



Aligning HUD Environmental Reviews with Other Federal Agencies and Environmental Review Updates

2024 COSCDA Program Managers Conference

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Agenda

HUD ER Alignment with Other Federal Agencies

HUD ER Policy Updates

Community Project Funding (CPF) and Importance of States as Responsible Entities

HUD Environmental Review Resources



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HUD ER Alignment with Other Federal Agencies

Adopting another agency's Environmental Review

Adopting another agency's Categorical Exclusion

Cooperative Agency Agreements

State's role in coordination with other agencies



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Adopting Environmental Reviews



- Adoption is a tool to avoid duplication of effort where multiple agencies are required to complete ER for a single project.
- Under CEQ § 1506.3: federal agencies and Responsible Entities may adopt environmental reviews completed by another agency at any level of review.
- HUD encourages adoption of ERs where possible to reduce workload, shorten timeline for review, etc.
- Adopted ERs must still also meet the requirements of HUD's ER regulations under 24 CFR Part 50 or 58.
- All adoptions at the EA or EIS level must be published in accordance with 40 CFR 1506.3(b)-(c).
- Environmental reviews that are posted or archived using HEROS meet these publishing requirements.



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Process for Adopting an ER

1. Independently review and verify the content of the ER;
2. Determine that the original environmental review meets the criteria for adoption under 40 CFR 1506.3;
3. Confirm that the project scope and description in the environmental review is the same as the current proposal;
4. Document that the project complies with all related laws and authorities listed in 24 CFR 50.4 or 58.5 and 58.6, including HUD's unique health and safety standards in § 50.3(i) and 58.5(i), 24 CFR parts 51 and 55 (including § 55.1), and other program requirements that may not have been contemplated in the original environmental review; and
5. Complete the Request for Release of Funds (RROF) process described in 24 CFR 58.70-58.71.



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Documenting Adoption of ER

- HUD or the RE's environmental review record must include documentation of the adoption signed or certified by the Approving Official or Certifying Officer.
- HUD or the RE shall inform the agency that prepared the original review of the adoption and any new mitigation measures or conditions on the Project.
- The documentation of adoption must:
 1. Demonstrate compliance with the procedural steps above;
 2. Cite the original environmental review; and
 3. Incorporate any special conditions and mitigation measures into project plans, ensuring that these requirements are incorporated into project documents and agreements.



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Documenting Partial Adoption of ER

- When an environmental review has been completed but cannot be adopted in full, individual elements of the original environmental review may be adopted into a new ER in accordance with Part 50 or 58.
- Appropriate if project description or environmental conditions changed such that aspects of the analysis do not cover the full aggregated HUD project.
- To adopt select aspects of an existing environmental review, HUD or the RE must:
 1. Independently review any relevant documents and incorporate only those documents that are still valid and relevant to the current proposal; and
 2. Clearly indicate in the environmental review record which documents were incorporated from the original environmental review.



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HUD Memo on Adopting FEMA and Other Federal ERs

Adoption of FEMA and Other Federal Environmental Reviews and Processing for Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities



- Guidance on adopting environmental reviews performed by other Federal agencies when the HUD grantee is providing supplemental assistance to actions performed under sections 402, 403, 404, 406, 407, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
- Contains FAQs to explain the use of the adoption provision, discusses the immediate approval provision, and features charts explaining the comment periods applicable to different types of assistance.



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Adopting Categorical Exclusions

- HUD is working on establishing updated procedural guidance on adoption of Categorical Exclusions (CATEX) and the use of programmatic environmental documents.
- This will allow HUD to adopt other federal agencies CATEX determinations for certain types of activities in a streamlined fashion.
- Ensuring that HUD's CATEX adoption process incorporates statutory changes related to the recently enacted Fiscal Responsibility Act (FRA).
- See FRA slide for more details and timelines.



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Cooperative Agency Agreements

- Formalized agreements used to facilitate Federal and non-federal governmental coordination in complying with the National Environmental Policy Act (NEPA).
- Collaborative approach between agencies to improve effectiveness and efficiency of the ER process.
- This approach requires written formalization of the process in a "Cooperating Agency Agreement" between the relevant agencies – usually in the form of an MOU.
- The following items should be detailed in such an agreement:
 - Identification of lead agency
 - Commitments, roles, and responsibilities of each party, including but not limited to:
 - Who will provide project information?
 - Who will conduct the ER?
 - Who will publish any required public notice?
 - Who will consult with necessary authorities?
 - Who will ensure compliance with HUD-specific ER requirements?



