

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Secretary

24 CFR Part 58

[Docket No. R-95-1770; FR-3811-I-01]

RIN 2501-AB88

**Environmental Review Procedures for
Entities Assuming HUD Environmental
Responsibilities**

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule implements provisions enacted in the Multifamily Housing Property Disposition Reform Act of 1994 that provide for the assumption of environmental review responsibilities by States and units of general local government, including those that are not recipients, under certain public and Indian housing programs, special projects, and the FHA multifamily housing finance agency risk sharing pilot program.

DATES: *Effective Date:* This rule is effective on April 12, 1995, except for §§ 58.1(c)(6)(i), and 58.2(a)(4)(v)(A) which will become effective October 14, 1996, unless this interim rule is published as a final rule or the Department publishes a subsequent document in the **Federal Register**.

Sunset Provision: Sections 58.1(c)(6) through (8), 58.2(a)(4)(v) through (4)(vii), and 58.11(b) through (d) shall expire and shall not be in effect after October 14, 1996, unless this interim rule is published as a final rule or the Department publishes a document in the **Federal Register** to extend their effectiveness. If the interim rules cited in the sunset provision expire, HUD will publish a document in the **Federal Register** removing them.

Comments Due Date: May 12, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Environment and Energy, Room 7240, Department of Housing and Urban

Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2894. For telephone communication, contact Fred Regetz, Environmental Review Division at (202) 708-4346. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708-4594. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

The Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103-233, enacted April 11, 1994; hereafter referred to as "MHPDRA") provides authority for States and units of general local government (including Indian tribes or Alaska native villages) to carry out the Federal environmental review responsibilities under the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347 (NEPA), and such other provisions of law as the Secretary shall specify, for recipients of HUD assistance under four HUD programs. These programs are: (1) Public and Indian housing programs and the Section 8 program under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (USHA of 1937) (see MHPDRA section 305(b)); (2) special projects appropriated under an appropriations act for HUD, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (see MHPDRA section 305(c)); and (3) the FHA Multifamily Housing Finance Agency Risk Sharing Pilot Program under section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (see MHPDRA section 307(b)(4)). This interim rule amends the existing regulations at 24 CFR part 58 to implement these provisions of the MHPDRA.

Congress previously authorized recipients under certain HUD programs to assume Federal environmental responsibilities, beginning with recipients under the Community Development Block Grant program under title I of the Housing and Community Development Act of 1974. However, the MHPDRA amendments mark the first time that States and units of general local governments (including Indian tribes and Alaska native villages) that are *not* recipients may assume these responsibilities. (Under the public and Indian housing programs, the Section 8 program, and the Risk Sharing Pilot Program covered by the MHPDRA provisions, the recipients include public

housing agencies, Indian housing authorities and qualified housing finance agencies, rather than States, units of general local government, Indian tribes or Alaska native villages. Under the Section 8 program for moderate rehabilitation of single room occupancy (SRO) dwellings for homeless individuals, the recipient may also be a nonprofit organization. In that case, a PHA or IHA may administer the Section 8 assistance. In these circumstances, the PHA or IHA will be considered the recipient for the purpose of this rule. In the case of special projects, recipients may be either States, units of general local governments, Indian tribes or Alaska native villages, or non-profit organizations.)

On August 26, 1994 (59 FR 44258), HUD published an interim rule implementing other MHPDRA environmental provisions pertaining to the HOME Investment Partnerships Program and the Lead-based Paint Hazard Reduction and Abatement Program. The amendments to 24 CFR part 58 in today's interim rule contain changes to provide that the part 58 procedures for the assumption and carrying out of responsibilities for environmental review, decisionmaking and action apply to public and Indian housing programs, the Section 8 Program other than Section 8 assistance under 24 CFR part 886 to projects with HUD-insured or HUD-held mortgages and in connection with the disposition of HUD-owned projects, special projects, and the FHA Multifamily Housing Finance Agency Risk Sharing Pilot Program covered by the MHPDRA amendments. Unlike the MHPDRA provisions regarding the HOME Investment Partnership Program, the MHPDRA provisions affecting these programs were not under a statutory deadline for issuance of effective rules.

