

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

### **Subpart G—Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements**

#### **§ 58.55 Notice of intent to prepare an EIS.**

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

#### **§ 58.56 Scoping process.**

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under § 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.

#### **§ 58.57 Lead agency designation.**

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

#### **§ 58.59 Public hearings and meetings.**

(a) *Factors to consider.* In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:

(1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.

(2) The degree of interest in or controversy concerning the project.

(3) The complexity of the issues and the likelihood that information will be

presented at the hearing which will be of assistance to the responsible entity.

(4) The extent to which public involvement has been achieved through other means.

(b) *Procedure.* All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date. The Notice must:

(1) State the date, time, place, and purpose of the hearing or meeting.

(2) Describe the project, its estimated costs, and the project area.

(3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.

(4) State the responsible entity's name and address and the name and address of its Certifying Officer.

(5) State what documents are available, where they can be obtained, and any charges that may apply.

#### **§ 58.60 Preparation and filing of environmental impact statements.**

(a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.

(b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:

(1) Five copies to EPA Headquarters;

(2) Five copies to EPA Regional Office;

(3) Copies made available in the responsible entity's and the recipient's office;

(4) Copies or summaries made available to persons who request them; and

(5) FEIS only—one copy to State, HUD Field Office, and HUD Headquarters library.

(c) The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.

(d) When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.

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(e) The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1505.2.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

### Subpart H—Release of Funds for Particular Projects

#### § 58.70 Notice of intent to request release of funds.

The NOI/RROF must be disseminated and/or published in the manner prescribed by § 58.43 and § 58.45 before the certification is signed by the responsible entity.

#### § 58.71 Request for release of funds and certification.

(a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(b). The RROF and certification must be in a form specified by HUD.

(b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in § 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or

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any change in environmental conditions.

(c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

#### § 58.72 HUD or State actions on RROFs and certifications.

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

(a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.

(b) HUD (or the state) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in § 58.75, or that the RROF and certification are inaccurate.

(c) In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated § 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

#### § 58.73 Objections to release of funds.

HUD (or the State) will not approve the RROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to § 58.70, whichever is later. Any person or agency may object to a recipient's RROF