

§ 50.20

(ii) The regulation or guideline contains no environmental review provisions because it concerns only activities listed in paragraph (b) of this section.

(6) Statutorily required and/or discretionary establishment and review of interest rates, loan limits, building cost limits, prototype costs, fair market rent schedules, HUD-determined prevailing wage rates, income limits and exclusions with regard to eligibility for or calculation of HUD housing assistance or rental assistance, and similar rate and cost determinations and related external administrative or fiscal requirements or procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites.

[61 FR 50916, Sept. 27, 1996, as amended at 62 FR 15802, Apr. 2, 1997; 63 FR 48990, Sept. 11, 1998; 68 FR 56127, Sept. 29, 2003]

§ 50.20 Categorical exclusions subject to the Federal laws and authorities cited in § 50.4.

(a) The following actions, activities and programs are categorically excluded from the NEPA requirements of this part. They are not excluded from individual compliance requirements of other environmental statutes, Executive orders and HUD standards cited in § 50.4, where appropriate. Form HUD-4128 shall be used to document compliance. Where the responsible official determines that any item identified below may have an environmental effect because of extraordinary circumstances (40 CFR 1508.4), the requirements of NEPA shall apply (see paragraph (b) of this section).

(1) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities.

(2) Rehabilitation of buildings and improvements when the following conditions are met:

(i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;

(ii) In the case of multifamily residential buildings:

24 CFR Subtitle A (4-1-14 Edition)

(A) Unit density is not changed more than 20 percent;

(B) The project does not involve changes in land use from residential to non-residential; and

(C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(iii) In the case of non-residential structures, including commercial, industrial, and public buildings:

(A) The facilities and improvements are in place and will not be changed in size nor capacity by more than 20 percent; and

(B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(3)(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or

(ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

(iii) Paragraphs (a)(3)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(2)(i) of this section).

(4) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

(5) Purchased or refinanced housing and medical facilities under section 223(f) of the National Housing Act (12 U.S.C. 1715n).

(6) Mortgage prepayments or plans of action (including incentives) under 24 CFR part 248.

(b) For categorical exclusions having the potential for significant impact because of extraordinary circumstances, HUD must prepare an EA in accordance with subpart E. If it is evident without preparing an EA that an EIS is required pursuant to § 50.42, HUD should

proceed directly to the preparation of an EIS in accordance with subpart F.

[61 FR 50916, Sept. 27, 1996, as amended at 68 FR 56127, Sept. 29, 2003]

§ 50.21 Aggregation.

Activities which are geographically related and are logical parts of a composite of contemplated HUD projects shall be evaluated together.

§ 50.22 Environmental management and monitoring.

An Environmental Management and Monitoring Program shall be established prior to project approval when it is deemed necessary by the HUD approving official. The program shall be part of the approval document and must:

(a) Be concurred in by the Field Environmental Clearance Officer (FECO) (in the absence of a FECO, by the Program Environmental Clearance Officer in Headquarters) and any cooperating agencies;

(b) Contain specific standards, safeguards and commitments to be completed during project implementation;

(c) Identify the staff who will be responsible for the post-approval inspection; and

(d) Specify the time periods for conducting the evaluation and monitoring the applicant's compliance with the project agreements.

§ 50.23 Public participation.

HUD shall inform the affected public about NEPA-related hearings, public meetings, and the availability of environmental documents (see 40 CFR 1506.6(b)) in accordance with this section. Where project actions result in a FONSI, the FONSI will be available in the project file. The local HUD field office may be contacted by persons who wish to review the FONSI. In all cases, HUD shall mail notices to those who have requested them. Additional efforts for involving the public in specific notice or compliance requirements shall be made in accord with the implementing procedures of the laws and authorities cited in § 50.4. Notices pertaining to an EIS or an amendment to an EIS or a FONSI subject to § 50.34 shall be given to the public in accord-

ance with paragraphs (a) through (d) of this section.

(a) A NOI/EIS shall be forwarded to the AS/CPD to the attention of the Departmental Environmental Clearance Officer for publication in the FEDERAL REGISTER.

(b) Notices will be bilingual if the affected public includes a significant portion of non-English speaking persons and will identify a date when the official public involvement element of the proposed action is to be completed and HUD internal processing is to continue.

(c) All required notices shall be published in an appropriate local printed news medium, and sent to individuals and groups known to be interested in the proposed action.

(d) All notices shall inform the public where additional information may be obtained.

§ 50.24 HUD review of another agency's EIS.

Where another agency's EIS is referred to the HUD Field Office in whose jurisdiction the project is located, the Field Environmental Clearance Officer shall determine whether HUD has an interest in the EIS and, if so, will review and comment. Any EIS received from another Federal agency requesting comment on legislative proposals, regulations, or other policy documents shall be sent to the AS/CPD for comment, and the AS/CPD shall provide the General Counsel the opportunity for comment.

Subpart E—Environmental Assessments and Related Reviews

§ 50.31 The EA.

(a) Form HUD-4128—Environmental Assessment and Compliance Findings for the Related Laws—is the EA form to be used for analysis and documentation by HUD for projects and activities under subpart E. The Departmental Environmental Clearance Officer shall approve the issuance of equivalent formats, if Form HUD-4128 does not meet specific program needs.

(b) The program representative shall obtain interdisciplinary assistance from professional experts and other HUD staff as needed. Additional information may also be requested of the