

§ 55.26

areawide strategy, specific development and mitigation measures shall be prescribed as a condition of HUD's approval of the individual action.

(d) Areawide compliance under the procedures of this section is subject to the following provisions: (1) It shall be initiated by HUD through a formal agreement of understanding with affected local governments concerning mutual responsibilities governing the preparation, issuance, implementation, and enforcement of the areawide strategy;

(2) It may be performed jointly with one or more Federal departments or agencies, or grant recipients subject to 24 CFR part 58 that serve as the responsible Federal official;

(3) It shall establish mechanisms to ensure that: (i) The terms of approval of individual actions (e.g., concerning structures and facilities) will be consistent with the areawide strategy;

(ii) The controls set forth in the areawide strategy are implemented and enforced in a timely manner; and

(iii) Where necessary, mitigation for individual actions will be established as a condition of approval.

(4) An open scoping process (in accordance with 40 CFR 1501.7) shall be used for determining the scope of issues to be addressed and for identifying significant issues related to housing and community development for the floodplain;

(5) Federal, state and local agencies with expertise in floodplain management, flood evacuation preparedness, land use planning and building regulation, or soil and natural resource conservation shall be invited to participate in the scoping process and to provide advice and comments; and

(6) Eligibility for participation in and the use of the areawide compliance must be limited to communities that are in the Regular Program of the National Flood Insurance Program and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24), thereby demonstrating a capacity for and commitment to floodplain management standards sufficient to perform responsibilities under this part.

(7) An expiration date (not to exceed ten years from the date of the formal

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

adoption by the local governments) for HUD approval of areawide compliance under this part must be stated in the agreement between the local governments and HUD. In conjunction with the setting of an expiration date, a mechanism for HUD's reevaluation of the appropriateness of areawide compliance must be provided in the agreement.

§ 55.26 Adoption of another agency's review under the executive orders.

If a proposed action covered under this part is already covered in a prior review performed under the executive order by another agency, that review may be adopted by HUD or by a grant recipient authorized under 24 CFR part 58, provided that:

(a) There is no pending litigation relating to the other agency's review for floodplain management;

(b) The adopting agency makes a finding that:

(1) The type of action currently proposed is comparable to the type of action previously reviewed by the other agency; and

(2) There has been no material change in circumstances since the previous review was conducted; and

(c) As a condition of approval, mitigation measures similar to those prescribed in the previous review shall be required of the current proposed action.

§ 55.27 Documentation.

(a) For purposes of compliance with § 55.20, the responsible HUD official who would approve the proposed action (or the Certifying Officer for a grant recipient subject to 24 CFR part 58) shall require that the following actions be documented: (1) Under § 55.20(c), practicable alternative sites have been considered outside the floodplain, but within the local housing market area, the local public utility service area, or the jurisdictional boundaries of a recipient unit of general local government (as defined in 24 CFR 570.3), whichever geographic area is more appropriate to the proposed HUD action. Actual sites under review must be identified and the reasons for the non-selection of those sites as practicable alternatives must be described; and

(2) Under § 55.20(e), measures to minimize the potential adverse impacts of the proposed action on the affected floodplain as identified in § 55.20(d) have been applied to the design for the proposed action.

(b) For purposes of compliance with § 55.24, § 55.25, or § 55.26 (as appropriate), the responsible HUD official (or the Certifying Officer for a grant recipient subject to 24 CFR part 58) who would approve the proposed action shall require documentation of compliance with the required conditions.

(c) Documentation of compliance with this part (including copies of public notices) must be attached to the environmental assessment, the environmental impact statement or the compliance record and be maintained as a part of the project file. In addition, for environmental impact statements, documentation of compliance with this part must be included as a part of the record of decision (or environmental review record for grant recipients subject to 24 CFR part 58).

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

Subpart A—Purpose, Legal Authority, Federal Laws and Authorities

Sec.

- 58.1 Purpose and applicability.
- 58.2 Terms, abbreviations and definitions.
- 58.4 Assumption authority.
- 58.5 Related Federal laws and authorities.
- 58.6 Other requirements.

Subpart B—General Policy: Responsibilities of Responsible Entities

- 58.10 Basic environmental responsibility.
- 58.11 Legal capacity and performance.
- 58.12 Technical and administrative capacity.
- 58.13 Responsibilities of the certifying officer.
- 58.14 Interaction with State, Federal and non-Federal entities.
- 58.15 Tiering.
- 58.17 [Reserved]
- 58.18 Responsibilities of States assuming HUD environmental responsibilities.

Subpart C—General Policy: Environmental Review Procedures

- 58.21 Time periods.
- 58.22 Limitations on activities pending clearance.
- 58.23 Financial assistance for environmental review.

Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

- 58.30 Environmental review process.
- 58.32 Project aggregation.
- 58.33 Emergencies.
- 58.34 Exempt activities.
- 58.35 Categorical exclusions.
- 58.36 Environmental assessments.
- 58.37 Environmental impact statement determinations.
- 58.38 Environmental review record.

Subpart E—Environmental Review Process: Environmental Assessments (EA's)

- 58.40 Preparing the environmental assessment.
- 58.43 Dissemination and/or publication of the findings of no significant impact.
- 58.45 Public comment periods.
- 58.46 Time delays for exceptional circumstances.
- 58.47 Re-evaluation of environmental assessments and other environmental findings.

Subpart F—Environmental Review Process: Environmental Impact Statement Determinations

- 58.52 Adoption of other agencies' EISs.
- 58.53 Use of prior environmental impact statements.

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

- 58.55 Notice of intent to prepare an EIS.
- 58.56 Scoping process.
- 58.57 Lead agency designation.
- 58.59 Public hearings and meetings.
- 58.60 Preparation and filing of environmental impact statements.

Subpart H—Release of Funds for Particular Projects

- 58.70 Notice of intent to request release of funds.
- 58.71 Request for release of funds and certification.
- 58.72 HUD or State actions on RROFs and certifications.
- 58.73 Objections to release of funds.