U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MAR 28 2006

MEMORANDUM FOR: Regional Environmental Officers
Field Environmental Officers

FROM: Richard H. Broun, Director, Office of Environment and Energy, DGE

SUBJECT: Guidance for categorizing an activity as maintenance for compliance with HUD's environmental regulations, 24 CFR Parts 50 and 58

This memo clarifies the difference between maintenance and repair for compliance with HUD's environmental regulations, 24 CFR Parts 50 and 58, and expands upon the May 5, 1989 policy memorandum—Policy: Flood Insurance Requirements Not Applicable to Building Maintenance. In that memo, HUD determined that national flood insurance requirements do not apply to HUD financial assistance used for "routine maintenance" of buildings located within Special Flood Hazard Areas.

Environmental reviews for repair activities are more extensive, requiring compliance with related federal environmental laws in §50.4 and §58.5, including the National Historic Preservation Act of 1966. In contrast, maintenance activities do not require compliance with federal environmental laws. (See 24 CFR 50.19(b)(13) and 58.35(b)(3)). Distinguishing between maintenance and repair activities requires careful examination. Unless the activity meets the definition of maintenance provided below, the activity should be considered a repair or improvement, and the environmental review will require compliance with the related federal environmental laws at §50.4 or §58.5. Unlike repair and improvements, maintenance activities do not materially add to the value of the building, appreciably prolong its useful life, or adapt it to new uses.

Definition-- Maintenance activities are:

(1) cleaning activities;
(2) protective or preventative measures to keep a building, its systems, and its grounds in working order; or
(3) replacement of appliances or objects that are <u>not</u> fixtures or part of the building. A fixture is an object that is physically attached to the building and cannot be removed without damage to the building, and includes systems designed for occupant comfort and safety such as HVAC, electrical or mechanical systems, sanitation, fire suppression, and plumbing. Fixtures also include, but are not limited to, kitchen cabinets, built-in shelves, toilets, light fixtures, staircases, crown molding, sinks, and bathtubs.

However, if items that would otherwise be considered maintenance are done as part of an extensive remodeling or renovation of a building, the entire job is considered a repair or improvement. Also, deferred maintenance and non-routine maintenance do not meet this definition of maintenance.

Items not meeting the definition of maintenance can be excluded from historic preservation review through a Memorandum of Agreement or Programmatic Agreement per 36 CFR Part 800.

For examples of some common maintenance activities, please see Attachment. If you have any questions, please have your Regional Environmental Officer contact Danielle Schopp at Danielle_L._Schopp@hud.gov / (202) 708-0614, extension 4442 or David Blick at David_G._Blick@hud.gov / (202) 708-0614, extension 5718.

Attachments

Attachment: Examples of Maintenance Activities

Cleaning Activities	**Protective Measures**	**Replacing existing appliances or objects that are not fixtures or part of the building**
- cleaning gutters and down spouts	- fixing gutters or floors	- kitchen appliances that are not attached to the building, where removal would not cause any damage (stoves, refrigerators)
- cleaning floors	- mending cracked plaster	- light bulbs
- lawn care (litter pickup, mowing, raking)	- fixing broken windowpane(s), or door locks	- carpeting or vinyl flooring
- cleaning interior or exterior of building*	- fix roofing or plumbing leaks	- washing and dryer machines
- washing windows	- caulking, weather stripping, re-glazing	- air filters
- trash collection	- reapplication of protective coatings	- HVAC window unit
- trim trees and shrubs	- installation of protective plywood, alarm systems, or temporary fencing	
- snow/ice removal	- repainting previously painted surface (including limited scraping)*	
- unclog sink and toilet	- waterproofing (sealant)	
- neighborhood cleanup	- servicing and maintenance of mechanical systems	

*Non-destructive methods only (e.g., no sandblasting or high pressure spraying).

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OFFICE OF THE ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MAY - 5 1989

MEMORANDUM FOR: Regional Administrators
Attention: Regional Environmental Officers

FROM: Audrey E. Scott, General Deputy Assistant Secretary for Community Planning and Development, CD

SUBJECT: Policy: Flood Insurance Requirements Not Applicable to Building Maintenance

The Department has determined that National flood insurance requirements do not apply to HUD financial assistance used for the "routine maintenance" of buildings located within Special Flood Hazard Areas (SFHA). "Routine maintenance" falls below the threshold of building rehabilitation and is unlike building "repair" or "improvement", which are statutory terms used in the definition of "financial assistance for acquisition or construction purposes" in Section 3(a)(4) of the Flood Disaster Protection Act and therefore trigger the requirement to comply with Section 102(a) and 202(a) of the Act.

"Routine maintenance" activities should be carefully distinguished from "repair" or "improvement" of any SFHA building. "Routine maintenance" merely keeps a building in good order and an ordinary, efficient operating condition. It does not materially add to the value of a structure, appreciably prolong its useful life, or adapt it to new uses, whereas "repairs" or "improvements" might do so. Some examples of building maintenance are: (1) painting either the exterior or interior of a building, (2) fixing gutters or floors, (3) mending leaks or plastering, and (4) replacing thermostats, broken windowpanes or door locks. In contrast, adding a room, putting in a new system of plumbing or electrical wiring or air conditioning, installing a new roof, replacing a boiler, or fixing of damages sustained by a building from flooding or other hazards are considered to be "repairs" or "improvements". However, if items that would otherwise be considered "routine maintenance" are done as part of an extensive remodeling or renovation of a building, the entire job is considered "a repair" or "an improvement".

Of course, owners of SFHA buildings should be advised that the purchase of flood insurance on a voluntary basis is always prudent as it protects their own equity in such buildings from potential financial loss due to flooding damage. The National Flood Insurance Program is designed to provide a cost effective alternative to Federal disaster assistance used to meet the escalating costs of repairing damage caused by floods.

Please inform appropriate Regional Program Directors and Field Office Managers of this policy. If you have any questions or wish to report your experience on this matter, please have your Regional Environmental Officer contact Richard H. Broun, Director, Office of Environment and Energy, or his staff specialist, Walter Prybyla, (Room 7158) FTS 755-6610.