It should be noted that the MHPDRA provisions do not permit assumption of environmental review responsibilities under all public and Indian housing programs. Section 26 of the United States Housing Act of 1937 (USHA), as added by section 305(b) of MHPDRA, authorizes the Secretary of HUD to "provide for the release of funds for projects or activities under this title (i.e., title I of the USHA), as specified by the Secretary upon the request of a public housing agency (including an Indian housing authority) under this section, if the State or unit of general local government, as specified by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action * * *."

Thus, the MHPDRA and this rule do not provide for the assumption of environmental review responsibilities under activities carried out under titles other than title I of the USHA, such as HOPE activities under title III of the USHA. Moreover, since a public housing agency or Indian housing authority must request the release of funds under the assumption procedure authorized by MHPDRA, the procedure does not apply to any Section 8 activity in which HUD works directly with a private owner, with no public housing agency or Indian housing authority involvement.

It should be noted, however, that HUD has determined that activities under the Indian Mutual Help program provided for in Section 202 of the USHA do qualify as activities under title I and will be subject to the environmental review procedures authorized by Section 26. The Department notes that Section 202(b)(1) of the USHA provides that the mechanism for providing financial assistance for the development, acquisition, operation and improvement of Mutual Help housing is that the Secretary "may enter into contracts with Indian housing authorities *under title I*" (emphasis added). Moreover, Section 201(b)(1) of the USHA provides that (except as otherwise provided in title II) the provisions of title I shall apply to low-income housing developed or operated pursuant to a contract between the Secretary and an IHA. Accordingly, environmental review for Indian Mutual Help activities will be conducted under the provisions of 24 CFR part 58.

The amendments to 24 CFR part 58 in this interim rule change the definition of recipient to include, for the first time, recipients other than States, units of general local government, Indian tribes and Alaska native villages. These recipients include public housing agencies or Indian housing authorities, direct grantees of HUD for special projects, and qualified housing finance agencies. This interim rule also provides that a "responsible entity" will assume the responsibility for carrying out environmental review requirements.

Under the programs covered by the MHPDRA amendments, the responsible entity may be a State, unit of general local government, Indian tribe or Alaska native village that is not a recipient. In § 58.2(a)(6), the regulation designates the appropriate governmental unit that will act as the responsible entity under the programs covered by the MHPDRA provisions. Under these programs, recipients other than States, units of general local government, Indian tribes or Alaska native villages are required to

request a responsible entity (i.e., the unit of general local government, the State or the Indian tribe or Alaska native village) with jurisdiction, to provide the requisite environmental review, decisionmaking and action for assisted projects.

In such cases, the interim rule provides that the State, unit of general local government, or Indian tribe or Alaska native village that is the responsible entity must send the Request for Release of Funds (RROF) and Certification to the recipient. The recipient in turn submits the certification of the responsible entity to HUD with a cover letter requesting the release of funds and indicating that the recipient agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed changes in the scope of the project or any change in environmental conditions. For documentation purposes, the interim rule mandates that if the responsible entity determines that some of the activities are exempt under applicable provisions of Part 58, the responsible entity shall advise the recipient that the recipient may incur costs on these activities as soon as programmatic authorization is received from HUD. This finding shall be documented in the environmental review record maintained by the responsible entity and in the recipient's project files.

Finally, the Department is still working out implementation issues and logistics for the public housing programs. Therefore, while this rule covers the public housing programs, this rule also delays implementation of Part 58 for the public housing programs until the Department resolves all implementation concerns. In the future, the Department will publish a notice in the **Federal Register** which makes this rule effective for the public housing programs.

II. Findings and Certifications

Sunset of Interim Rule

In accordance with the Department's policy on interim rules, the amendments made to part 58 by this interim rule shall expire on the eighteen-month anniversary date of the effective date of this interim rule unless extended by notice published in the **Federal Register**, or adopted by a final rule published on or before the eighteen-month anniversary date of the effective date of this interim rule.

