

# **federal register**

TUESDAY, JANUARY 7, 1975  
WASHINGTON, D.C.

Volume 40 ■ Number 4

PART II



---

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of the Secretary**

■

### **ENVIRONMENTAL REVIEW PROCEDURES FOR COMMUNITY DEVELOPMENT**

**Block Grant Program**

Title 24—Housing and Urban  
Development

SUBTITLE A—OFFICE OF THE SECRETARY

[Docket No. R-74-297]

PART 58—ENVIRONMENTAL REVIEW  
PROCEDURES FOR THE COMMUNITY  
DEVELOPMENT

Block Grant Program

Notice was given on October 10, 1974, at 39 FR 36554 that the Department of Housing and Urban Development ("HUD" herein) was proposing to amend Title 24 of the Code of Federal Regulations by adding a new Part 58 to Subtitle A.

The purpose of Part 58 is to set forth the regulations governing environmental review procedures to be undertaken by applicants for funds under Title I of the Housing and Community Development Act of 1974, Pub. L. 93-383 (the "Act" herein). The Act provides for a new program of community development block grants which begins January 1, 1975. Its implementing regulations are in 24 CFR Part 570. Section 104(h) of the Act authorizes the Secretary of Housing and Urban Development to provide under regulations for the release of funds for particular projects to applicants who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969 ("NEPA" herein) that would apply to the Secretary were he to undertake such projects as Federal projects. Part 58 implements section 104(h) of the Act.

The Department has received more than 50 responses to the October 10, 1974 publication. All of these comments were seriously considered and many changes have been incorporated in these regulations as a result. A summary of the principal comments and their disposition is set forth below.

Several commentators asserted that it was not permissible for HUD to require applicants to assume NEPA responsibilities with respect to Title I projects and/or that HUD's NEPA responsibilities in connection with applications for Title I assistance would not be satisfied as a result of such assumption. A number of related comments also questioned the capacity of applicants to assume NEPA responsibilities. HUD believes its authority under § 104(h) is sufficient to permit it to require the assumption of NEPA responsibilities by applicants, and that the carrying out of NEPA responsibilities by such applicants with legal capacity to assume such responsibilities, and that the carrying out of NEPA responsibilities by such applicants and execution of the certification in accordance with this Part will satisfy HUD's responsibilities under NEPA. Appropriate changes have been made in Part 58 in accordance with this concept.

Changes in the regulations have also been made in response to a number of comments that Part 58 should incorporate applicable Council on Environmental Quality and Environmental Protection Agency ("CEQ" and "EPA", respectively) regulations.

Several comments questioned HUD's authority to require applicants to assume historic preservation and related reviews, and HUD's compliance with historic preservation statutory authority as a result. HUD's view is that its authority in this regard is sufficient, and that it will be satisfying applicable statutes through the approach which Part 58 takes. However, in response to these comments, the regulations have been amended to provide that noncompliance with procedures appearing in regulations of the Advisory Council on Historic Preservation issued pursuant to the Historic Preservation Act of 1966 would be a basis for objecting to the applicant's request for release of funds for a project which affects a historic property.

Several other comments were to the effect that provision should be made for HUD to consider objections to a request for a release of funds on the basis that an applicant had failed to carry out its NEPA responsibilities under Part 58.

In response to these comments, the procedures in Part 58 have been clarified, a requirement for publication of five days notice of an applicant's intent to request a release of funds has been added, and the bases on which objections to HUD acceptance of a certification accompanying such a request for release of funds have been expanded to include omission by the applicant of any step in the NEPA reviews required by Part 58.

There were comments to the effect that the notice periods related to HUD's approval of a request for release of funds, and to the decision by an applicant not to prepare an environmental impact statement ("EIS" herein), are too short. The additional five days referred to in the preceding paragraph would afford the public more time to prepare objections, if any, to an applicant's actions and would partially satisfy the former comment. In this regard, it should be noted that such five-day notice period would be a minimum for compliance with Part 58, and that applicants would have authority to adopt a longer notice period. With regard to the latter comment, which pertained to the time period for notice of an applicant's intention not to file an EIS, HUD believes that fifteen days would normally be adequate. However, an applicant would have authority to extend this time period if it determined that the circumstances in a particular situation made such an extension desirable.

One comment was that the forty five day period for comments on a draft EIS should be established with no provision for extensions. This comment was rejected, since HUD believes applicants should have flexibility in adjusting their environmental review processes as needed to fit particular situations, so long as such adjustments are consistent with Part 58, NEPA, and other applicable authority.

There were also comments to the effect that the time periods involved in processing an EIS were too long. The Part 58 requirements in this regard are consistent with CEQ Guidelines.

Several comments expressed the view that the thresholds for the required preparation of an EIS were too high, while others believed them to be too low. Other comments were to the effect that criteria should be added for the making of environmental assessments. The changes made in Part 58 reflect these comments by eliminating several of the thresholds, and clarifying the environmental review process. HUD's determination in this regard recognizes the difficulties in attempting to establish a single set of criteria for applicability to projects of varying size and scope in diverse settings.

There were comments to the effect that applicants should be required to conduct an environmental review process in connection with the application for block grants, and not just in connection with projects within such applications. HUD has rejected this view as inconsistent with § 104(h) and its legislative history and takes the position that compliance with § 104(h) and NEPA can be attained through the applicant's adherence to the requirements of Part 58.

A number of comments questioned the exemption of several activities from the requirements of Part 58. In response to these comments, the number of exempt activities listed in Part 58 has been reduced substantially, and now reflects only those which are exempt by virtue of authority in the Act.

There were a number of comments to the effect that public hearings should be made mandatory at various stages of the environmental review process. HUD has rejected these comments, since Part 58 does provide guidance to applicants to assist them in deciding whether such hearings should be held in connection with EIS's, and the question of whether to hold public hearings at that or another stage of the environmental review process is properly within an applicant's discretion.

Several comments concerned the funding of possible expenses to be incurred by applicants in the event there is litigation concerning environmental aspects of their community development programs. In response to these comments, a statement of the eligibility of such expenses for funding under the Act has been added to Part 58.

The ambit of the terms "applicant" and "chief executive officer" were questioned by some commentators. In response to these comments, definitions for these terms have been added to Part 58.

