COSCDA
Council of State Community Development Agencies

21st Century ROAD to Housing Act

Title II, Section 206

Unlocking Housing Supply through Streamlined and Modernized Reviews Act

Link to Section 206 Text

SUMMARY

Section 206 targets HUD's National Environmental Policy Act (NEPA) requirements at 24 CFR part 50 and part 58. Specifically, it expands and reclassifies the level of review required for certain small and infill housing projects. The goal is to simplify the environmental review process for affordable housing development, especially for smaller developments or projects in areas with existing housing infrastructure.

IMPLEMENTATION TIMELINE AND RESPONSIBILITIES

Subsection (c): Implementation

The NEPA review updates listed in subsection (b):

- Shall only apply with respect to funds appropriated after the effective date of those actions; and
- Shall not apply with respect to a grantee that combines funds appropriated before and after the effective date of those actions to carry out a project.

This means that only projects with funding appropriated ***after*** ROAD became law (FY27 funding and beyond) can take advantage of the new NEPA classifications. Projects using both FY27 funding and prior funding (FY26 and before) ***cannot*** utilize the new classifications.

Subsection (d): Report

Two years after enactment, HUD must submit an annual report to Congress for a period of five years summarizing "reductions in review times and administrative cost reduction, with a particular focus on the affordable housing sector" because of the NEPA changes in this section. The report should also include any HUD recommendations for additional categorical exclusions / exemptions under 24 CFR.

BILL PROVISIONS

Subsection (a): Definitions

For the purposes of this section, "infill project" as a project that:

A. Occurs within the geographic limits of a municipality;
B. Is adequately served by existing utilities and public services as required under applicable law;
C. Is located on a site of previously disturbed land of not more than 5 acres and substantially surrounded by residential or commercial development;
D. Will repurpose a vacant or underutilized parcel of land, or a dilapidated or abandoned structure; and

E. Will serve a residential or commercial purpose.

Anytime "Secretary" is mentioned in Section 206, it means Secretary of the Department of Housing and Urban Development (HUD).

Subsection (b): NEPA Streamlining for HUD Housing-Related Activities
In accordance with section 533 of title 5, United States Code, and section 103 of the National Environmental Policy Act of 1969 (42 U.S.C. 4333), HUD must "expand and reclassify housing-related activities under the necessary administrative regulations as follows."

Now included under "exempt activities" re: 24 CFR 58.34:

- Tenant-based rental assistance
- Supportive services, including health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent, mortgage, or utility costs, and assistance in gaining access to Federal Government and State and local government benefits and services.
- Operating costs, including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training, and recruitment and other incidental costs.
- Economic development activities, including equipment purchases, inventory financing, interest subsidies, operating expenses, and similar costs not associated with construction or expansion of existing operations.
- Activities to assist home-buyers in the purchase of existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest rate buydowns, and similar activities that result in the transfer of title.
- Affordable housing predevelopment costs related to obtaining site options, project financing, administrative costs and fees for loan commitment, zoning approvals, and other related activities that do not have a physical impact.
- Approval of supplemental assistance, including insurance or guarantee, to a project previously approved by the Secretary.
- Emergency home-owner or renter assistance for the repair or replacement of HVAC, hot water heaters, and other necessary existing utilities required under applicable law.

Now included under "categorical exclusions not subject to the Federal laws and authorities cited in section 50.4" in sections 24 CFR 58.35(b) and 24 CFR 50.19 [if such activities do not materially alter environmental conditions and do not materially exceed the original scope of the project.]

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) if the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent, including replacement of water or sewer lines, reconstruction of curbs and sidewalks, and re-paving of streets.
- Rehabilitation of 1-to-4 unit residential buildings, and existing housing related infrastructure, such as repairs or rehabilitation of existing wells, septics, or utility lines that connect to that housing.

- New construction, development, demolition, acquisition, or disposition of up to 4 scattered site existing dwelling units where there is a maximum of 4 units on any 1 site.
- Acquisitions (including leasing) of, disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land if the structure or land acquired, financed, or disposed of will be retained for the same use.

Now included under "categorical exclusions subject to section 58.5" under 24 CFR 58.35(a) and "categorical exclusions subject to the Federal laws and authorities cited in section 50.4" under 24 CFR 50.20 [if such activities do not materially alter environmental conditions and do not materially exceed the original scope of the project].

- Acquisitions of open space or residential property, where such property will be retained for the same use or will be converted to open space to help residents relocate out of an area designated as a high-risk area by the Secretary.
- Conversion of existing office buildings into residential development, subject to –
  - A maximum number of units to be determined by the Secretary; and
  - A limitation on the change in building size of not more than 20 percent.
- New construction, development, demolition, acquisition, or disposition of 5 to 15 dwelling units where there is a maximum of 15 units on any 1 site. The units can be 15 1-unit buildings or 1 15-unit building, or any combination in between.
- New construction, development, demolition, acquisition, or disposition of 15 or more housing units developed on scattered sites when there are not more than 15 housing units on any 1 site, and the sites are more than a set number of feet apart as determined by the Secretary.
- Rehabilitation of buildings and improvements in the case of a building for residential use with 5 to 15 units, if the density is not increased beyond 15 units and the land use is not changed.
- Infill projects consisting of new construction, rehabilitation, or development of residential housing units.
- The voluntary acquisition of properties –
  - Located in a floodway, a floodplain, or any other area, clearly delineated by the grantee; and
  - That have been impacted by a predictable environmental threat to the safety and well-being of program beneficiaries caused or exacerbated by a federally declared disaster.