Justification for Interim Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1)

The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public comment is contrary to public interest because this rule will expedite the receipt of necessary funding by allowing States and units of local government to conduct the Federal environmental review.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with the HUD regulation at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule will allow states and units of general local government (including Indian Tribes and Alaska native villages) to carry out Federal environmental review responsibilities for some recipients of HUD assistance. However, because in most cases the environmental review will be paid for with HUD assistance funds, this rule is not expected to have a significant economic impact on a substantial number of small entities.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the

rule is not subject to review under the order. Specifically, this rule will allow states and units of general local government (including Indian Tribes and Alaska native villages) to carry out Federal environmental review responsibilities for some recipients of HUD assistance. However, because in most instances the Federal environmental review will be funded by HUD, this rule is not expected to have a substantial effect on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

Regulatory Agenda

This interim rule was not listed in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632) under Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 58

Environmental protection, Community development block grants, Environmental Impact Statements, Grant programs—housing and community development, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, part 58 of title 24 of the Code of Federal Regulations is amended as follows:

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

1. The authority citation for part 58 is revised to read as follows:

Authority: 12 U.S.C. 1707 note; 42 U.S.C. 1437o(i)(1) and (2), 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, and 12838; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970, Comp., p. 902, as amended by E.O. 11991, 42 FR 26967, 3 CFR, 1977 Comp., p. 123.

2. The heading for part 58 is revised as set forth above.

3. In paragraph (c) of § 58.1, the word “and” is removed at the end of paragraph (c)(4), the period at the end of paragraph (c)(5) is removed and a semicolon is added in its place, and new paragraphs (c)(6), (c)(7), (c)(8), are added to read as follows:

§ 58.1 Purpose, scope and applicability.

* * * * *

(c) *Applicability.* * * *

(6)(i) Public Housing Programs under Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*);

(ii) Indian Housing Programs under Title I of the United States Housing Act of 1937, including the Mutual Help Program (42 U.S.C. 1437 *et seq.*); and

(iii) Assistance administered by a public housing agency or Indian housing authority under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), except for assistance provided under 24 CFR part 886.

(7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the head “Annual Contributions for Assisted Housing” in title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts; and

(8) The FHA Multifamily Housing Finance Agency Risk Sharing Pilot Program under section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note).

4. In § 58.2, paragraph (a)(4) is revised, and new paragraphs (a)(6) and (a)(7) are added, to read as follows:

§ 58.2 Terms, abbreviations and definitions.

(a) * * *

(4) Recipient means any of the following entities, when they are eligible recipients or grantees under a program listed in § 58.1(c):

(i) A State that does not distribute HUD assistance under the program to a unit of general local government;

(ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;

(iii) A unit of general local government;

(iv) An Indian tribe;

(v) (A) With respect to Public Housing Programs under § 58.1(c)(6)(i), a public housing agency;

(B) With respect to Indian Housing Programs under § 58.1(c)(6)(ii), an Indian housing authority;

(C) With respect to Section 8 assistance under § 58.1(c)(6)(iii), a public housing agency or Indian housing authority;

(vi) Any direct grantee of HUD for a special project under § 58.1(c)(7); and

(vii) With respect to the FHA Multifamily Housing Finance Agency Risk-Sharing Pilot Program under § 58.1(c)(8), a qualified housing finance agency.

* * * * *

(6) *Release of funds.* In the case of FHA Multifamily Housing Finance Agency Risk-Sharing Pilot Program under § 58.1(c)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter.

(7) *Responsible entity* means:

(i) With respect to environmental responsibilities under programs listed in § 58.1(c)(1) through (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in § 58.1(c)(6) through (8), a State, unit of general local government, Indian tribe or Alaska native village.

Nonrecipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State; and

(D) For Indian housing authorities, the Indian tribe in whose jurisdiction the project is located, or if the project is located outside of a reservation, the Indian tribe that established the authority.

* * * * *

5. In § 58.4, paragraph (b) is revised to read as follows:

§ 58.4 HUD Legal authority.