Some commentators stated their belief that an EIS should be prepared in connection with the issuance of this Part 58. In this connection, compliance by HUD with its own regulations concerning the environmental review of proposed or final regulations does not necessitate the preparation of an EIS. (Departmental Handbook 1390.1, 38 FR 19182). In connection with the issuance of this Part 58 as final regulations, a Finding of Inapplicability has been made under the Handbook cited above. A copy of the Finding of Inapplicability is available for public inspection at HUD, Room

10245, 451 Seventh Street, S.W., Washington, D.C. 20410.

The principle changes in the Regulations are set forth below.

Subpart A—General Policy and Responsibilities, has been amended to include in § 58.1 a statement of policies of the National Environmental Policy Act of 1969, and to add a § 58.2 which provides for the calculation of time periods. Section 58.3, Terminology, has had the following terms added to it: applicant chief executive officer (both of which are substantially similar to their definitions in 24 CFR 570.3), environmental review and environmental review process, and level of clearance finding. Terms which have been deleted are: environment, significant environmental impact, Federal action, environmental review, environmental clearance, environmental review record, comments, areas of jurisdiction by law or special expertise, and major amendatory. The General Policy section, § 58.5, has been amended to provide that HUD will consider the question of an applicant's legal capacity (but no other type of capacity) to assume or carry out NEPA responsibilities prior to submission of its Title I application only, to specify the responsibilities of the chief executive officer of the applicant, upon his assumption of the status of a "responsible Federal official" as that term is used in NEPA, and to include the substance of subparagraphs (b), (c), and (d) from § 58.13 of the October 10, 1974 publication ("proposed regulations" herein).

Subpart B—Environmental Reviews by Applicants under Title I, has had § 58.7 deleted, since the matters covered by that section are included in the Community Development Block Grant regulations, 24 CFR Part 570. Section 58.9 has been amended to clearly state that paragraph (a) deals with the ten percent advance under the Block Grant program rather than a separate source of funds, and that Title I funds from one program year may be used by applicants for environmental studies relating to any program year. The requirements concerning the environmental review record in § 58.11 have been made more specific, and have been expanded to cover more of the materials which the environmental review process will generate. Most of the substance of § 58.12 of the proposed regulations, which has been deleted, will be found in new form in new § 58.19, which will be discussed below. As noted above, the substance of § 58.13 of the proposed regulations has been included in § 85.5. The substance of § 58.14 of the proposed regulations has been deleted; its substance is found in § 58.15(d) with changes which characterize the required findings of the former section as "level of clearance findings". Section 58.15 has been further amended to make it clear that both positive and negative effects of possible modifications to projects should be considered, and that cost should be a factor in such considerations. Section 58.15(e)(1) and (e)(2) of the proposed regulations have been deleted and their substance now forms § 58.16 and § 58.17,

respectively. The matters which were set forth in § 58.15(e)(3) second (d)(5) of the proposed regulations are now set forth in § 58.18. In the proposed regulations, § 58.16-18 had been reserved. A new § 58.19 has been added which, as noted above, includes most of the substance of § 58.12, which is now a reserved section number. This new section requires original or updated environmental reviews for ongoing undertakings which are to be funded for the first time under the Community Development Block Grant regulations, 24 CFR Part 570, if previous environmental reviews are insufficient due to changed circumstances. It also provides that with respect to such undertakings, if circumstances have not changed significantly and there are existing environmental clearances, a written decision to that effect must be made by the applicant, and no further environmental reviews would be required. The activities which are exempt from the requirements of Part 58, under § 58.21, have been reduced substantially to include only those exemptions clearly permitted by Title I of the Housing and Community Development Act of 1974. Section 58.23 of the proposed regulations has been deleted as a result of the modifications of § 58.21 discussed above. The coverage of § 58.24 has been changed to delete properties nominated to the National Register, and to include, instead, properties found to be eligible for listing on the register by the Secretary of Interior.

Section 58.25, dealing with projects requiring an EIS, has been modified to delete several imprecise and unworkable categories. Section 58.26 of the proposed regulations, which was merely advisory, has been deleted. Section 58.27, dealing with lead agency requirements and procedures, has been modified to eliminate the implication that an applicant required to prepare an EIS on a project pursuant to this Part could escape that responsibility through designation of a lead agency, other than itself, for the project, and to indicate that such designation is permissible only where the lead agency will prepare an EIS.

Subpart C—Releases of Funds for Particular Projects, had had § 58.30 amended to provide for five days notice to the public of an applicant's intention to request the release of funds for a particular project. Section 58.31 has been revised to expand the bases on which HUD will consider objections to an applicant's request for a release of funds. The bases for objection are now that the certification was not in fact executed by the chief executive officer; that applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process; or that applicant failed to provide an opportunity to the Advisory Council on Historic Preservation for review, if the project relates to a National Register property which is affected by the project. Three minor bases for objection have been eliminated.

Section 104(h) of the Housing and Community Development Act of 1974 re-

quires that these regulations may be issued only after consultation with the Council on Environmental Quality. Such consultations have been accomplished.

The Assistant Secretary for Community Planning and Development has determined that the public interest would be best served by making these regulations effective immediately. This is consistent with the Housing and Community Development Act of 1974 which directs the financial assistance be provided to communities with minimum delay, and funds for projects subject to this part may not be released in the absence of completion of the procedures set forth in this part, and a certification to that effect. Therefore, deferral of the effective date under 5 U.S.C. 55-3(d) is waived and these regulations shall become effective on January 7, 1975.

Accordingly, Title 24 is amended by adding to Subtitle A a new Part 58 to read as follows:

**PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**Subpart A—General Policy and Responsibilities**

- Sec.
- 58.1 Purpose and authority.
- 58.2 Time Periods.
- 58.3 Terminology.
- 58.4 [Reserved].
- 58.5 General policy.
- 58.6 [Reserved].

