

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT RESPONSE

TO THE

BACKGROUND INFORMATION ON NRC REVIEW OF THE

OFFICE OF MANAGEMENT AND BUDGET RISK ASSESSMENT BULLETIN

QUESTIONS FOR ALL AGENCIES POTENTIALLY

AFFECTED BY THE OMB BULLETIN

July 26, 2006

General questions about current risk assessment practices

- **Current risk assessment practices.**
 - HUD does not conduct probabilistic risk assessments, but rather uses data to focus on the central tendency of the data, or the central estimate, typically means or medians. This is largely due to the fact that the data are not amenable to aggressive statistical data manipulation
 - HUD addresses uncertainty analysis where the data are amenable to the required statistical analysis.
 - HUD currently addresses uncertainty and variability in risk assessments by describing the confidence level of the mean (either arithmetic or geometric).

- **Substantial scientific or technical challenges of risk assessments.**
 - There is substantial variability in housing stock. These variables include: construction methods and materials; age; maintenance, repair, and renovations; climate and meteorological impact; design and operation of plumbing, electrical, heating, ventilation, and air conditioning systems; ownership, occupancy and uses; socio-economic factors; state and local building codes and enforcement;
 - Most existing housing risk-related research not sponsored by HUD or other Federal agencies is limited in scope and is not amenable to application to national impacts.
 - Congressional authority and appropriations may limit the scope of research to support the risk assessment.
 - Privacy concerns and the general information collection requirements associated with gathering the necessary data are often restrictive and/or cumbersome.
 - Because HUD does not conduct many risk assessments, it cannot support full time equivalent staff for the analyses. Therefore it is necessary to seek outside support to complete the requisite research and analysis for the risk assessment, and there are a limited number of qualified contractors who are available.

- **HUD's current definition of risk assessment, and associated products.**

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- HUD relies on OMB Circular A-4 for its risk assessments.
- HUD also addresses Congressional and Executive requirements, such as:
 - the Small Business Regulatory Enforcement Fairness Act (SBREFA);
 - the Regulatory Flexibility Act;
 - Unfunded Mandates Reform Act (UMRA);
 - Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999);
 - Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (59 FR 22951, November 6, 2000);
 - Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997);
 - National Technology Transfer and Advancement Act of 1995 ("NTTAA"); and
 - Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).
- **Risk assessments time frames.**
 - The period to complete an original risk assessment is usually two years from the time the need for the assessment is identified until a final work product is available for public comment. In some cases, this can be shortened to about six months where an original risk assessment can be adapted for amendments to existing regulations.

Questions about OMB's definition of risk assessment and applicability

- **New risk assessment not previously considered if HUD uses the proposed OMB Bulletin definition.**
 - Because inspections and adjudications are explicitly not covered by the proposed bulletin, HUD believes that no additional programs will require risk assessments.
 - HUD supports these exclusions, although additional clarification of the definitions may be helpful.

Questions about type of risk assessment (tiered structure)

- **Demarcation between HUD risk assessments used for regulatory analysis and other analyses.**
 - Environmental and health issues which may warrant risk assessments for regulatory analysis are limited to a few programs. Analysis for most programs is limited to risks associated with significant economic impact.
- **HUD current demarcation between "influential risk assessment" used for regulatory purposes and other risk assessments used for regulatory purposes.**

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- As for the case discussed in the previous answer, environmental and health issues which may warrant risk assessments for regulatory analysis are limited to a few programs. Analysis for most programs is limited to risks associated with significant economic impact.

Questions about impact of the Bulletin on agency risk assessment practices

- **Provisions in the Bulletin that can be expected to have a substantial positive effect on the quality, conduct, and use of risk assessments undertaken by HUD.**
 - HUD anticipates that meeting the additional cost and time requirements when using risk assessments will improve the quality, conduct and use of risk assessments.
- **Provisions in the Bulletin that can be expected to have a substantial negative effect on the quality, conduct, and use of risk assessments undertaken HUD.**
 - HUD believes the cost and time effects will not have substantial negative effects.
- **Effect on the time course for production of the risk assessment (that is, the time required from initiation of the risk assessment to delivery to the regulatory decision maker) if HUD followed the procedures described in the Bulletin.**
 - HUD believes that the time course will have to be extended to ensure the procedures are properly followed.
- **Please give an example of how HUD would implement the Bulletin's requirement for scientific objectivity by "giving weight to both positive and negative studies in light of each study's technical quality."**
 - HUD has always considered positive, negative, and inclusive studies in its regulatory risk analysis.
 - In order to enhance transparency, HUD would ask the author to identify the sources of funding for all research studies. This will aid in evaluating what weight to give to all studies, whether positive or negative.
- **HUD's use of risk assessments conducted by external groups.**
 - HUD welcomes the submission of risk assessments submitted by external groups, and meeting the requirements proposed in the OMB Bulletin will provide added weight to their consideration. HUD will still look for peer review to ensure that the study did not introduce bias due to financial support by a stakeholder with a strong position before the study was initiated, among other considerations.

ADDITIONAL ISSUES FOR HUD

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- Consideration of baseline conditions when evaluating alternative mitigation options for regulatory analysis may be inappropriate where there is a statutory requirement.
- The definition or guidelines for the determination of what constitutes a significant comment would be useful for consistency.
- Organizational structure, administrative procedures and statutory authority may affect the deferral and waiver process.