* * * * *

(b) *Assumption authority for responsible entities: General.* Responsible entities shall assume the responsibility for environmental review, decisionmaking, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in § 58.5. Responsible entities, other than units of general local government that

receive assistance from a State, assume these responsibilities by execution of either a grant agreement with HUD or a legally binding document, such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to recipients, the State must provide for appropriate procedures by which these recipients will evidence their assumption of environmental responsibilities.

* * * * *

6. In § 58.6, paragraph (a)(2) is revised to read as follows:

§ 58.6 Other requirements.

* * * * *

(a) * * *

(2) Where a recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

* * * * *

7. A new section 58.7 is added to subpart A to read as follows:

§ 58.7 Effective date of regulation.

This section, §§ 58.1(c)(6) through (8), 58.2(a)(4)(v) through (4)(vii), and 58.11(b) through (d) shall expire and shall not be in effect after October 14, 1996, unless the interim rules listed in this section are published as a final rule or the Department publishes a document in the **Federal Register** to extend their effectiveness. If the interim rules cited in this section expire, HUD will publish a document in the **Federal Register** removing them.

8. Section 58.10 is revised to read as follows:

§ 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in § 58.1(c), the responsible entity must assume the environmental responsibilities for projects under programs cited in § 58.1(c) in accordance with procedural provisions of NEPA and the CEQ regulations (40 CFR parts 1500 through 1508), as well as the procedures set forth in this part, unless otherwise provided for in program regulations. This includes responsibility for compliance with the applicable provisions and requirements of the Federal laws and authorities specified in § 58.5.

9. Section 58.11 is revised to read as follows:

§ 58.11 Legal capacity and performance.

(a) A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part should contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case by case basis.

(b) If a public housing, Indian housing, or special project recipient objects to the nonrecipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.

(c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with § 58.77(d)(1).

(d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

10. Section 58.34 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

§ 58.34 Exempt activities.

(a) A responsible entity does not have to comply with the environmental requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in § 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

* * * * *

(b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

11. Section 58.46 is revised to read as follows:

§ 58.46 Time delays for exceptional circumstances.

Under the circumstances described in paragraphs (a), (b), and (c) of this

section, the responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF. These circumstances are:

(a) When there is considerable interest or controversy concerning the project;

(b) When the proposed project is similar to other projects that normally require the preparation of an EIS; or

(c) When the project is unique and without precedent.

12. Section 58.47 is revised to read as follows:

§ 58.47 Re-evaluation of assessment findings.

(a) A responsible entity must re-evaluate the EA findings when:

(1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project and its cost estimate;

(2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or

(3) The recipient selects an alternative not considered in the original EA.

(b) The purpose of the responsible entity's re-evaluation of the EA is to determine if the FONSI is still valid. If the FONSI is still valid but the data or conditions upon which it was based have changed, the responsible entity must amend the original assessment and update its ERR by including this re-evaluation and its determination based on its findings. If the responsible entity determines that the FONSI is no longer valid it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts. Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section or new circumstances or environmental conditions under paragraph (a)(2) of this section and must permit the responsible entity to re-evaluate the EA before proceeding.

13. Section 58.64 is revised to read as follows:

§ 58.64 Supplemental environmental impact statements.

A supplement to the DEIS or FEIS must be prepared when a recipient proposes substantial changes in the proposed project or when significant new circumstances or information

become available during the environmental review process. Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes or significant new circumstances or

information and must permit the responsible entity to prepare a supplement before proceeding. Supplements may be used to modify or update EIS's which the responsible entity has determined to be valid and are being adopted for use. Supplemental

EIS's are subject to the requirements set forth in 40 CFR 1502.9.
 14. In the list below, for each entry indicated in the left column, remove the reference indicated in the middle column from wherever it appears in the section and add the reference indicated in the right column:

