

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Secretary****24 CFR Part 91**

[Docket No. FR 3611-F-11]

Consolidated Submission for Community Planning and Development Programs**AGENCY:** Office of the Secretary, HUD.**ACTION:** Final rule.

SUMMARY: As part of HUD's efforts to streamline the requirements for its formula grant programs, the Department's regulations consolidate into a single submission the planning and application aspects of the Department's Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), HOME Investment Partnerships (HOME), and Housing Opportunities for Persons with AIDS (HOPWA) programs. This final rule amends the Department's consolidated plan regulations to state that the Secretary, upon a finding of good cause, may waive these regulatory provisions.

EFFECTIVE DATE: October 30, 1995.**FOR FURTHER INFORMATION CONTACT:**

Joseph F. Smith, Director, Office of Executive Services, Office of Community Planning and Development, 451 Seventh Street, SW., Washington DC 20410-7000, telephone (202) 708-1283 (voice) or (202) 708-2565 (TDD). (These are not toll-free numbers.) Copies of this amendment will be made available on tape or large print for those with impaired vision that request them. They may be obtained at the above address.

SUPPLEMENTARY INFORMATION: The Department's regulations at 24 CFR part 91 consolidate into a single submission the planning and application aspects of the Department's Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), HOME Investment Partnerships (HOME), and Housing Opportunities for Persons with AIDS (HOPWA) programs. This final rule amends the Department's consolidated plan regulations to state that the Secretary, upon a finding of good cause, may waive non-statutory provisions of part 91.

The Department, in a final rule published on January 5, 1995 (60 FR 1878), completely revised part 91 to establish the consolidated plan requirements. The January 5, 1995 rule marked a major Departmental effort to consolidate and streamline the

submission requirements for its formula grant programs. Prior to publication of the January 5, 1995 rule, § 91.99 stated that the Secretary has the authority to waive non-statutory provisions of part 91. The January 5, 1995 did not contain a corresponding provision. This final rule amends part 91 by setting forth the Secretary's waiver authority in a new § 91.600.

Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted if the Department determines that it is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1).

In this case, the Department finds that it is unnecessary to provide for prior public procedure. The Secretary of HUD has the authority to waive non-statutory provisions of the Department's regulations. This final rule merely amends the Department's consolidated plan requirements to include a provision stating that the Secretary may waive any non-statutory requirement of part 91.

Other Matters**Executive Order 12866**

This final rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in this final rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) in connection with the development of the January 5, 1995 rule. The Finding of No Significant Impact remains applicable to this rule, and is available for public inspection and copying Monday through Friday, 7:30 a.m. until 5:30 p.m. in the office of the Rules Docket Clerk, Office of General Counsel, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities and there are not any unusual procedures that would need to be complied with by small entities.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs, as those policies relate to family concerns, will result from promulgation of this rule.

List of Subjects in 24 CFR Part 91

Grant programs—Indians, Homeownership, Low and moderate income housing, Public housing.

Accordingly, 24 CFR part 91 is amended as follows:

1. The authority citation for part 91 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3601-3619, 5301-5315, 11331-11388, 12701-12711, 12741-12756, and 12901-12912.

2. Section 91.600 is added to read as follows:

§ 91.600 Waiver Authority

Upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part. Each such waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.

Dated: September 26, 1995.

Henry G. Cisneros,
Secretary.

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