DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 58

[Docket No. FR–3811–I–02]

Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

AGENCY: Office of the Secretary, HUD.

ACTION: Technical amendment to interim rule.

SUMMARY: HUD is adopting certain technical amendments relating to an interim rule published in the Federal Register on March 13, 1995 that amended 24 CFR part 58 to implement certain environmental provisions enacted in the Multifamily Housing Property Disposition Reform Act of 1994. One technical amendment pertains to the effective date. The interim rule establishes April 12, 1995 as the effective date, except as otherwise provided for certain programs. However, some regulations for programs newly covered by part 58 have existing environmental provisions that conflict with the applicability of part 58 under the interim rule and have not yet been amended. The technical amendment makes clear that, for programs to which the effective date of April 12, 1995 applies, the interim rule supersedes preexisting program regulations that would otherwise conflict with the application of part 58 procedures under the interim rule. HUD is also adopting two technical amendments clarifying the designation of the entity responsible for environmental review, including a clarification applicable where the recipient is an Indian housing authority in Alaska.

EFFECTIVE DATE: April 12, 1995.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Community Viability, Room 7240, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–3297. For telephone communication, contact Roy Gonnella, Director, Environmental Review Division at (202) 708–3436. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–4594. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On March 13, 1995 (60 FR 13518) HUD published an interim rule amending 24 CFR part 58 with an effective date of April 12, 1995, except with respect to applicability to Public Housing programs under title I of the United States Housing Act, as to which a later effective date was provided. The interim rule implements certain environmental provisions enacted in the Multifamily Housing Property Disposition Reform Act of 1994 (MHPDRA). The latter provides 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, housing assistance under Section 8 of the United States Housing Act, special projects, and the FHA multifamily housing finance agency risk sharing pilot program.

Section 58.10 of the interim rule requires the responsible entity to assume the environmental responsibilities for projects under programs cited in § 58.1(c) in accordance with procedural provisions of the National Environmental Policy Act (NEPA) and the regulations of the Council on Environmental Quality (CEQ) (40 CFR parts 1500 through 1508), as well as the procedures set forth in part 58, ''unless otherwise provided for in program regulations.'' HUD intended this provision to allow the flexibility for regulations of individual programs that are subject to part 58 to provide exceptions to the assumption of environmental responsibilities by responsible entities designated under part 58, if appropriate for a specific program. However, some existing program regulations covered by the MHPDRA provisions—in particular, regulations under Section 8 of the United States Housing Act—still call for environmental review by HUD under 24 CFR part 50 and have not yet been amended to provide for responsible entities to assume review responsibilities under part 58. The quoted provision in § 58.10, as written, unintentionally implies that these earlier program regulations preclude responsible entities from assuming environmental review responsibilities under part 58, thus essentially delaying the effective date of the interim rule for these programs. In fact, HUD intended the effective date of April 12, 1995 to apply to all the programs affected by the interim rule except the Public Housing programs referenced in the ''Effective Date'' block of the preamble, so that responsible entities could begin assuming responsibilities notwithstanding existing contrary provisions in program regulations. HUD expects to conform existing program regulations to the interim rule during program rulemaking, but did not intend to delay the application of the interim rule during that time. Accordingly, the technical amendment would add to the end of the first sentence of § 58.10 the phrase ''issued after April 12, 1995'', to indicate that only program regulations issued *after* that date may supersede the responsible entity's duty to assume environmental review responsibilities.

HUD is also adopting two technical amendments to the definition of ''responsible entity'' in § 58.2(a)(7). The first amendment clarifies the applicability of the first sentence of § 58.2(a)(7)(ii), which indicates that a State, unit of general local government, Indian tribe or Alaska native village is the responsible entity for programs listed in § 58.1(c) (6) through (8). Currently, while the second sentence provides additional designations of ''nonrecipient responsible entities'' for those programs, the first sentence does not explicitly indicate that it applies only when the governmental entities designated are recipients. The amendment would so indicate.

The second amendment to § 58.2(a)(7)(ii) adds a new paragraph (a)(7)(ii)(E) that applies specifically to Indian housing authorities (IHAs) in Alaska. It provides that for such IHAs, the responsible entity is the Alaska native village in whose community the project is located, or if HUD determines this infeasible, a unit of general local government or the State, as designated by HUD. This amendment is necessary because paragraph (a)(7)(ii)(D) does not specifically reference projects located in Alaska native villages and because the reference in paragraph (a)(7)(ii)(D) to the Indian tribe that established the Indian housing authority would not apply to IHAs established by regional corporations in Alaska. Paragraph (a)(7)(ii)(D) is now amended to apply only outside Alaska.

This document also makes two corrections to the interim rule that was published on March 13, 1995. First, the title of § 58.77(d) should read as follows: Responsibility for monitoring and training. Also, § 58.77(d)(2) should reference § 58.13 instead of § 58.17.

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, under 24 CFR part 10, notice and public procedure (comments) can be omitted if the Department determines in a particular case or class of cases that notice and public procedure are impracticable, unnecessary or contrary to the public interest. Soliciting public comments on this technical amendment would be unnecessary and contrary to the public interest. This rule only makes technical

amendments to the interim rule published on March 13, 1995.

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.

Accordingly, 24 CFR part 58 is amended as follows:

PART 58—[AMENDED]

1. The authority citation for part 58 continues 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. Section 58.2 is amended by revising paragraph (a)(7)(ii) introductory text and paragraph (a)(7)(ii)(D), and by adding a new paragraph (a)(7)(ii)(E) to read as follows:

§ 58.2 Terms, abbreviations and definitions.

(a) * * *

(7) * * *

(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, when it is the recipient under the program. Nonrecipient responsible entities are designated as follows:

* * * * *

(D) For Indian housing authorities (outside of Alaska), 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.

(E) For Indian housing authorities in Alaska, the Alaska native village in whose community the project is located, or if HUD determines this infeasible, a unit of general local government or the State, as designated by HUD.

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§ 58.10 [Amended]

3. Section 58.10 is amended by adding to the end of the first sentence ending with ''program regulations'' and before the period, the clarifying phrase ''issued after April 12, 1995''.

§ 58.77 [Amended]

4. Section 58.77 is amended by revising the title of paragraph (d), to read, ''*(d). Responsibility for monitoring and training.*''

5. In § 58.77, the second sentence in paragraph (d)(2) is amended to refer to ''§ 58.13'' instead of ''§ 58.17''.

Dated: September 12, 1995.

Henry G. Cisneros,

Secretary.

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