

§ 51.105

(b) *Environmental review requirements.* Environmental reviews shall be conducted pursuant to the requirements of 24 CFR parts 50 and 58, as applicable, or other environmental regulations issued by the Department. These requirements are hereby modified for all projects proposed in the Normally Unacceptable and Unacceptable noise exposure zones as follows:

(1) *Normally unacceptable noise zone.*

(i) All projects located in the Normally Unacceptable Noise Zone require a Special Environmental Clearance except an EIS is required for a proposed project located in a largely undeveloped area, or where the HUD action is likely to encourage the establishment of incompatible land use in this noise zone.

(ii) When an EIS is required, the concurrence of the Program Assistant Secretary is also required before a project can be approved. For the purposes of this paragraph, an area will be considered as largely undeveloped unless the area within a 2-mile radius of the project boundary is more than 50 percent developed for urban uses and infrastructure (particularly water and sewers) is available and has capacity to serve the project.

(iii) All other projects in the Normally Unacceptable zone require a Special Environmental Clearance, except where an EIS is required for other reasons pursuant to HUD environmental policies.

(2) *Unacceptable noise zone.* An EIS is required prior to the approval of projects with unacceptable noise exposure. Projects in or partially in an Unacceptable Noise Zone shall be submitted to the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58, for approval. The Assistant Secretary or the Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor noise sensitive activity will take place on the site. In such cases, an environmental review shall be made pursuant to the requirements of 24 CFR parts 50 or 58, as appropriate.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]

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

§ 51.105 Exceptions.

(a) *Flexibility for non-acoustic benefits.* Where it is determined that program objectives cannot be achieved on sites meeting the acceptability standard of 65 decibels, the Acceptable Zone may be shifted to L_{dn} 70 on a case-by-case basis if all the following conditions are satisfied:

(1) The project does not require an Environmental Impact Statement under provisions of § 51.104(b)(1) and noise is the only environmental issue.

(2) The project has received a Special Environmental Clearance and has received the concurrence of the Environmental Clearance Officer.

(3) The project meets other program goals to provide housing in proximity to employment, public facilities and transportation.

(4) The project is in conformance with local goals and maintains the character of the neighborhood.

(5) The project sponsor has set forth reasons, acceptable to HUD, as to why the noise attenuation measures that would normally be required for new construction in the L_{dn} 65 to L_{dn} 70 zone cannot be met.

(6) Other sites which are not exposed to noise above L_{dn} 65 and which meet program objectives are generally not available.

The above factors shall be documented and made part of the project file.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13334, Mar. 26, 1996]

§ 51.106 Implementation.

(a) *Use of available data.* HUD field staff shall make maximum use of noise data prepared by others when such data are determined to be current and adequately projected into the future and are in terms of the following:

(1) *Sites in the vicinity of airports.* The noise environment around airports is described sometimes in terms of Noise Exposure Forecasts, abbreviated as NEF or, in the State of California, as Community Noise Equivalent Level, abbreviated as CNEL. The noise environment for sites in the vicinity of airports for which day-night average sound level data are not available may