**Subpart B—Environmental Reviews by Applicants Under Title I**

- 58.7 [Reserved].
- 58.8 [Reserved].
- 58.9 Financial assistance for environmental review.
- 58.10 [Reserved].
- 58.11 Environmental review record.
- 58.12 [Reserved].
- 58.13 [Reserved].
- 58.14 [Reserved].
- 58.15 Steps to commence environmental review process.
- 58.16 Steps to complete environmental review process where level of clearance finding is that the request for release of funds for project is not an action which may significantly affect the environment (no EIS).
- 58.17 Steps to complete environmental review process where level of clearance finding is that the request for release of funds is an action which may significantly affect the environment (EIS required).
- 58.18 Limitation on action pending clearance.
- 58.19 Continuation of previous activities.
- 58.20 [Reserved].
- 58.21 Exempt activities.
- 58.22 [Reserved].
- 58.23 [Reserved].
- 58.24 Historic preservation.
- 58.25 Projects requiring an EIS
- 58.26 [Reserved].
- 58.27 Interaction of applicant and Federal agencies—lead agency role.
- 58.28 [Reserved].
- 58.29 [Reserved].

**Subpart C—Releases of Funds for Particular Projects**

- 58.30 Release of funds upon certification.
- 58.31 Objections to release of funds.
- 58.32 Effect of approval of certification.

**AUTHORITY:** Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 8535(d)).

### Subpart A—General Policy and Responsibilities

#### § 58.1 Purpose and authority.

(a) *Authority*—(1) *Basic law*. The National Environmental Policy Act of 1969 (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (hereinafter "NEPA") establishes national policy, goals and procedures for protecting and enhancing environmental quality. NEPA, as implemented by Executive Order 11514 and the Guidelines of the Council on Environmental Quality, 40 CFR Part 1500 (hereinafter "CEQ", as to the Council, and "CEQ Guidelines") requires in section 102(2)(c), in addition to other responsibilities, that all agencies of the Federal government prepare detailed environmental impact statements on proposals for major Federal actions significantly affecting the quality of the human environment.

(2) *Section 104(h) of Title I of the Housing and Community Development Act of 1974* (Pub. L. 93-383, 42 U.S.C. 5301 et seq.) (hereinafter "section 104(h)" and "Title I" respectively) authorizes a procedure under which applicants with approved applications for assistance under Title I assume for specific projects the environmental review and decision-making responsibilities that would apply to the HUD Secretary were he to undertake such projects as Federal projects. The procedure eliminates the necessity for Federal environmental impact statements at the time of the initial application. At the same time, however, the procedure is intended to assure that NEPA policies and protection of the environment continue undiminished. Under the procedure applicants are to certify prior to any commitment of Title I funds for particular projects (other than funds for general planning or environmental study purposes) that they have met all of their environmental responsibilities in accordance with regulations issued by HUD Secretary, after consultation with CEQ. Approval of such certification by the Secretary under section 104(h) discharges the responsibilities he may otherwise have had under NEPA with respect to the specific projects covered by the certification. The Secretary is to wait 15 days after receipt before acting upon such a certification, thus giving those who may wish to challenge a certification an opportunity to take appropriate action. That challenge can include suit against the certifying officer or applicant who for purposes of enforcing NEPA has consented to accept the jurisdiction of the Federal courts. Such challenge may also include a request that the Secretary reject the certification. The Secretary will consider a request for rejection of the certification only if such request is grounded on certain bases, as set forth in § 58.31 (b). Under section 104(h) cities, counties and other units of general local government assume only those responsibilities which would apply if the HUD Secretary were to undertake the projects proposed for assistance as Federal projects. Thus, these regulations neither expand nor contract the cate-

gories of actions that would be subject to environmental identification and review procedures.

(3) *Other applicable authority*. The environmental review process must also consider, where applicable, the criteria, standards, policies and regulations under the following:

(i) *Historic properties*. The National Historic Preservation Act of 1966 (Pub. L. 89-665); Preservation of Historic and Archeological Data Act of 1974 (Pub. L. 93-291) and regulations which may hereafter be issued; Executive Order 11593, Protection and Enhancement of the Cultural Environment, 1971; Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation, 36 CFR Part 800.

(ii) *Noise*. HUD Handbook 1390.2, Noise Abatement and Control, Department Policy, Responsibilities and Standards, 1971.

(iii) *Flood plain*. Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and implementing regulations; Title 24, Chapter X, Subchapter B, National Flood Insurance Program; and Executive Order 11296.

(iv) *Coastal zones and wetlands*. Coastal Zone Management Act of 1972 (Pub. L. 92-583) and applicable State legislation or regulations.

(v) *Air quality*. Clean Air Act (Pub. L. 90-148) and Clean Air Act Amendments of 1970 (Pub. L. 91-604); and applicable U.S. Environmental Protection Agency implementing regulations.

(vi) *Water quality*. Federal Water Pollution Control Act (Pub. L. 92-500) and applicable U.S. Environmental Protection Agency implementing regulations.

(vii) *Wildlife*. Fish and Wildlife Coordination Act (Pub. L. 85-624).

(b) *Purpose*. These regulations implement the requirements of section 104(h), which is intended to assure that the policies of NEPA are most effectively implemented in connection with the expenditure of funds under Title I, and to assure to the public undiminished protection of the environment. The policies of NEPA, in addition to other responsibilities set out in section 2 and Title I of NEDA, require the use of all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

#### § 58.2 Time periods.

The days in each time period which must be observed in compliance with this Part shall be counted in accordance with the following:

(a) The first day of such time period shall commence at the first 12:01 a.m. (local time) which shall occur following the action which initiates the time period.

(b) Saturdays, Sundays, and legal holidays under State law occurring within the time period shall not be counted as a day in the time period.

#### § 58.3 Terminology.

For the purposes of this part, the following terminology shall apply:

*Actions which may significantly affect the quality of the human environment*. Those actions for which section 102(2)(c) of NEPA would require the preparation of an Environmental Impact Statement (EIS). Applicants assuming NEPA responsibilities pursuant to Title I and these regulations shall review each project proposed for fund release under Title I in accordance with the environmental review process described in these regulations in order to determine whether the applicant's request to HUD for the release of Title I funds would constitute an action, were the applicant a Federal agency, which may significantly affect the quality of the human environment.

*Applicant*. The applicant is the State or unit of general local government which makes application pursuant to the provisions of Subpart D or Subpart E of 24 CFR Part 570. One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a Community Development Program in whole or in part, but only the State or unit of general local government may be the applicant under the subparts cited above, and under this Part 58. Upon execution of its grant agreement with HUD, an applicant becomes a "recipient" under 24 CFR Part 570. As used in this Part 58, the term "applicant" includes "recipient" under Part 570, where the context so requires.