[Sample Cooperative Agency Agreement](#)

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State's Role in Interagency Coordination

- States as Recipients vs. States Acting as HUD
- When States are recipients of HUD funds they serve as Responsible Entity for those funds and completed the Environmental Review.
- When States serve as a pass-through entity for other Responsible Entity sub-recipients of HUD funds, they act as HUD, in that they review their sub-recipient Responsible Entity's Requests for Release of Funds and issue them Authorization to Use Grant Funds.
- Only REs are involved and party to interagency coordination and cooperative agency agreements for their own HUD-assisted projects.



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Questions?

HUD ER Alignment with other Federal Agencies

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HUD ER Policy Updates

Federal Flood Risk Management Standard (FFRMS)

Radon Notice

Energy Codes

Fiscal Responsibility Act (FRA) Amendments

Part 50 and 58 Revisions

Housing Trust Fund (HTF) Environmental Monitoring Exhibits



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Federal Flood Risk Management Standard (FFRMS)

- HUD is proposing a new rule to modify our floodplain management regulations to better address flood risk.
- This rule is intended to implement requirements found in **EO 13690** - Establishing a Federal Flood Risk Management Standard (FFRMS) (2015) and **EO 14030** – Climate Related Financial Risk (2021) by updating:
 - **Part 55**, Floodplain Management and Protection of Wetlands: Applies to all HUD Programs that trigger NEPA/environmental review requirements
 - **Part 200**, Minimum Property Standards: Applies to single-family housing under HUD mortgage insurance and low-rent public housing programs
- HUD is one of several federal agencies currently pursuing rulemaking to implement FFRMS.



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FFRMS Proposed Rule - Major Changes



Redefining the floodplain of concern



Increasing the required elevation for new construction and substantially improved structures



Clarifying/strengthening public notice and flood insurance requirements to increase awareness of flood risk



Flexibilities in HUD assistance for specific properties in floodways when specific criteria are met



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FFRMS Proposed Rule - Additional Changes

Online Noticing

- The proposed rule allows posting of floodplain notices on an appropriate government website as an alternative to publication in local news media if the website is accessible to individuals with disabilities and provides meaningful access to individuals with Limited English Proficiency.

Notification of flood hazards

- Proposed rule would strengthen notice standards for buyers and renters.

Flood insurance

- Rule would maintain existing flood insurance requirements for properties in the 100-year floodplain and encourages flood insurance for all properties in the newly-defined FFRMS floodplain.



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FFRMS Proposed Rule - Resources

- Notice of Proposed Rulemaking, including full proposed rule:
<https://www.federalregister.gov/documents/2023/03/24/2023-05699/floodplain-management-and-protection-of-wetlands-minimum-property-standards-for-flood-hazard>
- General Rule Information:
https://www.hud.gov/program_offices/comm_planning/environment_energ/ffrms
- Additional FAQs:
https://www.hud.gov/program_offices/comm_planning/environment_energ/ffrms/faqs



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HUD Departmental Radon Policy Notice

- On January 11, 2024 HUD published its departmentwide radon policy notice, [*Departmental Policy for Addressing Radon in the Environmental Review Process*](#).
- With this Notice, HUD is addressing the risk of residential radon exposure across the entire Department for the first time ever.
- The policy falls under HUD's contamination regulations, part of the environmental (NEPA) review of proposed HUD-supported projects.
 - The Policy requires consideration of radon gas in buildings as part for proposed HUD projects subject to HUD contamination regulations.
- Radon testing is *not* required, but mitigation is required if the method used to consider radon shows levels at 4.0 pCi/L or greater.



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HUD Departmental Radon Policy Notice

- Final Policy was published as CPD Notice CPD-23-103 on January 11, 2024.
- It goes into effect on **April 11, 2024** for all non-tribal and recipients, and January 11, 2026 for all Tribe, Tribally Designated Housing Entity (TDHE), and Department of Hawaiian Homeland (DHHL) recipients.
 - On these dates, REs and HUD staff *must* consider radon as part of any non-tiered environmental review (ER) that is not yet certified, regardless of where they are in the ER process.
- Tiered reviews:
 - For tier 1 and tier 2 reviews completed prior to the effective date: HUD strongly recommends compliance with the policy for any in-progress and new tier 2 reviews, but do not require it.
 - For tier 1 reviews in-progress during or started after the effective date: you *must* comply with the policy for the tier 1 and all subsequent tier 2 reviews.
- HUD projects not subject to 58.5(i) are *not* subject to the Radon Policy.

