

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** National Environmental Policy Act (NEPA) Environmental Review

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**NUMBER:** 2.10.12

**EFFECTIVE:** June 2013

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**SANDY CDBG-DR**

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**APPROVAL:** 

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Assistant Commissioner



Howard McCoach  
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**PURPOSE:**

The Department of Community Affairs (DCA) is receiving CDBG-DR grant funds from the U.S. Department of Housing and Urban Development (HUD). DCA is the Responsible Entity in terms of compliance with HUD's Environmental Review Regulations at 24 CFR Part 58. These regulations provide instructions and guidance to recipients of HUD grant funds, where the recipient assumes the responsibility for compliance with the National Environmental Policy Act (NEPA) and other related Federal laws and authorities.

This document outlines the policies and procedures for DCA to document compliance with the HUD Environmental Review Regulations at 24 CFR Part 58.

**POLICY:**

It is DCA's policy as Responsible Entity to comply fully with the requirements of 24 CFR Part 58 and all related Federal laws and authorities for the CDBG-DR grant funds. DCA will maintain Environmental Review Records that cover all funded applications under the approved Action Plan programs.

**IMPLEMENTATION:**

DCA has executed a Memorandum of Agreement (MOA) with the New Jersey Department of Environmental Protection (DEP) that delegates preparation of Environmental Review Records associated with the CDBG-DR grant to DEP.

The Environmental Review Record (ERR) for the CDBG-DR grant must be organized to document compliance with all regulatory requirements. These requirements, including laws, regulations and links to other resources, may be found by clicking on:

<http://www.hud.gov/offices/cpd/energyenviro/environmen/index.cfm>

In order to meet the requirements for CDBG-DR Program (Robert T. Stafford Disaster Relief

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and Emergency Assistance Act of 1974 commonly referred to the “Stafford Act”) as well as the Disaster Relief Appropriations Act of 2013 (78 FR 14329 – published March 5, 2013 and the clarifying guidance published on April 19, 2013) the following section has been added to describe any waivers or alternate requirements. Note that wherever a conflict occurs between the special requirements as noted in the Stafford Act and the Disaster Relief Appropriations Act of 2013, the later shall take precedence.

**DISASTER RECOVERY WAIVERS OR ALTERNATE REQUIREMENTS:**

**1. Exemptions Covered under 24 CFR 58.34(a)(10):**

The U.S. Department of Housing and Urban Development (HUD) issued a Memorandum on May 16, 2008 titled [Exemptions for Disasters and Imminent Threats](#) which provides guidance for the use of the exemption at 24 CFR 58.34(a)(10). To be eligible for the exemption, the responsible entity must be able to document the presence of certain conditions that meet the intent of the exemption.

**2. Release of Funds When State Carries out Activity:**

In the regular CDBG program, the State distributes CDBG funds to units of general local government (“UGLGs” or “local government”) and takes on HUD’s role in receiving environmental certifications from the grant recipients and approving releases of funds. Under the Disaster Relief Appropriations Act Notice, the State is assuming the role of compliance with Federal laws and authorities and distributing funds directly to subrecipients and/or subgrantees. Therefore when the State plans to carry out an activity directly, the State must submit the certification and request for release of funds, where applicable, to HUD for approval per 24 CFR 58.4.

**3. Adoption of Another Agency’s Environmental Review Record:**

In accordance with the Disaster Relief Appropriations Act, recipients of Federal funds that use such funds to supplement Federal assistance provided under sections 402, 403, 404, 406, 407, or 502 of the Stafford Act may adopt, without public comment, any environmental review, approval, or permit performed by a Federal agency for the same project, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit that is required by HUD. The State must notify HUD in writing of its decision to adopt another agency’s environmental review. The State must retain a copy of the review in its environmental records. HUD issued a memorandum on March 4, 2013 entitled *Adoption of FEMA and other Federal Environmental Reviews and Processing for Hurricane Sandy*

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*Supplemental Appropriation* that provides guidance on adopting the reviews prepared by other Federal agencies.

**4. Release of Funds:**

In accordance with the Appropriations Act, and notwithstanding 42 U.S.C. 5304(g)(2), the Secretary may, upon receipt of a request for release of funds and certification, immediately approve the release of funds for an activity or project assisted with allocations under the Disaster Relief Appropriations Act Notice if the recipient has adopted an environmental review, approval or permit under section 3, above, or the activity or project is categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**5. Historic Preservation Reviews:**

To facilitate expedited historic preservation reviews under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), a Programmatic Agreement has been executed between FEMA, the New Jersey State Historic Preservation Officer, New Jersey State Office of Emergency Management, Advisory Council on Historic Preservation, and five Tribes. DCA and DEP will follow the stipulations in the Programmatic Agreement to ensure an efficient process of meeting Section 106 requirements.

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