*Chief executive officer*. The chief executive officer of a unit of local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "chief executive officer" of a unit of local government may be: The elected mayor of a municipality; the elected county executive of a county; the chairman of a county commission or board in a county that has no elected county executive; the official designated pursuant to law by the governing body of the unit of local government; or the chairman, governor, chief, or president

(as the case may be) of an Indian tribe or Alaskan native village.

**Environmental impact.** Any alteration of existing environmental conditions, or creation of a new set of environmental conditions, adverse or beneficial, caused or induced in whole or in part, directly or indirectly, by a proposed project under Title I.

**Environmental Impact Statement (EIS).** A written statement, prepared in accordance with NEPA and CEQ Guidelines using such format as may be acceptable to HUD, describing any alteration of environmental conditions or creation of a new set of environmental conditions, adverse or beneficial, caused or induced by the action or set of actions under consideration, and the alternatives to such action or group of actions. The statement should include a quantitative measure of magnitude and a qualitative measure of importance of the environmental impacts.

**Environmental review and environmental review process.** The entire process for compliance by the applicant with NEPA under this Part with respect to a project funded under Title I.

**Level of clearance finding.** The applicant's determination pursuant to §58.15 (d) as to which of the two levels of environmental clearance applies.

**Project.** An activity, or a group of activities as determined by the applicant in its sole discretion, to be assisted under Title I. A project is an "action" within the meaning of the CEQ Guidelines. 40 CFR 1500.5.

§ 58.4 [Reserved]

§ 58.5 General policy.

(a) **Applicants to assume NEPA responsibilities.** Except as provided at paragraph (b) of this section, all applicants for assistance under Title I shall be required to assume responsibility for carrying out all of the provisions of NEPA relating to particular projects for which the release of funds is sought. In assuming such responsibility, the applicant's chief executive officer shall carry out the responsibilities of the "responsible Federal official" as that term is used in NEPA and applicable regulations thereunder. Such responsibilities include, where applicable, the conduct of environmental reviews; decisionmaking and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements in behalf of Federal agencies other than HUD when such agencies consent to such assumption. The chief executive officer shall be subject to the jurisdiction of the Federal courts pursuant to section 104(h); such chief executive officer shall not be represented by the Department of Justice in court, but reasonable defense costs, including the fees of attorneys and experts, incurred in environmental litigation may be funded from the applicant's grant amounts.

The certification described at § 58.30 must be submitted to HUD by the applicant prior to the release of funds for any

such project as evidence of such assumption of responsibility.

(b) **Exception.** HUD shall retain and carry out environmental review responsibilities for applicants found by HUD to lack the legal capacity to assume or carry out such responsibilities (see 24 CFR 570.603—*Environment*).

(1) An applicant wishing to claim such lack of legal capacity shall consult with the HUD official authorized to receive the application in order to obtain appropriate instructions. If an applicant claims lack of legal capacity, such claim shall be made prior to submitting its application, and if such claim is approved by HUD, the application when submitted shall be accompanied by a proposed draft EIS with accompanying comments, as required by 24 CFR 570.603. Submission of an application without the proposed draft EIS and accompanying comments may be deemed by HUD to constitute a waiver of such claim. If, following consultation with the applicant, HUD approves the claim, then the applicant will not be permitted to assume environmental review responsibility for any proposal by it and the approval shall be effective with respect to the Community Development Program (as defined at 24 CFR 570.3(f)) for the program year to which the application pertains, unless an exception is approved by HUD.

(2) Community associations (other than public entities which are also community associations), and private developers approved under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968, are considered by HUD to lack the legal capacity to assume or carry out environmental review responsibilities.

(c) **Environmental review process.** The environmental review process consists of a study by the applicant of each project to identify any environmental impacts of actions proposed to be taken by the applicant which are to be supported, in whole or in part, by Title I funds.

(d) **Determination of impact.** In the environmental review process, the applicant must arrive at a determination as to whether or not any proposed project will result in any environmental impact; the nature, magnitude and extent of any such impact; whether or not any changes could be made in the project as proposed, or alternatives to such project could be adopted, to eliminate or minimize adverse impacts; and the level of environmental clearance which is appropriate. Such determination is largely a matter of judgment on the part of the applicant, involving evaluation of available facts, pursuant to the procedures and guidelines contained in this part, on the system.

(e) **Conditions and safeguards.** If the applicant's environmental review process reveals conditions or safeguards which should be implemented when the project is undertaken, in order to protect or enhance environmental quality or minimize adverse environmental im-

pacts, then such conditions or safeguards shall be set forth in the environmental review record and the applicant shall use all appropriate means to assure that those conditions and safeguards are implemented.

(f) **Decision not to implement.** If, through the environmental review process, the applicant concludes that the proposed project should not be implemented in whole or in part, then the applicant may reprogram to another eligible project, in accordance with the applicable provisions of 24 CFR 570.305.

(g) **Comprehensive and early evaluation.** Environmental review should be conducted on as comprehensive a scale as is feasible and should be commenced as early as practicable. The examination to determine the potential consequences of a proposed project should, if possible, cover the expected period of impact.

§ 58.6 [Reserved]

Subpart B—Environmental Reviews by Applicants Under Title I

§ 58.7 [Reserved]

§ 58.8 [Reserved]

§ 58.9 Financial assistance for environmental review.

Applicants may utilize Federal financial assistance to enable them to carry out environmental review pursuant to this Part, as follows:

(a) **Ten percent advance.** For the program period beginning January 1, 1975, each applicant eligible to receive Title I grants may request HUD to advance up to ten per centum (10%) of the Title I amount allocated to it, in order to plan and prepare for the implementation of activities to be assisted under Title I. The planning and conduct of environmental reviews relating to the preparation of Title I applications and projects thereunder may be so funded. (See 24 CFR 570.302).

(b) **Funding costs of environmental review.** After HUD approval of its Title I application, any applicant may utilize its Title I funds for environmental studies relating to the applicant's community development program for the program year, or subsequent program years.

(c) **Comprehensive planning assistance grants (701).** Applicants eligible to receive HUD 701 Comprehensive Planning Assistance grants may request 701 funds for the development of environmental review systems as part of their comprehensive planning activities.

§ 58.10 [Reserved]

§ 58.11 Environmental review record.

