

HUD Choice Limiting Action (CLA) Violation Review Process Fact Sheet

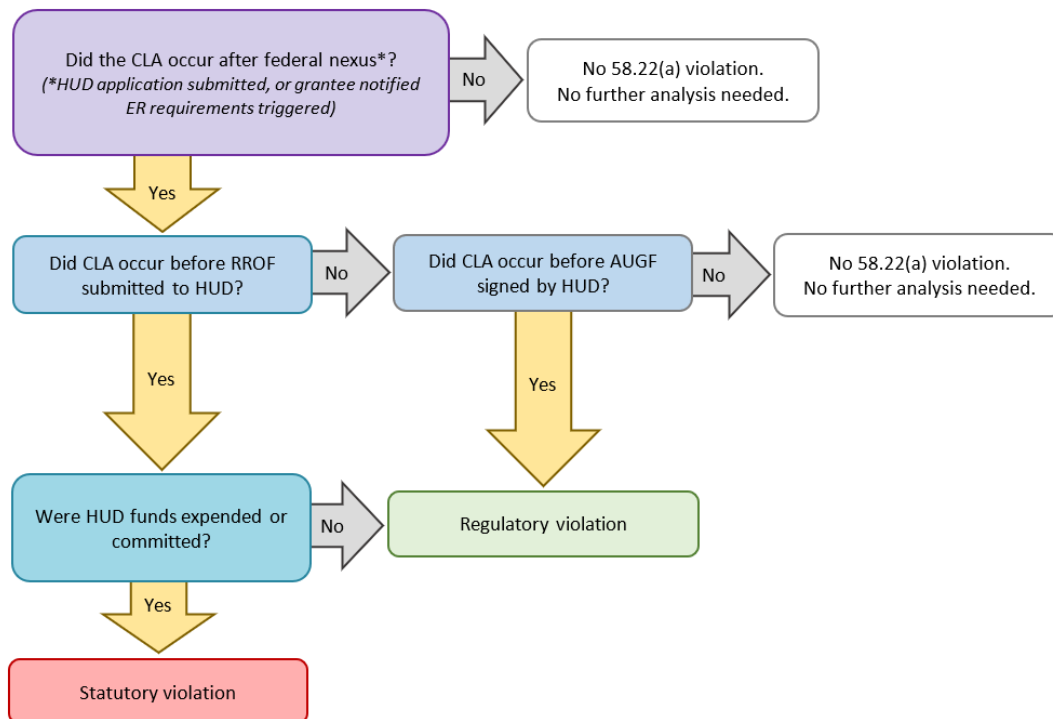
What is a Choice Limiting Action (CLA) Violation under 24 CFR 58.22(a)?

- A CLA violation is an activity undertaken by the grantee or their partners after the federal nexus but prior to obtaining environmental clearance, that reduces or eliminates a grantee's opportunity to choose project alternatives that would avoid or minimize environmental impacts or enhance the quality of the human environment.
- CLAs may include but are not limited to: real property acquisition; demolition; disposition; rehabilitation; repair; new construction; site preparation or clearance; ground disturbance; and leasing, including a binding legal contract to commit these activities that is not conditioned on successful completion of the environmental review (ER) process.

CLA Preliminary Determination

- HUD's Regional Environmental Officer coordinates with the HUD Program Office providing the project funding to obtain information and documentation from the grantee's local government Responsible Entity (RE) needed to make a preliminary determination as to whether a CLA violation has occurred and whether it was statutory or regulatory in nature. Requested documentation may include a clear timeline of events and copies of contracts or commitments.

Determining Nature of a CLA Violation Flow Chart



Statutory Violation

- A statutory violation occurs when there is a commitment of HUD program funds after the federal nexus is established and prior to submission of the Request for Release of Funds and Certification (RROF/C) to HUD.
- In general, HUD cannot approve a project that committed a statutory violation, and recipients and their partners are precluded from using any HUD funds subject to the statute that was violated for the same project. The Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) is currently the only statute that provides that the Secretary may waive statutory ER requirements. For more information see Section 105(d) of NAHASDA.

Regulatory Violation

- A regulatory violation occurs after the federal nexus is established and one of the following takes place:
 - HUD funds are committed or spent on a choice limiting activity after the RROF/C is submitted but prior to HUD (or state) approval of the RROF/C.
 - Non-HUD funds are committed/spent on a CLA prior to submission or approval of the RROF/C.
 - The recipient committed a statutory violation and is now applying for program funds subject to a different statute's ER requirements.

CLA Regulatory Violation Review Process

- HUD's Regional Environmental Officer coordinates with the HUD Program Office to inform the local government Responsible Entity of the preliminary violation determination, request that the RE and project partners stop all work for the duration of the regulatory violation review process and obtain documentation necessary to conduct the violation review.
- The documentation needed for the review includes a timeline of events, the RE's submission of the project ER (in HEROS), documentation of the federal nexus, and documentation of the action identified as a CLA.
- After HUD reviews the content of the ER, the project may be recommended for approval if there is evidence of good cause (i.e., the RE did not willfully non-comply and acted in error); demonstration that the project furthers HUD program goals, and the approval will not result in unmitigated adverse environmental impacts.
- Depending on the outcome of the review, the HUD Program Office will provide an approval or rejection letter to the RE, including any necessary corrective actions and whether the RE will need to issue (or re-issue) a public notice.