

Fact Sheet #N1

Recommended Environmental Review Record Documentation to Support an Environmental Impact Statement Waiver for Projects in Unacceptable Noise Conditions

A. You have decided:

- 1) To consider a waiver of the required Environmental Impact Statement (EIS),
- 2) Noise is the only environmental issue, and
- 3) There are no noise-sensitive, outdoor uses such as patios, picnic areas, balconies, etc. (See *Guidelines for Considering Noise in Land Use Planning and Control*, FICUN 1980.)

B. At a minimum, the recommended documentation is as follows:

- A letter stating that the criteria have been met and requesting a waiver of the EIS from the Assistant Secretary for Community Planning and Development (Part 50) or the Certifying Officer (Part 58),
- A Noise Assessment using HUD methodology, and
- Documentation of proof that the criteria have been met such as evidence of compliance under 58.5 (if applicable). For example:
 - Consistency findings or compliance with 58.5 or 50.4 as appropriate (National Historic Preservation Act, Executive Order (EO) 11988 on Floodplain Management, EO 11990 on Protection of Wetlands, Coastal Zone Management Plan, sole source aquifers, Endangered Species Act, Clean Air Act, EO 12898 on Environmental Justice, etc.)
 - Documentation of lack of contamination issues under 58.5(i)(2) or 50.3(i) as appropriate, or assurances of mitigation (see box below)
 - Identification of surrounding land uses (annotated map, narrative, photos, etc.).
 - A detailed site plan with architectural drawings is preferred. Detailed project descriptions are acceptable alternatives.

Authority: 24CFR Subpart B §51.104(b)(2)

Application: The EIS requirement for projects proposed in Unacceptable noise zones applies to all projects requiring environmental review under parts 50 and 58.

Basic Rule: An EIS is required for projects proposed where the community noise level is above 75 dB. The EIS may be waived if:

- Noise is the only environmental issue and
- There are no outdoor noise-sensitive uses.

The file supporting the determination to waive the EIS must be complete, thorough, and accurate. Any Environmental Assessment that follows an EIS waiver must incorporate the mitigation actions as an explicit condition of project approval.

Pre-Occupancy Interpretation

HUD has allowed mitigation of environmental issues other than noise prior to occupancy. **Assurances** that the issues will be resolved before the structure is occupied are sufficient to meet the EIS waiver criteria, provided that an environmental assessment must incorporate the mitigation actions as an explicit condition of project approval. Documentation of the issue (E.g.: for site contamination issues, include an ASTM Phase I and/or II ESA analysis or geotechnical survey) and a Mitigation Plan with a Project Schedule, approved by the appropriate state and/or local authorities, are necessary. Assurances of completion could take the form of:

- A contract or subcontract for environmental cleanup,
- A bond certificate or whatever is appropriate. (HUD has accepted letters stating the developer will resolve the issue and testimonials to past performance and character.)