



OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

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

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**Notice: CPD-16-19**

Issued: December 22, 2016

Expires: This Notice is effective until  
amended, superseded, or rescinded.

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**SUBJECT: Balcony Policy under 24 CFR 51, Subpart B as it Applies to Parts 50 and 58  
Regarding Building Facades Exposed to Noise**

**I. Purpose and Background**

This Notice reconciles the approach to balconies within the Department's regulatory constraints in 24 CFR Part 51 Subpart B, Noise Abatement and Control, and clarifies compliance.

The noise regulation requires grantees and HUD program staff to consider noise when HUD assistance is proposed. HUD's noise regulation established minimum national standards applicable to HUD programs to protect citizens' health and properties' value from excessive noise in communities. "It is a HUD goal that the interior auditory environment shall not exceed a day-night average sound level of 45 decibels...Emphasis shall be given to noise sensitive interior spaces such as bedrooms" (§51.101(a)(9)). The exterior standard for acceptability is 65 decibels (dB) or below. Noise exposure between that acceptable threshold and 75 dB is normally unacceptable, and noise above 75 dB is unacceptable (§51.103(c)).

HUD assistance for new construction of noise sensitive uses is generally prohibited for projects with unacceptable noise exposure and is discouraged for projects with normally unacceptable noise exposure (§51.100(a)(4) and (§51.101(a)(3)). The regulation further states that "particular emphasis

shall be placed on the importance of compatible land use planning...” (§51.101(a)(1)(i)). “The standards shall also apply at other locations where it is determined that quiet outdoor space is required in an area ancillary to the principal use on the site” (§51.103(c)(1)).

## **II. Applicability**

This Notice applies to HUD activities that are subject to the noise regulation. Those activities include activities subject to environmental reviews at the Categorically Excluded Subject To the related federal laws and authorities (24 CFR 50.20 and 24 CFR 58.35(a)), Environmental Assessment, and Environmental Impact Statement (24 CFR 50.42 and 24 CFR 58.37) levels of review in accordance with both Part 50 for HUD projects and Part 58 for grantees serving as Responsible Entities. Consult Program Environmental Clearance Officers (PECOs)<sup>1</sup> for information on which program activities do not require environmental review.

24 CFR Part 51, Subpart B further defines the activities that are subject to noise regulation requirements. Support for existing construction requires consideration of marketability (24 CFR 51.101(a)(4)). Activities short of new construction (such as modernization or rehabilitation) require actions ranging from encouragement of noise attenuation features to strongly encouraging conversion of a site to a land use that is compatible with high noise levels, depending on the extent of rehabilitation and the level of noise exposure (24 CFR 51.101(a)(5)). New construction requires actions ranging from requiring noise attenuation to denying HUD assistance, depending on the level of noise exposure (24 CFR 51.101(a)(3)).

## **III. Discussion**

Balconies are platforms extending outward from a building façade. For purpose of this Notice, a balcony is a private outdoor space associated with individual dwelling units accessible solely from a single unit and located on an upper-level in a building. This Notice also applies to patios, the equivalent ground-level space, and similar spaces such as porches, decks, and terraces constructed integrally to a building. Such private spaces extend the interior living space, but are ancillary to indoor environments.

Balconies are amenities. Balconies are not required for the full functioning of dwelling units that have reliable, alternative spaces within the structure; therefore, they are ancillary to the principal land use—housing. Because their use is optional, the negative effects of noise exposure are not an important determinant of overall project viability.

A balcony’s usefulness and availability can be limited by weather and manmade environmental conditions such as temperature, precipitation, wind, odors, smoke, and air quality. Noise is such a condition and is a marketability factor. Vulnerability to such conditions can negate its use in extreme circumstances. The inherent sensitivity of such outdoor spaces makes their availability

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<sup>1</sup> Contact information for PECO is available on the [HUD Environmental Review](#) website

unreliable. In this context, the construction costs associated with balconies may not support the Department's affordable housing goals.

In addition, balconies can pose a risk to long-term project viability if not properly designed or maintained. Sleep is the most noise-sensitive activity in a HUD-assisted project, and therefore, bedrooms are the most noise-sensitive interior spaces. Excessive interior noise levels (over 45 dB) can impair this most basic use of the dwelling unit. Even with proper mitigation built into a structure, poor or deferred maintenance can impair the effectiveness of some noise attenuation, and maintenance schedules can be vulnerable to budget shortfalls. Inexpensive or low-quality building components combined with deferred maintenance can lead to infiltration of noise into dwelling units. Based on these concerns, it has been an informal Departmental policy for several years to not allow bedrooms or studio apartments in noise-impacted areas that directly access balconies. Through consultation with the Office of Housing and industry representatives concerned about accommodating areas with high market demand for balconies, it has become clear that the risk may be better managed through periodic inspection of door and window seals as an explicit requirement in Operation and Maintenance plans with the provision for repair or replacement as needed.

If the fenestration is designed to be noise mitigation, it must be allowed to function in that role. The dwelling units must not rely on opening windows or doors for ventilation. Mechanical ventilation systems must be provided, and the design of those systems must be such that they do not transmit exterior noise to the interior of the units. Solutions that provide ventilation and quiet are the goal.

#### **IV. Determinations**

Balconies are not "locations where it is determined that quiet outdoor space is required in an area ancillary to the principal use on the site" (24 CFR 51.103(c)). Furthermore, balconies are not indicative of an "outdoor noise sensitive activity" for the purpose of eligibility for the discretionary waiver of the Environmental Impact Statement offered in 24 CFR 51.104(b)(2) since spaces inside the dwelling unit can accommodate activities that may occur on balconies.

For new construction projects in Unacceptable and Normally Unacceptable noise areas (in accordance with 24 CFR 51.101(a)(3)) and major or substantial rehabilitation that results in a change of land use, bedrooms and studio apartments may have direct access to balconies if:

1. The interior noise levels have been mitigated to not exceed a day-night average noise level of 45 decibels as documented by the Sound Transmission Classification of the dwelling unit's exterior walls factoring in fenestration.
2. Appropriate ventilation is provided by a mechanical ventilation system and not by opening doors or windows, and
3. An Operations and Maintenance plan is in place that requires periodically inspecting seals and repairing or replacing building components when their performance diminishes.

Bedrooms and studio apartments may not have direct access to balconies if there is no mechanical ventilation and there is no Operations and Maintenance plan requiring periodic inspection and repair or replacement of all window and door seals as needed.

This Notice does not limit the ability of HUD Approving Officials or Part 58 Certifying Officers to require additional mitigation measures not articulated in this Notice, or to deny approval of balconies based on noise or other concerns. In addition, Environmental Assessment or Environmental Impact Statement levels of environmental review must consider potential health effects stemming from issues related to noise sources, such as air quality (24 CFR 50.4(h) and 24 CFR 58.5(g)) and toxic hazard exposure near transportation (24 CFR 50.3(i) and 24 CFR 58.5(i)(2)).

Direct questions about this Notice to your [Regional Environmental Officer](#) or James Potter at 202.402.4610 or [james.m.potter@hud.gov](mailto:james.m.potter@hud.gov).

By: \_\_\_\_\_  
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