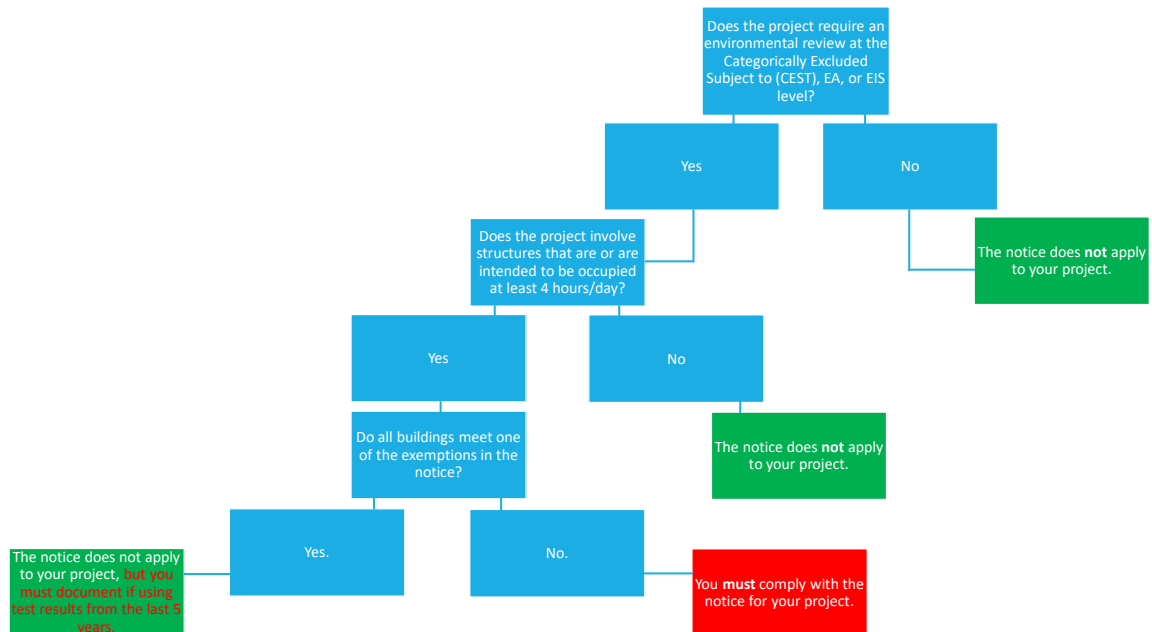


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Does the Notice Apply to My HUD Project ?



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How to Consider Radon under the Policy Notice

- The draft policy provides one recommended best practice and three alternative options for considering radon in the contamination analysis:
 - Preferred, Best Practice:** ANSI/AARST radon testing and mitigation standards
 - Alternative strategies** that can be used (if testing not otherwise required by law/reg):
 - Do-It-Yourself (DIY) Testing: Use of individual DIY home radon test kits
 - Continuous Radon Monitoring Devices: for use by trained local government staff in remote areas
 - Review of science-based data on radon in the area where the project site is located: state/tribal geologic data, CDC radon test data
- If use of any of the above methods determine that indoor radon levels are or may be above 4 pCi/L, then the RE must document and implement a mitigation plan.



