

(iii) The board of directors or other governing body of the lender shall approve the extension of the loan; and

(iv) The loan must be provided in accordance with a policy regarding credit to Affiliates that has been approved in advance by the CDFI Fund.

(2) A Qualified Issuer or Eligible CDFI that is an Insured CDFI, a Depository Institution Holding Company or a State-Insured Credit Union (as such terms are defined in 12 CFR 1805.104) shall comply with the restrictions on insider activities and any comparable restrictions established by its Appropriate Federal Banking Agency or Appropriate State Agency, as applicable.

(b) *Standards of conduct.* Qualified Issuers, Eligible CDFIs, Program Administrators, the Master Servicer, and Servicers shall maintain a code or standards of conduct acceptable to the CDFI Fund that govern the performance of employees engaged in the awarding and administration of any loan. No employee of a Qualified Issuer, Eligible CDFI, Program Administrators, the Master Servicer, and Servicer shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential borrowers for such loans. Such policies shall provide for disciplinary actions to be applied for violation of the standards by employees.

§ 1808.622 Compliance with government requirements.

In carrying out its responsibilities pursuant to any agreements associated with the CDFI Bond Guarantee Program, all Qualified Issuers, Eligible CDFIs, Program Administrators, Servicers, and the Master Servicer/Trustee shall comply with all applicable Federal, State, and local laws, regulations, and ordinances, OMB Circulars, and Executive Orders, including restrictions on lending to entities with delinquent Federal debt.

§ 1808.623 Lobbying restrictions.

No fees or funds made available under this part may be expended by a party to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, exten-

sion, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. 1352.

§ 1808.624 Criminal provisions.

The criminal provisions of 18 U.S.C. 657 regarding embezzlement or misappropriation of funds are applicable to all CDFI Bond Guarantee Program participants and insiders.

§ 1808.625 CDFI Fund deemed not to control.

The CDFI Fund shall not be deemed to control a CDFI Bond Guarantee Program participant by reason of any Guarantee provided under the Act for the purpose of any applicable law.

§ 1808.626 Limitation on liability.

The liability of the Federal Government arising out of any fees or funds obtained by a CDFI Bond Guarantee Program participant in accordance with this interim rule shall be limited to the amount of the fees or funds obtained by the CDFI Bond Guarantee Program participant. The Federal Government shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State. Nothing in this section shall affect the application of any Federal tax law.

§ 1808.627 Fraud, waste and abuse.

Any person who becomes aware of the existence or apparent existence of fraud, waste or abuse of any Guarantee, Bond, Bond Loan or Secondary Loan provided under this interim rule must report such incidents to the Office of Inspector General of the U.S. Department of the Treasury.

PART 1815—ENVIRONMENTAL QUALITY

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- 1815.115 OMB control number.

AUTHORITY: 12 U.S.C. 4703, 4717; 42 U.S.C. 4332; Chapter X, Pub L. 104-19, 109 Stat. 237 (12 U.S.C. 4703 note).

SOURCE: 60 FR 54130, Oct. 19, 1995, unless otherwise noted.

§ 1815.100 Policy.

The Community Development Financial Institution Fund's policy is to ensure that environmental factors and concerns are given appropriate consideration in decisions and actions by the Fund and to reduce any possible adverse effects of Fund decisions and actions upon the quality of the human environment.

§ 1815.101 Purpose.

This part supplements Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended, and describe how the Community Development Financial Institutions Fund intends to consider environmental factors and concerns in the Fund's decisionmaking process. This part applies only to the Fund and not to any other bureau, office or organization within the Department of the Treasury.

§ 1815.102 Definitions.

(a) For the purpose of this part:

(1) *Act* means the Community Development Banking and Financial Institutions Act (12 U.S.C. 4701 *et seq.*);

(2) *Application* means a request for assistance from the Fund submitted pursuant to parts 1805 or 1806 of this chapter;

(3) *CEQ regulations* means the regulations for implementing the procedural provisions of the National Environ-

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mental Policy Act of 1969 as promulgated by the Council on Environmental Quality, Executive Office of the President, appearing at 40 CFR parts 1500-1508 and to which this part is a supplement;

(4) *Comprehensive Business Plan* means a document submitted as part of an Application pursuant to part 1805 of this chapter which describes an organization's proposed process for offering products or services to a particular market, including organizational requirements needed to serve that market effectively;

(5) *Consumer Loans* means loans to one or more individuals for household, family or other personal expenditures;

(6) *Decisionmaker* means the Director of the Fund, unless an appropriate delegation of authority has been made;

(7) *EIS* means an environmental impact statement as defined in 40 CFR 1508.11 of the CEQ regulations;

(8) *Fund* means the Community Development Financial Institutions Fund, established under section 104(a) of the Act (12 U.S.C. 4703(a));

(9) *NEPA* means the National Environmental Policy Act, as amended, 42 U.S.C. 4321-4335; and

(10) *Project* means all closely related actions relating to a specific site.

