre-application package and in HEROS when a project has noise over 75 dB (DNL). The application/pre-application must explain why HUD should consider an

EIS waiver for this project, including marketability and/or mission driven factors, planned mitigation, difficulty of locating other sites, reason why this site is good for housing, etc. and commitment to providing complete information in support of the waiver process. HUD will request a letter covering this information if it determines a noise waiver is required after the application submission. Any information that can be shared at the concept meeting stage will help expedite the waiver process.

Early Consultation with Waiver Team. Multifamily production staff must notify the REO/FEO and the Housing PECO immediately after determining that a project will need an EIS waiver for noise. This step ensures early coordination in order to streamline the waiver process.

HEROS review.

- The lender must provide all documentation needed for the HEROS review.
- MF production staff must complete the environmental review record in HEROS including a signature by the preparer and the supervisor, but not the Approving Official.
- The REO/FEO must review and comment on the environmental review record in HEROS. This step is required to confirm that there are no unmitigated environmental issues.

Waiver Request Memo. The Multifamily production office processing the application will draft a memo (with input from the Housing PECO and REO/FEO) that describes the basis for the waiver request, a project overview, status of application processing, any major environmental concerns and mitigation (including noise), and the specific plans to attenuate noise to HUD's standards. The memo must also reference the supporting documentation and make a recommendation to accept or reject the EIS waiver.

HQ Waiver Review.

- The HQ Office of Environment and Energy (OEE) has 30 days to review and identify any issues not resolved through early coordination.
- After OEE's review, HUD's Office of General Counsel (OGC) has 30 days to review, identify any unresolved issues that require additional information, and make a recommendation regarding approval.
- A waiver is not complete until signed by the Assistant Secretary for CPD (AS/CPD).

Conclusion.

- a. If the AS/CPD denies a waiver request, HUD will either reject the application or require an EIS.
- b. If the AS/CPD approves a waiver request, the Multifamily Approving Official may sign off on the environmental review in HEROS and proceed to a Firm Commitment.