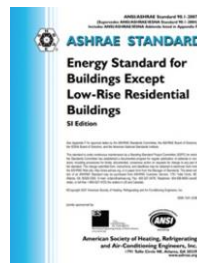
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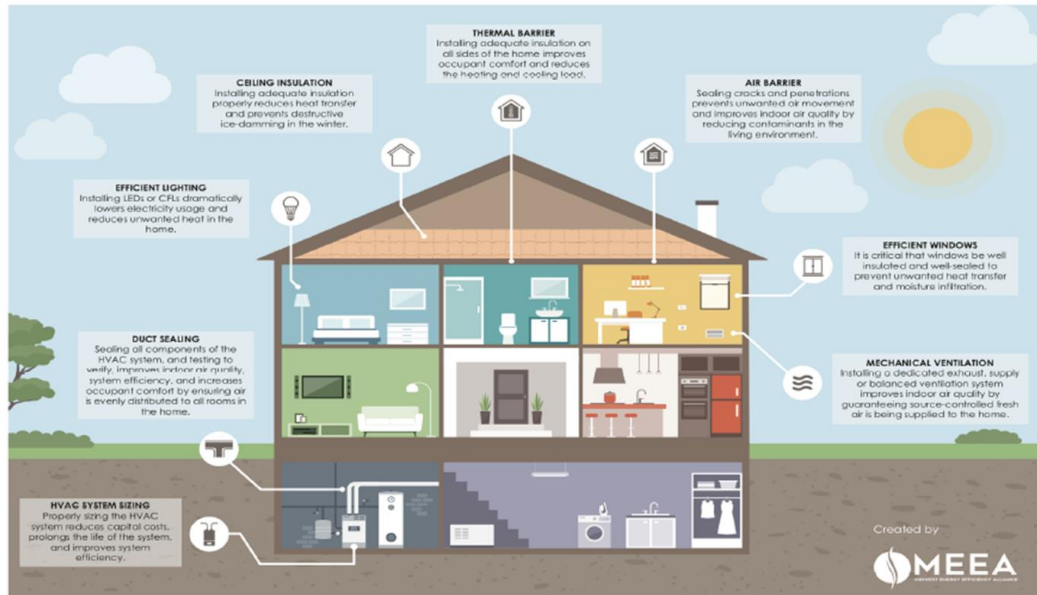
Energy Codes Update

- Energy codes set minimum efficiency requirements for new and renovated buildings, lower utility cost, reduce carbon emissions, help address extreme weather, and improve resident health.
- HUD-USDA required by statute to update energy codes every 3 years.
- 2 codes listed in the statute covering:
 - Single Family and Low Rise Multifamily;
 - Multifamily 4+ Stories
- HUD-USDA is preparing a Notice to jointly adopt the recently published energy codes, subject to a test that they will not negatively impact availability of affordable housing.



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How the Energy Code Improves a Home



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Energy Codes – Covered Programs

USDA – Estimated 15,000 units/year

- Section 502 Guaranteed Housing Loans
- Section 502 Rural Housing Direct Loans
- Section 523 Mutual Self Help Loan Program, homeowner participants

168,000 estimated impacted units/year (HUD USDA combined)

HUD – Estimated 153,000 units/year

Public Housing (1,000)

- Public Housing Capital Fund
- Capital Fund Financing Program
- Choice Neighborhoods Implementation Grants
- Rental Assistance Demonstration

Assisted Housing

- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Rental Assistance Demonstration (1,000)

Insured Housing (142,500)

- FHA Single Family(108,500)
- FHA Multifamily(34,000)

CPD: HOME/HTF (8,500)

- HOME Investment Partnerships Program
- Housing Trust Fund



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Fiscal Responsibility Act (FRA) - Amendments

- Recently enacted FRA Amendments to NEPA. (June 2023)
- Must still be incorporated into the Council on Environmental Quality's (CEQ) NEPA implementing regulations at 40 CFR parts 1500-1508, which are currently being revised.
- After CEQ incorporates, HUD must ensure alignment with ongoing Part 50 and 58 revisions.
- Statutory amendments to NEPA to clarify and streamline aspects of ER by federal agencies:
 - Narrows scope of "major federal actions" that are subject to ER
 - Limiting scope of analysis of alternatives to reasonably foreseeable env effects
 - Provides decisional framework for determining levels of ER and analysis requirements
 - Formalizes process for determining "lead agency" for ER, deadlines, and timeliness for ER completion
 - Defining Categorical Exclusions (CATEX) and providing provisions for streamlining adoption



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HUD Part 50 and 58 Revisions

- HUD awaits publication of CEQ proposed Phase II rule which will align NEPA with recent FRA amendments.
- Part 50/58 revisions will:
 - Implement CEQ NEPA revisions
 - Improve streamlining measures
 - Integrate HUD Strategic Plan & Climate Action Plan priorities
 - Modernize the ER process



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Housing Trust Fund – Environmental Monitoring Exhibits

- HTF provides grants to states to produce and preserve affordable housing for extremely low- and very low-income households.
- Not subject to Part 50/58 - has it's own unique [HTF Environmental Provisions](#) under 24 CFR 93.301.
- Outcome-Based vs. Process-Based approach to environmental compliance.
- Environmental monitoring exhibits are being finalized for HTF:
 - HTF Funds Only
 - HTF Funds Combined with other HUD Funds



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Questions?