Applicants shall prepare and maintain a written record of the environmental review pertaining to each project, which shall be designated the "Environmental Review Record", and shall be available for review as part of the project proposal at the request of interested agencies, groups or individuals. The environmental review record, using

such format as may be acceptable to HUD, shall include as applicable:

(a) A description of the project to which it relates;

(b) Documentation showing that each step in the environmental review process set forth in § 58.15 has been performed, that the level of clearance finding required by § 58.15(d) has been made, and is supported in the environmental review record;

(c) Documentation showing that each step in the environmental review process under § 58.16 or § 58.17, as the case may be, has been performed, and that the requirements of applicable subsections have been satisfied;

(d) A description of the existing environmental conditions, the environmental impacts identified, modifications and changes made to compensate for environmental impacts;

(e) A copy of any Draft EIS, and the comments on it, and the Final EIS;

(f) Copies of historic preservation review analyses conducted under 36 CFR Part 800, showing satisfaction with each step of such process and support for any conclusion reached in connection therewith;

(g) The written decision required by § 58.19(c) with respect to projects to which § 58.19(c) is applicable;

(h) A copy of the notice required by § 58.30(a), the request required by § 58.30(b), and the certification and accompanying statement required by § 58.30(c);

(i) A copy of any environmental objection received which pertains to the project;

(j) A copy of any request for a waiver, and any waiver that may be issued under § 58.25(a);

(k) Evidence of any determination of the "lead agency" under § 58.27;

(l) Copies of environmental analyses or reports, conducted under State or local law; and

(m) Original counterparts or copies, as appropriate, of other documents appropriate in the judgment of the applicant for inclusion in the environmental review record.

§ 58.12 [Reserved]

§ 58.13 [Reserved]

§ 58.14 [Reserved]

§ 58.15 Steps to commence environmental review process.

The manner in which the applicant carries out the environmental review process, including the concurrent historic preservation review, and other reviews required by the authorities set forth in § 58.1(a), is largely within the discretion of the applicant. However, the process shall include the following steps:

(a) *Determine existing conditions.* Existing environmental conditions and trends which are likely to occur absent implementation of the proposed project should be identified. Such information is an essential data base from which to assess and evaluate any effects of the project.

(b) *Identify environmental impacts.* An identification of the nature, magnitude and extent of all environmental impacts of the project, whether beneficial or adverse, should be identified.

(c) *Examine identified impacts.* As to all environmental impacts of the proposed project which are identified:

(1) *Possible project modification.* Examine the project and consider ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize any adverse environmental impacts and enhance environmental quality. The examination should include consideration in light of the policies set forth in § 58.1(b) of both positive and negative effects of any such modification in relation to design, use, location, cost, and timing of the proposed project and its implementation.

(2) *Alternative projects.* Examine alternatives to the project itself which would eliminate or minimize environmental impacts or enhance environmental quality. The examination should include consideration of both positive and negative effects of any such alternatives in relation to design, use, location, cost, and timing, and consideration of the effect of no project.

(d) *Level of clearance finding.* Having completed each of the foregoing steps that may be applicable in the environmental review process, the applicant shall make one of the two level of clearance findings set forth below:

(1) *Finding that request for release of funds for project is not an action which may significantly affect the quality of human environment.* If the environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is not an action which may significantly affect the quality of the human environment, then a document stating this finding and the facts and reasons supporting the finding shall be prepared by the applicant and included in the environmental review record. The document shall set forth sufficient information to assure that each step in the environmental review process has been complied with, and applicant's conclusion upon performance of each such step. (See §§ 58.15 and 58.16.) However, compliance with other applicable laws and regulations set forth in § 58.1(a) (3) is nevertheless required.

(2) *Finding that request for release of funds for project is an action which may significantly affect the quality of the human environment.* If the environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is an action which may significantly affect the quality of the human environment, then a document stating this finding shall be prepared by the applicant and included in the environmental review record. An EIS is required for each action which may have such significant effect.

§ 58.16 Steps to complete environmental review process where level of clearance finding is that the request for the release of funds for project is not an action which may significantly affect the environment (no EIS).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d) (1):

(a) *Notice of finding of no significant effect.* The applicant shall prepare a Notice of Finding of No Significant Effect on the Environment using such format as may be acceptable to HUD. Such notice may be brief, but shall: (1) identify the project to which the clearance relates; (2) state that the applicant has found that the project has no significant effect on the environment; (3) set forth the facts and reasons for such decision; (4) state that the applicant has made an Environmental Review Record respecting the project and indicate when and where the Environmental Review Record may be examined and copied; (5) state, if applicable, that no further environmental review of such project is proposed to be conducted and that the applicant intends to request HUD to release funds for such project; (6) indicate that comments may be submitted to the applicant until a certain date which shall not be less than 15 days following its first publication and dissemination; (7) state the name and address of the applicant and the chief executive officer of applicant; and (8) be dated as of the time it is first published and disseminated.

(b) *Publication and dissemination.* The Notice of Finding of No Significant Effect on the Environment shall be published and disseminated in the same manner as a Notice of Intent to File an EIS, as described as § 58.17(b) and will provide at least 15 days from the date of initial publication for public comment.

(c) *Completion.* Following publication and dissemination of the Notice of Finding of No Significant Effect on the Environment and the expiration of any time fixed for comments, the environmental review process shall be complete, unless further proceedings are found by the applicant to be necessary, due to responses to such notice, or otherwise.

§ 58.17 Steps to complete environmental review process where level of clearance finding is that the request for the release of funds for project is an action which may significantly affect the environment (EIS required).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d) (2):

(a) *Notice of intent to file an EIS.* As soon as practicable, the applicant shall prepare a Notice of Intent to File an EIS. Such notice may be brief, but shall: (1) Identify the project(s) to which the EIS will relate; (2) solicit the comments of all interested parties respecting the environmental impacts of such project(s) and indicate the time, manner and form in which such comments may be submitted to the applicant; (3) specify an

estimated date for completion and distribution of the Draft EIS, and (4) state the name and address of the applicant and the chief executive officer of the applicant.

(b) *Publication and dissemination.* Copies of the notice of intent to file an EIS shall be sent to the local news media, individuals and groups known to be interested in the applicant's activities, local, state, and Federal agencies, the a-95 clearinghouse and others believed appropriate by the applicant. Such notice shall be published at least once in a newspaper of general circulation in the affected community, and shall be filed with the HUD official authorized to receive the application.