Section	Remove	Add
58.1(a)	Recipients of HUD assistance.	Recipients of HUD assistance and other responsible entities.
58.1(a), last word of paragraph	Recipients	Recipients of HUD assistance and other responsible entities.
58.1(b)	Recipients of HUD assistance.	Responsible entities.
58.1(c), introductory text	Recipients	Recipients or other responsible entities.
58.2(a)(3)	Grant recipient	Recipient.
58.4(b)	Recipients	Responsible entities.
58.5, introductory text	Recipient	Responsible entity.
58.6, introductory text and paragraph (c)	Recipient	Responsible entity.
58.6, introductory text	Recipient's	Responsible entities.
58.12	Recipient	Responsible entity.
58.13, introductory text and paragraph (a)	recipient's	responsible entity's.
58.13(a) and (b)	Recipient	Responsible entity.
58.14	Recipient	Responsible entity.
58.14	Grant recipient	Responsible entity.
58.15, introductory text	Recipient	Responsible entity.
58.15, introductory text and concluding text	Grant recipient	responsible entity.
58.30	Recipient	Responsible entity.
58.30	Recipient's	Responsible entity's.
58.32(a)	Recipient	Responsible entity.
58.32(b)	Recipient's	Responsible entity's.
58.35(b), (c) introductory text and (d)	Recipient	Responsible entity.
58.36	Recipient	Responsible entity.
58.37(a)(2)	Recipient's	Responsible entity's.
58.37(a)(6),(b)	Recipient	Responsible entity.
58.40	Recipient	Responsible entity.
58.41	Recipient	Responsible entity.
58.42	Recipient	Responsible entity.
58.43	Recipient	Responsible entity.
58.43	Recipient's	Responsible entity's.
58.44, introductory text and concluding text	Recipient	Responsible entity.
58.50	Recipient	Responsible entity.
58.50	Recipient's	Responsible entity's.
58.52	Recipient	Responsible entity.
58.55	Recipient	Responsible entity.
58.56	Recipient	Responsible entity.
58.57	Recipient	Responsible entity.
58.59	Recipient	Responsible entity.
58.59	Recipient's	Responsible entity's.
58.60	Recipient	Responsible entity.
58.61	Recipient	Responsible entity.
58.61	Recipient's	Responsible entity's.
58.62	Recipient	Responsible entity.
58.63	Recipient	Responsible entity.
58.65	Recipient	Responsible entity.
58.65	Recipient's	Responsible entity's.
58.66	Recipient	Responsible entity.
58.66	Recipient's	Responsible entity's.
58.70	Recipient	Responsible entity.
58.73	Recipient's	Responsible entity's.
58.74	Recipient's	Responsible entity's.
58.75(b), (c), (d), (e)(2), (e)(3), and (g)	Recipient	Responsible entity.
58.75, introductory text and paragraph (a)	Recipient's	Responsible entity's.
58.76, introductory text and paragraph (e)	Recipient's	Responsible entity's.

15. Section 58.71 is revised to read as follows:

§ 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 responsible entity's 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(c). 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 has approved its request for release of funds. The RROF and 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 with a cover letter requesting the release of funds and indicating that it agrees 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 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 incur costs on these activities as soon as programmatic authorization is received. This finding shall be documented in the environmental review record maintained by the responsible entity and in the recipient's project files.

16. Section 58.77 is amended by revising paragraph (b) and paragraphs (d)(1) introductory text, (d)(1)(ii), (d)(1)(iv), and (d)(2), to read as follows:

§ 58.77 Effect of approval of certification.

* * * * *

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It shall be HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the state, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.

* * * * *

(d) *Responsibility for monitoring training.* (1) At least once every three years, HUD intends to conduct in-depth monitoring of the environmental activities performed by responsible entities that have assumed

responsibilities for environmental review, decisionmaking and action under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:

* * * * *

(ii) HUD may require attendance by staff of the responsible entity at HUD sponsored or approved training, which will be provided periodically at various locations around the country;

* * * * *

(iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;

* * * * *

(2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under § 58.17 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.

Dated: January 31, 1995.

Henry G. Cisneros,
Secretary.

[FR Doc. 95-6054 Filed 3-10-95; 8:45 am]

BILLING CODE 4210-32-P