

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 50, 58, 574, 582, 583, and 970**

[Docket No. FR-4523-F-02]

RIN 2501-AC83

Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.**ACTION:** Final rule.

SUMMARY: This final rule updates the list of programs and statutory authorities in HUD's environmental regulation for which other entities may assume HUD's environmental responsibilities. This rule makes other changes to update these regulations that address the assumption of HUD's environmental responsibilities. This final rule also makes conforming changes to the affected environmental provisions contained in various program regulations. This final rule follows publication of a June 26, 2002, proposed rule and takes into consideration the public comments received on the proposed rule.

DATES: *Effective Date:* October 29, 2003.**FOR FURTHER INFORMATION CONTACT:**

Richard H. Broun, Director, Office of Community Viability, Office of Community Planning and Development, Room 7244, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000. For inquiry by phone or e-mail, contact Walter Prybyla, Environmental Review Division, Office of Community Planning and Development, at (202) 708-1201, extension 4466 (this is not a toll-free number), or mail to: Walter_Prybyla@hud.gov. Hearing-impaired or speech-impaired individuals may access the voice telephone number listed above by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**I. The June 26, 2002, Proposed Rule**

On June 26, 2002 (67 FR 43208), HUD published a proposed rule that would make a number of changes to HUD regulations at 24 CFR part 58. For the convenience of the reader, the Department summarizes here some of the details of the proposed rule published in the preamble to the proposed rule. Readers are referred to the **SUPPLEMENTARY INFORMATION** section of the preamble of the published

proposed rule at 67 FR 43208-43210 for a fuller explanation of the rationale or justification for the various revisions in the rule.

The regulations at 24 CFR part 58 implement statutory authorities that permit certain entities other than HUD to assume HUD's environmental responsibilities for various HUD programs. The proposed rule advised that the Department would (1) update the list of programs and statutory authorities covered by part 58, and (2) make conforming changes to environmental provisions in certain program regulations to include a cross-reference to part 58. In addition, the proposed rule would make conforming changes in HUD's regulations at 24 CFR part 50, which govern when HUD is responsible to perform environmental responsibilities in accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500-1508), and other environmental requirements (as specified in 24 CFR 50.4).

The proposed rule described the additional programs that would be added to the list of programs in § 58.1. Among these programs are (1) Grants provided to private nonprofit organizations and housing agencies under the Supportive Housing Program and the Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act; (2) Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA); (3) Indian Housing Loan Guarantees under section 184 of the Housing and Community Development Act of 1992; (4) HOPE VI grants for FY 1999 and earlier and HOPE VI grants under section 24 of the United States Housing Act of 1937; and (5) Housing Opportunities for Persons With AIDS (HOPWA) grants under the AIDS Housing Opportunity Act.

The proposed rule also advised that the Rental Rehabilitation Program and the Housing Development Grant Program authorized by section 17 of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) are no longer in use and would be removed from paragraph (b)(2) of the list in 24 CFR 58.1.

The proposed rule further indicated that the Department would add a new § 58.1(c) and § 58.1(d) to Title 24. New § 58.1(c) clarifies that activities assisted with repayments to a revolving loan fund initially assisted with HUD funds are subject to environmental requirements only if HUD program rules treat the activity assisted with repayments as being subject to federal

requirements. New § 58.1(d) clarifies that the Assistant Secretary for Community Planning and Development, to the extent permitted by applicable laws and the regulations of the Council on Environmental Quality (CEQ), may, for good cause and with appropriate conditions, approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

The June 26, 2002, rule proposed changes in § 58.2 to the definitions of "recipient" and "responsible entity" (RE). A new § 58.4(c) was proposed to clarify that under NAHASDA and the Section 184 program, Indian tribes have a choice whether or not to assume environmental responsibilities under 24 CFR part 58.

The rule also proposed updating the list of NEPA-related environmental authorities in § 58.5 to add new requirements similar to those identified in 24 CFR 50.3(i), which apply when HUD performs the environmental review for a project. The proposed rule indicated that environmental reviews for multifamily housing with five or more units (including leasing) and non-residential property must include evaluation of previous site uses and other evidence of contamination on or near the site.

Further, the proposed rule noted revisions to § 58.11 to exclude the term "Indian Housing" recipient and to add the term "HOPWA" recipient. Additionally, the rule announced that § 58.22(a) would be revised to make it clear that all participants in the development process are subject to the provisions of part 58.

The proposed rule added a new paragraph to § 58.22 to permit an organization, consortium, or affiliate under the Self-Help Homeownership Opportunity Program (SHOP) to advance nongrant funds to acquire land prior to completion of the environmental review process.

The rule also detailed revisions to be made to § 58.33(b) and § 58.35, along with conforming changes to 24 CFR part 50. In addition, the proposed rule included revisions to §§ 58.34(b), 58.45, 58.72, and 58.75. An additional proposal in the rule would add language to 24 CFR parts 574, 582, 583, and 970 to make conforming amendments to reflect the applicability of part 58 procedures.

The proposed amendments to §§ 58.34(b) and 58.35(d) regarding the timing of environmental documentation have been omitted from the final rule.

The proposed amendments to §§ 50.20(a)(2)(i) and 58.35(a)(3)(i) regarding conditions for eligibility for a