(c) *Public hearings—procedure.* Prior to the preparation and distribution of a Draft EIS, the applicant shall determine whether it will conduct one or more public hearings at which the public may be heard respecting the preparation and contents of the Draft EIS. The applicant should also determine whether or not separate public hearings shall be held concerning the Draft EIS, or whether such public hearings shall be combined with other public hearings pertaining to the application of the applicant. All such public hearings concerning a Draft EIS shall be preceded by a Notice of Public Hearing, which shall be published and disseminated in the same manner as a Notice of Intent to File an EIS, as set forth in § 58.17(b), at least fifteen days prior to such hearing, and which shall:

- (1) State the date, time, place and purpose of the hearing;
- (2) describe the project, its estimated costs and the project area;
- (3) state that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard;
- (4) state the name and address of the applicant and chief executive officer of the applicant; and
- (5) state where the Draft EIS can be obtained, whether in person or by mail, and any charges that may apply.

(d) *Public hearings—factors to consider.* The determination of whether or not public hearings shall be held prior to distribution of a Draft EIS or after such distribution, or at any other time during the environmental review process, shall be within the reasonable discretion of the applicant. In determining whether or not to hold such public hearings on environmental issues, either separately, or in combination with other proceedings relating to the application of the applicant, the following factors should be considered: (1) The magnitude of the projects, in terms of economic costs, the geographic area involved, and the uniqueness of size of commitment of the resources involved; (2) the degree of interest in or controversy concerning the projects, as evidenced by requests from the public, or from Federal, State or local authorities, for information, or that a hearing be held; (3) the complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the applicant in carrying out its environmental responsibilities respecting the

particular projects; (4) the extent to which public involvement has been achieved with respect to environmental concerns through other means, such as other public hearings, citizen participation in the development of the applicant's community development program and in formulation of its application, meeting with citizen representatives and written comments on the particular projects.

(e) *Draft EIS.* A Draft EIS shall be prepared in accordance with CEQ Guidelines (40 CFR Part 1500). Copies of the Draft EIS shall be sent by applicant to CEQ (5 copies), and simultaneously to Federal agencies (except HUD) whose areas of jurisdiction by law or special expertise are involved, to OMB-designated A-95 clearinghouses, to appropriate local agencies and entities, including local and area planning agencies, and groups or individuals known by the applicant to have an interest in the proposed action of the applicant. The CEQ Guidelines (Appendix II) set forth a listing of the Federal agency jurisdictions and special expertise. Copies shall also be made available to the public. Upon filing of the Draft EIS with CEQ, a notice that the applicant has prepared a Draft EIS will be published by CEQ in the FEDERAL REGISTER. Commencing on the date of such publication, there shall be a minimum review period of 45 days for the Draft EIS, plus any extensions thereof initiated or granted by the applicant. A Draft EIS must be on file with CEQ at least 90 days prior to submission to HUD of a certification and request for release of funds for the particular projects pursuant to § 58.30.

(f) *Final EIS.* A Final EIS shall be prepared in accordance with CEQ Guidelines (40 CFR Part 1500). The Final EIS must take into account and must respond to the comments received as the result of circulation of the Draft EIS. The Final EIS, including all comments received and the applicant's responses thereto, shall be filed with CEQ (5 copies), and simultaneously sent to all agencies and individuals who commented on the Draft EIS, to the Environmental Protection Agency, A-95 clearinghouses, appropriate Federal, state, regional and local agencies, and shall be made available to the public. A final EIS must be on file with CEQ not less than 30 days prior to submission to HUD of a certification and request for release of funds for the particular project pursuant to § 58.30. If the Final EIS is filed within 90 days after publication by CEQ in the FEDERAL REGISTER of Notice of Receipt of the Draft EIS, then the minimum 30 day period for review of the Final EIS, and the 90 day period provided for in § 58.17(e) will run concurrently, to the extent that they overlap.

**§ 58.18 Limitation on action pending clearance.**

During the environmental review process and pending completion of the appropriate environmental clearance procedures, the applicant may not use any funds to take any action with respect to the project under review where such ac-

tion might have an adverse environmental effect, would limit choices among competing alternatives, or might alter the environmental premises on which the pending clearance is based in such fashion that the validity of the conclusions to be reached would be affected. Except as to exempt activities under § 58.21, no Title I funds will be released for a project until the Secretary shall approve said release of funds and the related certification. (See §§ 58.30, 58.31 and 58.32).

**§ 58.19 Continuation of previous activities.**

(a) *Original or updated environmental review.* A project which is a continuation of a previously commended activity or activities for which no environmental review or clearance has been completed or for which previously conducted environmental reviews are insufficient due to changed circumstances, including the availability of additional data or advances in technology, must be subjected to an original or updated environmental review under this part. Such review shall be carried out with respect to the entire project to the extent that the entire project or portions of it could still be altered in light of environmental considerations.

(b) *Procedures governing updated reviews.* The following procedures shall govern the updating of environmental reviews:

(1) A new level of clearance finding shall be made which shall take into account the information theretofore developed and the new factors.

(2) If information relating to such factors arises after a Draft EIS has been transmitted for circulation, but prior to the expiration date for receipt of comments, then a copy of any revision, amendment, addendum to the Draft EIS, or other issuance, shall be transmitted to all parties to whom the Draft EIS was transmitted, and to all parties who have commented thereon, and, where appropriate, the applicant shall extend the time for comment on the Draft EIS.

(3) If the time for comments on the Draft EIS has expired, but the Final EIS has not been circulated, then any revision, amendment or addendum to the Draft EIS shall be transmitted to all parties to whom the Draft EIS was transmitted and to all parties who commented thereon, and a reasonable time for receipt of comments shall be fixed and allowed. The Final EIS shall then reflect the additional factors and contain the comments and responses respecting them.

(4) If the Final EIS has been circulated, then it shall be revised and reissued or an addendum thereto shall be prepared and distributed, as appropriate, to all parties to whom the Final EIS was distributed and to others who have commented thereon. Such revision or addendum shall be subject to the same review and comment procedures, including those respecting time, as the Final EIS which is being updated.

(c) *No new environmental review.* A project which is a continuation of a previously commenced activity or activi-

ties for which environmental review or clearance has been completed and for which circumstances, including the availability of additional data or advances in technology, have not changed significantly, requires no new environmental review or clearance by virtue of such project's funding under Title I. The applicant shall prepare a written decision to that effect, which shall set forth the reasons therefor.

