



**Environmental Review Information Sheet:
Categorical Exclusion Subsequently Exempt Activities [24 CFR 58.34 (a)(12)]**

Explanation

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under the National Environmental Policy Act (NEPA) is required. Categorical exclusions are subdivided into those which are subject to the Federal environmental laws and authorities listed at 24 CFR 58.5 (summarized in a “Statutory Checklist”), and those which are not. Categorical exclusion projects subject to Sec. 58.5 are physical in nature, and alter environmental conditions in ways that trigger compliance with various Federal environmental laws. These projects may be converted to *Exempt* if there are no circumstances which require compliance with the associated environmental laws and authorities [per 24 CFR 58.34 (a)(12)]. To claim exemption for a categorical exclusion project, grantees must assemble an environmental review record that demonstrates consideration of the Federal environmental laws and authorities listed at 24 CFR 58.5.

Activities

Exemption for certain categorical exclusion activities is described at **24 CFR 58.34 (a) (12)**:

Any of the categorical exclusions listed in §58.35 (a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5.

Categorical exclusion activities that may be eligible for exemption are listed at **24 CFR 58.35 (a)**:

- (a). *Categorical exclusions subject to § 58.5*. The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in § 58.5:
- (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when 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 (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
 - (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

- (3) Rehabilitation of buildings and improvements when the following conditions are met:
 - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;
 - (ii) In the case of multifamily residential buildings:
 - (A) Unit density is not changed more than 20 percent;
 - (B) The project does not involve changes in land use from residential to non-residential; and
 - (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
 - (A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- (4)
 - (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
 - (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
- (5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- (6) Combinations of the above activities.

Publication Requirements

There are no public notice requirements associated with Exempt activities. Therefore, when a Categorical Exclusion project is converted to Exempt, grantees are **not** required to publish a Notice of Intent to Request Release of Funds (NOI/RROF).

Release of Funds Procedures

To obtain a Release of Funds for a Categorical Exclusion, Subsequently Exempt activity, grantees must submit a **Certification of Determination of Subsequent Exemption for a Categorical Exclusion Project** form to the Ohio Department of Development Office of Housing and Community Partnerships (OHCP). There are no public comment periods associated with Categorical Exclusion, Subsequently Exempt activities.

Flowchart