(b) Other terms used in this part are defined in 40 CFR part 1508 of the CEQ regulations.

§ 1815.103 Designation of responsible Fund official.

The Director of the Fund is the designated Fund official responsible for implementation and operation of the Fund's policies and procedures on environmental quality and control.

§ 1815.104 Specific responsibilities of the designated Fund official.

The designated Fund official shall:

(a) Coordinate the formulation and revision of Fund policies and procedures on matters pertaining to environmental quality and control;

(b) Establish and maintain working relationships with relevant government agencies (including Federal, state and local) concerned with environmental matters;

(c) Develop procedures within the Fund's planning and decisionmaking

processes to ensure that environmental factors are properly considered in all proposals and decisions in accordance with this part;

(d) Develop, monitor, and review the Fund's implementation of standards, procedures, and working relationships for protection and enhancement of environmental quality and compliance with applicable laws and regulations;

(e) Monitor processes to ensure that the Fund's procedures regarding consideration of environmental quality are achieving their intended purposes;

(f) Advise the officers and employees of the Fund of technical and management requirements of environmental analysis, of appropriate expertise available, and, with the assistance of the Department of the Treasury's Office of the General Counsel, of relevant legal developments;

(g) Monitor the consideration and documentation of the environmental aspects of Fund planning and decision-making processes by appropriate officers and employees of the Fund;

(h) Ensure that all environmental assessments and, where required, all EISs are prepared in accordance with the appropriate regulations adopted by the Council on Environmental Quality and the Fund;

(i) Ensure that, as required, a legislative EIS is submitted with all proposed legislation;

(j) Consolidate and transmit to appropriate parties the Fund's comments on EISs and other environmental reports prepared by other agencies;

(k) Acquire information and prepare appropriate reports on environmental matters required of the Fund; and

(l) Coordinate the Fund's efforts to make available to other parties information and advice on the Fund's policies for protecting and enhancing the quality of the environment.

§ 1815.105 Major decision points.

(a) The possible environmental effects of an Application, including any Comprehensive Business Plan, must be considered along with technical, economic, and other factors throughout the decisionmaking process. For most Fund actions there are two distinct stages in the decisionmaking process:

(1) Preliminary approval stage, at which point applications are selected for funding; and

(2) Final approval and funding stage.

(b) Environmental review shall be integrated into the decisionmaking process of the Fund as follows:

(1) During the preliminary approval stage, the designated Fund official shall determine whether the Application proposes actions which are categorically excluded, or normally require an environmental assessment or an EIS;

(2) If the designated Fund official determines that the Application proposes actions which normally require an environmental assessment or an EIS, the applicant shall be informed that the final approval and funding, in addition to any other conditions, is contingent upon:

(i) The applicant supplying to the Fund all information necessary for the Fund to perform or have performed any environmental review required by this part;

(ii) The applicant not using any Fund financial assistance to perform any of such proposed actions in the Application that affect the physical environment until Fund approval is received; and

(iii) The outcome of the environmental review required by this part;

(3) The Fund will perform or have performed the environmental reviews required by this part;

(4) A preliminary approval of an Application may be withdrawn or further conditions may be imposed based upon the outcome of an environmental review required by this part; and

(5) If the designated Fund official determines that the Application proposes actions that require an environmental assessment or an EIS, the environmental assessment and/or EIS must be completed and circulated prior to the use of Federal funds for any activity that triggers the need for an environmental assessment and/or EIS.

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§ 1815.106 Supplemental environmental review.

(a) The designated Fund official shall determine whether the proposed actions in the Application are sufficiently definite to perform a meaningful environmental review during the preliminary approval stage.

(b) If the designated Fund official determines that the Application is sufficiently definite to perform a meaningful environmental review during the preliminary approval stage, no conditions for supplemental environmental review shall be imposed.