§ 58.20 [Reserved]

§ 58.21 Exempt Activities.

(a) Certain planning activities eligible for assistance under Title I are exempt from the requirements of this part, set forth below:

(1) Environmental studies;

(2) Purposes authorized by Section 105(a) (12) of Title I, including activities necessary:

(i) To develop a comprehensive community development plan; and

(ii) To develop a policy-planning-management capacity; and

(3) For the first program year beginning on or after January 1, 1975, and only if the sole source of Federal funds is an advance pursuant to 24 CFR 570.302, activities necessary:

(i) To plan and prepare for the implementation of activities to be assisted under Title I; and

(ii) To continue previously approved urban renewal (including Neighborhood Development Program) activities being carried out under Title I of the Housing Act of 1949 or previously approved model cities activities being carried out under Title I of the Demonstration Cities and Metropolitan Development Act of 1966. The phrase "previously approved" in the preceding sentence shall mean those urban renewal and model cities activities that were approved and funded by HUD on or before June 30, 1974.

(b) The exemption from review pursuant to this part does not exempt applicants from other reviews which may be required pursuant to the authorities set forth in § 58.1(a).

§ 58.22 and § 58.23 [Reserved]

§ 58.24 Historic preservation.

Applicants must comply with the following requirements relating to the Preservation of Historic and Archeological Data Act of 1974, Section 106 of the National Historic Preservation Act of 1966 and Executive Order 11593 whenever any property or district included in, or found by the Secretary of the Interior pursuant to 36 CFR Part 800 to be eligible for inclusion in, the National Register provided for by such Act, is in the boundaries, or within the vicinity of, a project which is to be funded, in whole or in part, by Title I funds.

(a) As part of the environmental review process each project shall be examined in accordance with the Procedures for Protection of Historic and Cultural Properties (36 CFR Part 800) for the purpose of identifying any National Register and National Register-eligible properties and determining whether or

not the project may affect the property. If the property is not affected by the project, the applicant shall so state, in the environmental review record.

(b) If the project will affect the property, the applicant, as part of the environmental review process, shall carry out the procedures set forth at 36 CFR Part 800.

§ 58.25 Projects requiring an EIS.

The following types of projects require the preparation and dissemination of an EIS:

(a) Projects which would remove, demolish, convert or emplace a total of 500 or more dwelling units, unless the project is otherwise assisted by HUD and HUD waives the requirement for an EIS pursuant to HUD's general environmental review regulations (HUD Circular 1390.1 (38 FR 19182, July 18, 1973) as amended (39 FR 38922, November 4, 1974)).

(b) Water and sewer facilities projects which will serve undeveloped areas of 100 acres or more.

§ 58.26 [Reserved]

§ 58.27 Interaction of applicant and Federal agencies—lead agency role.

(a) *Interaction with agencies other than HUD.* Where a project is to be jointly funded by one or more Federal agencies other than HUD and by HUD under Title I, and the preparation of an EIS is required by this part, a single agency, either the applicant or the other Federal agency, should assume responsibility as the "lead agency" for the preparation and clearance of an EIS, with the other agencies providing assistance. In the event that the regulations of none of the Federal agencies other than HUD require an EIS for such project, but the applicant determines under this part that an EIS is required then the applicant shall assume the "lead agency" role, or shall otherwise prepare an EIS, which shall comprehend the actions of the other Federal agency or agencies related to the project, as provided in the CEQ Guidelines, 40 CFR 1500.7(b).

(b) *Joint reviews—designation of lead agency.* All determinations respecting joint environmental review or designation of a "lead agency" to perform an environmental review shall be made and agreed upon between the applicant and any Federal agency involved, where practicable. In the event an applicant and a Federal agency are unable to reach such agreement, the applicant shall notify HUD, and HUD, with the advice and assistance of CEQ, will seek to obtain such agreement.

§ 58.28—58.29 [Reserved]

Subpart C—Releases of Funds for Particular Projects

§ 58.30 Release of funds upon certification.

An applicant which has completed all applicable environmental review and clearance requirements as provided in this part with respect to a proposed project and which desires to submit a re-

quest to HUD for the release of Title I funds for the project, shall comply with the following:

(a) *Publication of notice.* An applicant shall, at least five (5) days prior to submitting its request for release of funds and certification, publish in a newspaper of general circulation in the community affected, a notice to the public, which shall:

(1) Specify the date upon which the request and certification will be submitted to HUD by the applicant;

(2) Specify that such request and certification relate to the application of the applicant for a grant of funds under Title I;

(3) Briefly describe the project;

(4) State that the applicant has prepared an environmental review record respecting the projects for which release of funds is sought, and specify when and where the same may be examined by the public and copies thereof obtained;

(5) State the name and address of the applicant and of the chief executive officer of applicant.

(6) Include the following text, completed as indicated:

(Name of applicant) will undertake the project described above with Block Grant funds from the U.S. Department of Housing and Urban Development (HUD), under Title I of the Housing and Community Development Act of 1974. (name of applicant) is certifying to HUD that (name of applicant) and (chief executive officer), in his/her official capacity as (office), consent to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decisionmaking, and action; and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval, (name of applicant) may use the Block Grant funds, and HUD will have satisfied its responsibilities under the National Environmental Policy Act of 1969. HUD will accept an objection to its approval of the release of funds and acceptance of the certification only if it is on one of the following bases: (a) That the certification was not in fact executed by the chief executive officer of the applicant; or (b) that applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process. Objections must be prepared and submitted in accordance with the required procedure (24 CFR Part 58), and may be addressed to HUD at (complete area office address; or the Denver Regional Office address in Region VIII). Objections to the release of funds on bases other than those stated above will not be considered by HUD. No objection received after (date of last day in the 15-day period) will be considered by HUD.

(b) *Request for release of funds—Form.* A request for release of funds pursuant to this part shall be addressed to the HUD officer authorized to receive the application of applicant, shall be executed by the chief executive officer of applicant, and may be submitted with or as part of an application, or at any time after submittal of an application. Such request shall in all cases be accompanied by the certification of the applicant as stated at § 58.30(c) and shall:

(1) State the name and address of the applicant;



(2) State that the applicant requests the release of funds for particular projects, identify such projects and state the amount of funds requested to be released as to each;

(3) Be accompanied by the certification described in paragraph (c).