HUD ER Policy Updates

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Community Project Funding (CPF) & States as REs

CPF provides congressionally directed grants and investment for a wide variety of projects such as housing, homelessness prevention, workforce training, public facilities, parks, resilience planning and other critical infrastructure and services.

HUD does not facilitate the grant application process.

CPF Total Grants

- FY2022: 1,014
- FY2023: 1,616
- FY2024: 2,503 (forecasted)



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Subject to Part 50/58

Part 58 by default

- UGLG serves as RE
- CPD Processes RROF/AUGF
- Many nonprofit recipients struggle finding a local gov RE to conduct ER

OEE staff conducts ER under Part 50

- When grantee is unable to secure local government

Part 50 Nationwide ERR for CPF Soft Costs



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Community Project Funding (CPF) & States as REs

Importance of States as REs

- Many non-profits grantees not able to secure more local government as RE.
- States have knowledge and understanding of local environmental laws and considerations.
- States have good relationships with local officials, State Historic Preservation Offices (SHPOs), and other state-wide environmental authorities.
- States are already recipients of HUD funds, have capacity and experience conducting HUD ERs
- HUD has limited capacity and has already brought many reviews under Part 50.



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Options for States as REs

- Grantee CPF funds can be used to pay for the cost of preparing an ER, including hiring an env consultant and RE staff costs.
- Grantee always required to provide all info, docs, and legwork for ER prep.
- RE limited to independent review, verification, certification of the ER content.
- RE must initiate any necessary consultation, but can have grantee draft content/letters.
- OEE staff will prioritize providing TA to States serving as RE for CPF.



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HUD Environmental Review Resources

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HEROS Resources

- Training materials on the HUD Exchange include:

- User Guide
- How-To Videos
- FAQs
- HEROS Worksheets
- HUD Exchange “Ask A Question”



- Materials are available at:

<https://www.hudexchange.info/environmental-review/heros>



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HUD Exchange: Level of NEPA Review

HUD EXCHANGE My HUD Exchange Programs Resources Trainings Program Support Grantees News

Orientation to Environmental Reviews

Use this website to learn about the components of the environmental review process.

Overview

- Part 50 and Part 58
- Timing the Review
- Project Description
- Level of Review**
- Part 58 Flowchart

Level of Review

Once the scope of the project is known you can determine the appropriate level of environmental review. There are five levels of review:

Exempt

- Part 58 only
- Applies to activities listed at [24 CFR 58.34\(a\)](#)
- Sample format

Categorically excluded from NEPA, not subject to the related laws and authorities at 58.5 or 50.4 (CENST)

- Applies to activities listed at [24 CFR 58.35\(b\)](#) (Part 58)
- Applies to activities listed at [24 CFR 50.19\(b\)](#) (Part 50)
- Sample format



Materials are available at: <https://www.hudexchange.info/environmental-review/>



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HUD Exchange: Law and Authorities and Other Requirements

HUD EXCHANGE My HUD Exchange Programs Resources Trainings Program Support Grantees

Air Quality

Airport Hazards

Coastal Barrier Resources

Coastal Zone Management

Endangered Species

Environmental Justice

Explosive and Flammable Facilities

Farmlands Protection

Flood Insurance



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Web-Based Instructional System for Environmental Review (WISER)



Getting Started: Part 58

This module describes the Part 58 environmental review process; defines a project; and explains the different levels of review and the requirements associated with each one.

[Quiz and Feedback](#)



Getting Started: Part 50

This module describes the Part 50 environmental review process; defines a project, and summarizes the different levels of review and the requirements associated with each.

[Quiz and Feedback](#)



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Field Environmental Officers

[My HUD Exchange](#)
[Programs](#)
[Resources](#)
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[Program Support](#)
[Grantees](#)
[New](#)

Find by Contact Type

- Region I: Regional and Field Environmental Officers
- Region II: Regional and Field Environmental Officers
- Region III: Regional and Field Environmental Officers
- Region IV: Regional and Field Environmental Officers
- Region V: Regional and Field Environmental Officers
- Region VI: Regional and Field Environmental Officers
- Region VII: Regional and Field Environmental Officers

Region I

States	Name	Phone
CT, MA, ME, NH, RI, VT	Martha A. Curran Regional Environmental Officer HUD - Boston Regional Office 10 Causeway Street, Room 535 Boston, MA 02222-1092 Martha.A.Curran@hud.gov	(617) 994-8363



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Questions?

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