

Office of the Secretary, HUD

§ 50.3

Subpart F—Environmental Impact Statements

- 50.41 EIS policy.
- 50.42 Cases when an EIS is required.
- 50.43 Emergencies.

AUTHORITY: 42 U.S.C. 3535(d) and 4332; and Executive Order 11991, 3 CFR, 1977 Comp., p. 123.

SOURCE: 61 FR 50916, Sept. 27, 1996, unless otherwise noted.

Subpart A—General: Federal Laws and Authorities

§ 50.1 Purpose, authority, and applicability.

(a) This part implements the policies of the National Environmental Policy Act (NEPA) and other environmental requirements (as specified in § 50.4).

(b) NEPA (42 U.S.C. 4321 *et seq.*), establishes national policy, goals and procedures for protecting, restoring and enhancing environmental quality. NEPA is implemented by Executive Order 11514 of March 5, 1970, (3 CFR, 1966–1970 Comp., p. 902) as amended by Executive Order 11991 of May 24, 1977, (3 CFR, 1977 Comp., p. 123) and by the Council on Environmental Quality (CEQ) Regulations, 40 CFR parts 1500–1508.

(c) The regulations issued by CEQ at 40 CFR parts 1500–1508 establish the basic procedural requirements for compliance with NEPA. These procedures are to be followed by all Federal agencies and are incorporated by reference into this part. This part, therefore, provides supplemental instructions to reflect the particular nature of HUD programs, and is to be used in tandem with 40 CFR parts 1500–1508 and regulations that implement authorities cited at § 50.4.

(d) These regulations apply to all HUD policy actions (as defined in § 50.16), and to all HUD project actions (see § 50.2(a)(2)). Also, they apply to projects and activities carried out by recipients subject to environmental policy and procedures of 24 CFR part 58, when the recipient that is regulated under 24 CFR part 58 claims the lack of legal capacity to assume the Secretary's environmental review responsibilities and the claim is approved by HUD or when HUD determines to con-

duct an environmental review itself in place of a nonrecipient responsible entity. For programs, activities or actions not specifically identified or when there are questions regarding the applicability of this part, the Assistant Secretary for Community Planning and Development shall be consulted.

§ 50.2 Terms and abbreviations.

(a) The definitions for most of the key terms or phrases contained in this part appear in 40 CFR part 1508 and in the authorities cited in § 50.4.

The following definitions also apply to this part:

Environmental review means a process for complying with NEPA (through an EA or EIS) and/or with the laws and authorities cited in § 50.4.

HUD approving official means the HUD official authorized to make the approval decision for any proposed policy or project subject to this part.

Project means an activity, or a group of integrally-related activities, undertaken directly by HUD or proposed for HUD assistance or insurance.

(b) The following abbreviations are used throughout this part:

AS/CPD—Assistant Secretary for Community Planning and Development.

CEQ—Council on Environmental Quality

EA—Environmental Assessment

EIS—Environmental Impact Statement

FONSI—Finding of No Significant Impact

HUD—Department of Housing and Urban Development

NEPA—National Environmental Policy Act

NOI/EIS—Notice of Intent to Prepare an Environmental Impact Statement

§ 50.3 Environmental policy.

(a) It is the policy of the Department to reject proposals which have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality and minimize environmental harm.

(b) The HUD approving official shall consider environmental and other Departmental objectives in the decision-making process.

§ 50.4

(c) When EA's or EIS's or reviews under § 50.4 reveal conditions or safeguards that should be implemented once a proposal is approved in order to protect and enhance environmental quality or minimize adverse environmental impacts, such conditions or safeguards must be included in agreements or other relevant documents.

(d) A systematic, interdisciplinary approach shall be used to assure the integrated use of the natural and social sciences and the environmental design arts in making decisions.

(e) Environmental impacts shall be evaluated on as comprehensive a scale as is practicable.

(f) HUD offices shall begin the environmental review process at the earliest possible time so that potential conflicts between program procedures and environmental requirements are identified at an early stage.

(g) Applicants for HUD assistance shall be advised of environmental requirements and consultation with governmental agencies and individuals shall take place at the earliest time feasible.

(h) For HUD grant programs in which the funding approval for an applicant's program must occur before the applicant's selection of properties, the application shall contain an *assurance* that the applicant agrees to assist HUD to comply with this part and that the applicant shall:

(1) Supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by this part;

(2) Carry out mitigating measures required by HUD or select alternate eligible property; and

(3) Not acquire, rehabilitate, convert, lease, repair or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received.

(i)(1) It is HUD policy that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and

24 CFR Subtitle A (4-1-04 Edition)

safety of occupants or conflict with the intended utilization of the property.

(2) HUD environmental review of multifamily and non-residential properties shall include evaluation of previous uses of the site and other evidence of contamination on or near the site, to assure that occupants of proposed sites are not adversely affected by the hazards listed in paragraph (i)(1) of this section.

(3) Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites or other locations that contain hazardous wastes.

(4) HUD shall require the use of current techniques by qualified professionals to undertake investigations determined necessary.

§ 50.4 Related Federal laws and authorities.

HUD and/or applicants must comply, where applicable, with all environmental requirements, guidelines and statutory obligations under the following authorities and HUD standards:

(a) *Historic properties.* (1) The National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), as amended.

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (3 CFR, 1971-1975 Comp., p. 559).

(3) The Archaeological and Historic Preservation Act of 1974, which amends the Reservoir Salvage Act of 1960 (16 U.S.C. 469 *et seq.*).

(4) Procedures for the Protection of Historic and Cultural Properties (Advisory Council on Historic Preservation—36 CFR part 800).

(b) *Flood insurance, floodplain management and wetland protection.* (1) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128) and the National Flood Insurance Reform Act of 1994 (Pub.L. 103-325, 108 Stat. 2160).

(2) HUD Procedure for the Implementation of Executive Order 11988 (3 CFR, 1977 Comp., p. 117)—24 CFR part 55, Floodplain Management.

(3) Executive Order 11990 (Protection of Wetlands), (3 CFR, 1977 Comp., p. 121).