(c) If the designated Fund official determines that the Application, or any part of the Application, is not sufficiently definite to complete a meaningful environmental review during the preliminary approval stage, the Fund shall require a supplemental environmental review prior to the taking of any action directly using Fund financial assistance that is not categorically excluded from environmental review or for which an environmental assessment or EIS has not been approved by the Fund. The applicant shall notify the designated Fund official when proposing any action requiring a supplemental environmental review and shall supply to the Fund all information necessary for the Fund to perform the supplemental environmental review. The Fund shall perform or have performed such a supplemental environmental review. The applicant shall not use any Fund financial assistance to perform any of the proposed actions requiring a supplemental environmental review that affect the physical environment until Fund approval for such action is received.

§ 1815.107 Determination of review requirement.

In deciding whether to prepare an EIS, the designated Fund official shall determine whether the proposal is one that normally:

- (a) Requires an EIS;
- (b) Requires an environmental assessment, but not necessarily an EIS; or
- (c) Does not require either an EIS or an environmental assessment (categorical exclusion).

§ 1815.108 Actions that normally require an EIS.

(a) If necessary, the Fund shall perform or have performed an environmental assessment to determine if an Application, or any portion of an Application, requires an EIS. However, it may be readily apparent that a proposed action in an Application will have a significant impact on the environment; in such cases, an environmental assessment is not required and the Fund shall immediately begin to prepare, or have prepared, an EIS.

(b) An EIS normally is required where an Application proposes to directly use financial assistance from the Fund for any Project that would:

(1) Remove, demolish, convert, or substantially rehabilitate 2,500 or more existing housing units, or would result in the construction or installation of 2,500 or more new housing units, or which would provide sites for 2,500 or more new housing units; or

(2) Remove, demolish, convert, or substantially rehabilitate 1,500,000 square feet or more of commercial space, or would result in the construction or installation of 1,500,000 square feet or more of new commercial space, or which would provide sites for 1,500,000 square feet or more of new commercial space.

§ 1815.109 Preparation of an EIS.

(a) If the Fund determines that an EIS should be prepared, it shall publish a notice of intent in the FEDERAL REGISTER in accordance with 40 CFR 1501.7 and 1508.22 of the CEQ regulations. After publishing the notice of intent, the Fund shall begin to prepare or have prepared the EIS. Procedures for preparing the EIS are set forth in 40 CFR part 1502 of the CEQ regulations.

(b) The Fund may supplement a draft or final EIS at any time. The Fund shall prepare or have prepared a supplement to either the draft or final EIS when:

(1) Substantial changes are proposed to an action contained in the draft or final EIS that are relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts; or

(2) Actions are proposed which relate or are similar to other action(s) taken or proposed and that together have a cumulatively significant impact on the environment.

§ 1815.110 Categorical exclusion.

The CEQ regulations provide for the categorical exclusion of actions that do not individually or cumulatively have a significant effect on the human environment (40 CFR 1508.4). Therefore, neither an environmental assessment nor an EIS is required for such actions. An action which falls into one of the categories below may still require the preparation of an EIS or environmental assessment if the designated Fund official determines it meets the criteria stated in §1815.109 or involves extraordinary circumstances that may have a significant environmental effect. The Fund has determined the following categorical exclusions:

(a) Actions directly related to the administration or operation of the Fund (e.g. personnel actions, including, but not limited to, staff recruitment and training; purchase of goods and services for the Fund, including, but not limited to, furnishings, equipment, supplies and services; space acquisition; property management; and security);

(b) Actions directly related to and implementing proposals for which an environmental assessment or an environmental assessment and EIS have been prepared;

(c) Actions directly related to the granting or receipt of Bank Enterprise Act awards pursuant to part 1806 of this chapter;

(d) Actions directly related to training and/or technical assistance;

(e) Projects for the acquisition, disposition, rehabilitation and/or modernization of 500 existing housing units or less when all the following conditions are met:

(1) Unit density is not increased more than 20 percent;

(2) The Project does not involve changes in land use from nonresidential to residential;

(3) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation; and

(4) The Project does not involve the demolition of one or more buildings containing the primary use served by the project that, together, have more than 20 percent of the square footage of the Project;

(f) Projects for the construction of 200 housing units or less when all the following conditions are met:

(1) The Project does not involve changes in existing land use from non-residential to residential; and

(2) The Project does not involve the demolition of one or more buildings containing the primary use served by the project that, together, have more than 20 percent of the square footage of the Project;

(g) Projects for the acquisition, disposition, rehabilitation and/or modernization of 200,000 square feet or less of existing commercial space when all the following conditions are met:

(1) The Project does not involve changes in existing land use from residential to nonresidential;

(2) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation; and

(3) The Project does not involve the demolition of more than 10,000 square feet of commercial space containing the primary use served by the Project;

(h) Projects for the construction of 100,000 square feet or less of commercial space when all the following conditions are met:

(1) The Project does not involve changes in existing land use from residential to nonresidential; and

(2) The Project does not involve the demolition of more than 10,000 square feet of commercial space containing the primary use served by the Project;

(i) Projects for the acquisition of an existing structure, provided that the property to be acquired is in place and will be retained in the same use;

(j) Projects involving Fund financial assistance of \$1,000,000 or less;

(k) Actions directly related to the provision of residential tenant-based rental assistance, Consumer Loans, health care, child care, educational, cultural and/or social services;

(l) Actions involving Fund financial assistance that is used to increase the

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permanent capital and/or liquidity of an applicant;

(m) Actions where no use of Federal funds is involved in the activity or Project; and

(n) Actions directly related to the provision of working capital, the acquisition of machinery and equipment or the purchase of inventory, raw materials or supplies.

§ 1815.111 Actions that require an environmental assessment.

If a Project or action is not one that normally requires an EIS and does not qualify for categorical exclusion, the Fund shall prepare, or have prepared, an environmental assessment.

§ 1815.112 Preparation of an environmental assessment.

(a) The Fund shall begin the preparation of an environmental assessment as early as possible after the designated Fund official has determined that it is required. The Fund may prepare an environmental assessment at any time to assist planning and decisionmaking.

(b) An environmental assessment is a concise public document used to determine whether to prepare an EIS. An environmental assessment aids in complying with the NEPA when no EIS is necessary, and it facilitates the preparation of an EIS, if one is necessary. The environmental assessment shall contain brief discussions of the following topics:

(1) Purpose and need for the proposed action;

(2) Description of the proposed action;

(3) Alternatives considered, including the no action alternative;

(4) Environmental effects of the proposed action and alternative actions; and

(5) Listing of agencies, organizations or persons consulted.

(c) The most important or significant environmental consequences and effects on the areas listed below should be addressed in the environmental assessment. Only those areas which are specifically relevant to the particular proposal should be addressed. Those areas should be addressed in as much detail as is necessary to allow an analysis of the alternatives and the pro-

posal. The areas to be considered are the following:

(1) Natural/ecological features (such as floodplain, wetlands, coastal zones, wildlife refuges, and endangered species);

(2) Air quality;

(3) Sound levels;

(4) Water supply, wastewater treatment and water runoff;

(5) Energy requirements and conservation;

(6) Solid waste;

(7) Transportation;

(8) Community facilities and services;

(9) Social and economic;

(10) Historic and aesthetic; and

(11) Other relevant factors.

(d) If the Fund completes an environmental assessment and determines that an EIS is not required, then the Fund shall prepare a finding of no significant impact. The finding of no significant impact shall be made available to the public by the Fund as specified in 40 CFR 1506.6 of the CEQ regulations.

§ 1815.113 Public involvement.

All information collected by the Fund pursuant to this part shall be available to the public consistent with the CEQ regulations. Interested persons may obtain information concerning any pending EIS or any other element of the environmental review process of the Fund by contacting the Community Development Financial Institutions Fund, Department of the Treasury, 1500 Pennsylvania Avenue NW., room 5116, Washington, DC 20220, or such other contact entity designated by the Fund.

§ 1815.114 Fund decisionmaking procedures.

To ensure that at major decisionmaking points all relevant environmental concerns are considered by the Decisionmaker, the following procedures are established:

(a) An environmental document, i.e., the EIS, environmental assessment, finding of no significant impact, or notice of intent, in addition to being prepared at the earliest point in the decisionmaking process, shall accompany the relevant proposal or action through the Fund's decisionmaking process to

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ensure adequate consideration of environmental factors;

(b) The Decisionmaker shall consider in its decisionmaking process only those alternatives discussed in the relevant environmental documents. Also, where an EIS has been prepared, the decisionmaker shall consider all comments received during any comment process and all alternatives described in the EIS. A written record of the consideration of alternatives during the decisionmaking process shall be maintained; and

(c) Any environmental document prepared for a proposal or action shall be made part of the record of any formal rulemaking by the Fund.

§ 1815.115 OMB control number.

The collection of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1505-0153 (expires September 30, 1998).

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