(c) *Certification-Form.* A certification pursuant to this Part shall be addressed to the HUD officer authorized to receive the application of applicant, and shall:

(1) State the name and address of the applicant and be executed by the chief executive officer of the applicant;

(2) Specify that the applicant has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the projects named in the request for release of funds;

(3) Specify the levels of all environmental clearances carried out by the applicant in connection with each project pertaining to the certification;

(4) Specify the dates upon which any statutory or regulatory time period for review, comment, or other response or action in regard to each such environmental clearance commenced and has expired, or will expire, and that with the expiration of each statutory or regulatory time period the applicant is in compliance with the requirements of this part;

(5) Specify that the chief executive officer of the applicant is authorized to consent to assume the status of a responsible Federal official, under NEPA, insofar as the provisions of NEPA apply to the HUD responsibilities for environmental review, decision-making and action assumed and carried out by the applicant, and that the chief executive officer so consents: by so consenting, the chief executive officer of the applicant assumes the responsibilities, where applicable, for the conduct of environmental reviews, decision-making, and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements on behalf of Federal agencies other than HUD when such agencies consent to such assumption;

(6) Specify that the chief executive officer of the applicant is authorized to consent, personally, and on behalf of the applicant, to accept the jurisdiction of the Federal courts, for the enforcement of all responsibilities referred to in § 58.30(c)(5); and that the chief executive officer so consents on behalf of the applicant and himself in his official capacity only;

(7) Be accompanied by a statement, over the signature of the attorney for the applicant, that the chief executive officer so consents on behalf of the applicant and himself in his official capacity only; that the applicant and the stating chief executive officer of the applicant, are authorized and empowered by law to make the certification, and that the same was duly made by the applicant and that the chief executive officer of the applicant, in accordance with such authority and power; and if applicant made a claim of lack of legal capacity pursuant

to § 58.5(b) and such claim was denied, that there has been no final decision by a court of competent jurisdiction or legislation which has become effective since the denial of such claim which may affect such denial.

(8) Be accompanied by a statement, over the signature and seal of the clerk or other authenticating officer of the applicant, stating that the chief executive officer of applicant is duly authorized to execute this certification, and that he did execute the same.

**§ 58.31 Objections to release of funds.**

HUD shall not approve the release of funds for any project until fifteen (15) days (as calculated pursuant to § 58.2) have elapsed from the time HUD shall have received the applicant's request for the release of such funds and the certification pertaining thereto. Applicants shall not commit any funds which are the subject of any request for the release of funds to any project prior HUD's approval of such request. Any person or agency may object to an applicant's request for the release of funds and the certification pertaining thereto, but HUD will consider such objections only if the conditions set forth in paragraphs (a) and (b) of this section are satisfied, and the procedures in paragraph (d) of this section are followed. HUD can refuse the request and certification on the grounds set forth in paragraph (b) of this section. Any decision by HUD approving or disapproving the request for the release of funds and the certification pertaining thereto shall be final.

(a) *Time for objecting.* HUD must receive objections within fifteen (15) days from the time HUD shall have received the applicant's request for the release of funds and the certification pertaining thereto.

(b) *Permissible Bases:* (1) That the certification was not, in fact, executed by the chief executive officer of the applicant;

(2) That the applicant's environmental review record indicates that applicant has omitted to make one of the two level of clearance findings pursuant to § 58.15(d), or to make the decision required by § 58.19(c), for the project, as applicable;

(3) That the applicant's environmental review record, with regard to a project for which the level of clearance finding in § 58.15(d)(1) was made, indicates that the applicant has omitted one or more of the steps set forth at: § 58.15(a); § 58.15(b); § 58.15(c)(1); § 58.15(c)(2); § 58.16(a); or, § 58.16(b);

(4) That the applicant's environmental review record, with regard to a project for which the level of clearance finding § 58.15(d)(2) was made, indicates that the applicant has omitted one or more of the steps set forth at: § 58.17(a); § 58.17(b); § 58.17(c) only if applicant has decided to conduct a public hearing as a part of its environmental review of the project; § 58.17(e); or § 58.17(f);

(5) That the applicant's environmental review record indicates that, with respect to a property listed on the Na-

tional Register of Historic Places, or found to be eligible by the Secretary of Interior pursuant to 36 CFR Part 800 for inclusion in such Register, and which is affected by the project, no opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on the property in accordance with the procedures set forth at 36 CFR Part 800; or,

(6) That with respect to a project for which the applicant has decided that § 58.19(c) applies, the applicant has failed to include in the environmental review record the written decision required pursuant to § 58.19(c).

(c) *Public and agency objections.* The only bases upon which HUD will consider the objection of any person or agency to the certification of an applicant, or to the approval by HUD of such certification, are set forth at § 58.31(b). Other objections will not be considered by HUD; but may be addressed to the applicant, and the chief executive officer of the applicant.

(d) *Procedure.* A person or agency objecting to an applicant's request for the release of funds and the certification pertaining thereto shall:

(1) Submit such objection in writing, to the HUD officer authorized to receive the application of the applicant;

(2) Specify the name, address and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of the agency;

(3) Be dated when signed;

(4) Specify the bases for objection, and the facts or legal authority relied upon in support of the objection;

(5) Indicate that a copy of the objections has been mailed or delivered to the chief executive officer of the applicant.

**§ 58.32 Effect of approval of certification.**

(a) *NEPA responsibilities of HUD.* The approval by HUD of the certification of an applicant is deemed to satisfy the responsibilities of the Secretary under NEPA insofar as those responsibilities relate to the application and releases of funds under Title I for projects which are covered by such certification.

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental assessments covered by an approved certification shall deal with the applicant and not with HUD. It shall be the policy of HUD, following the approval of a certification, not to respond to inquires and complaints seeking such redress, and only to refer such inquiries and complaints to the applicant and the certifying officer of the applicant. Other remedies for noncompliance, in addition to those stated in this Part, are set forth at 24 CFR 570.913.

*Effective date.* These regulations are effective on January 7, 1975.

JAMES L. MITCHELL,  
Under Secretary for  
Housing and Urban Development.  
[FR Doc. 75-55 Filed 1-6-75; 8:45 am]