

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****[Docket No. FR-5267-N-01]****The Performance Review Board****AGENCY:** Office of the Deputy Secretary, HUD.**ACTION:** Notice of appointments.

**SUMMARY:** The Department of Housing and Urban Development announces the appointments of Ronald Y. Spraker and Jon L. Gant as members; and Dominique G. Blom as an alternate member of the Departmental Performance Review Board. The address is: Department of Housing and Urban Development, Washington, DC 20410-0050.

**FOR FURTHER INFORMATION CONTACT:**

Persons desiring any further information about the Performance Review Board and its members may contact Earnestine Pruitt, Director, Executive Personnel Management Division, Department of Housing and Urban Development, Washington, DC 20410. Telephone (202) 708-1381. (This is not a toll-free number.)

Dated: October 7, 2008.

**Roy A. Bernardi,**  
Deputy Secretary.

[FR Doc. E8-24371 Filed 10-14-08; 8:45 am]

BILLING CODE 4210-67-P

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****[Docket No. FR-5254-N-01]**

**Reconsideration of Waivers Granted to and Alternative Requirements for the State of Louisiana's CDBG Disaster Recovery Grant Under the Department of Defense Emergency Supplemental Appropriations To Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006**

**AGENCY:** Office of the Secretary, HUD.**ACTION:** Notice of waivers, alternative requirements, and statutory program requirements.

**SUMMARY:** This notice describes the statutorily required reconsideration of additional waivers and alternative requirements applicable to the Community Development Block Grant (CDBG) disaster recovery grant provided to the State of Louisiana on June 14, 2006, and March 7, 2007, for the purpose of assisting in the recovery in the most impacted and distressed areas related to the consequences of Hurricanes Katrina and Rita in 2005. Although the reconsideration period is normally 2 years following grant of the

waiver, HUD is reconsidering and altering some waivers early at the state's request.

**DATES:** *Effective Date:* October 20, 2008.**FOR FURTHER INFORMATION CONTACT:**

Jessie Handforth Kome, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. FAX inquiries may be sent to Ms. Kome at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll free.)

**SUPPLEMENTARY INFORMATION:****Authority To Grant Waivers**

The Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Pub. L. 109-148, approved December 30, 2005) (the 2006 Act) appropriated \$11.5 billion in Community Development Block Grant funds for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure directly related to the consequences of the covered disasters. The State of Louisiana received an allocation and grant of \$6,200,000,000 from this appropriation. The 2006 Act authorized the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of these funds and guarantees, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including requirements concerning lead-based paint), upon a request by the state and a finding by the Secretary that such a waiver would not be inconsistent with the overall purpose of the statute. The following waivers, alternative requirements, and reconsidered waivers are in response to written requests from the State of Louisiana.

The Secretary finds that the following waivers and alternative requirements, as described below, are not inconsistent with the overall purpose of 42 U.S.C. 5301 *et seq.*; Title I of the Housing and Community Development Act of 1974, as amended (the 1974 Act); or of 42 U.S.C. 12704 *et seq.*, the Cranston-Gonzalez National Affordable Housing Act, as amended.

Under the requirements of the Department of Housing and Urban Development Act, as amended (42 U.S.C. 3535(q)), regulatory waivers must be published in the **Federal Register**. As in the June 14, 2006, notice, the Department is also using this reconsideration notice to provide information about other ways in which the requirements for this grant vary from regular CDBG program rules. The compilation of this information in a single notice has created a helpful resource for Louisiana grant administrators and HUD field staff. Note that waivers and alternative requirements regarding the common application and reporting process for all grantees under this appropriation were published in a prior notice (71 FR 7666, published February 13, 2006, and updated in 73 FR 46312, published August 8, 2008).

Except as described in notices regarding this grant, the statutory and regulatory provisions governing the CDBG program for states, including those at 24 CFR part 570, shall apply to the use of these funds.

**Descriptions of Changes**

This section of the notice briefly describes the basis for each waiver and provides an explanation of related alternative requirements, if additional explanation is necessary. The Description of Changes section also highlights some of the statutory items and alternative requirements described in the sections that follow.

Except as provided in the common waiver notice published August 8, 2008, the waivers, alternative requirements, and statutory changes apply only to the CDBG supplemental disaster recovery funds appropriated in the 2006 Acts and allocated to the State of Louisiana. These actions provide additional flexibility in program design and implementation and note statutory requirements unique to this appropriation.

**Eligibility—housing related.** The waiver of Section 105(a) of the 1974 Act that allows new housing construction and of Section 105(a)(24), to allow homeownership assistance for families whose income is up to 120 percent of median income and payment of up to 100 percent of a housing down payment is necessary following major disasters in which large numbers of affordable housing units have been damaged or destroyed, as is the case in the disaster eligible under this notice. The broadening of the Section 105(a)(24) waiver, in accordance with the state's request, will allow the state to permit local governments receiving long-term

community recovery funding to implement mixed-use housing recovery programs included in its state-approved long-term recovery plans.

Compensation for disaster-related losses or housing incentives to resettle in Louisiana. The state planned to provide compensation to certain homeowners whose homes were damaged during the covered disasters, if the homeowners agree to meet the stipulations of the published program design. The state has also offered disaster recovery or mitigation housing incentives to promote housing development or resettlement in particular geographic areas. The Department waived the 1974 Act and associated regulations to make these uses of grant funds eligible. Retention of this waiver is critical since the homeowner compensation and incentive program is ongoing.

Eligibility—tourism. The state plans to continue providing disaster recovery grant assistance to support the tourism industry and promote travel to communities in the disaster-impacted areas and has requested an eligibility waiver for such activities. Tourism industry support, such as a national consumer awareness advertising campaign for an area in general, is ineligible for CDBG assistance. However, Congress did make such support eligible, within limits, for the CDBG disaster recovery funds appropriated for recovery of Lower Manhattan following the September 11, 2001, terrorist attacks. HUD understands that such support can be a useful recovery tool in a damaged regional economy that depends on tourism for many of its jobs and tax revenues. Similarly, because the State of Louisiana proposed advertising and marketing activities, rather than direct assistance to tourism-dependent businesses, and because the measures of long-term benefit from the proposed activities must be derived using regression analysis and other indirect means, the original waiver permitted use of no more than \$30 million for assistance to the tourism industry. This provision continues unchanged. Further, the assisted activities must be designed to support tourism to the most impacted and distressed areas related to the effects of Hurricanes Katrina and Rita, and, on the state's request and reconsideration, the waiver will now expire 4 years after the date of this notice, after which previously ineligible support for the tourism industry, such as marketing a community as a whole, will again be ineligible for CDBG disaster recovery funding.

Eligibility—buildings for the general conduct of government. The state asked HUD to reconsider and broaden the waiver of the prohibition on funding buildings for the general conduct of government. HUD considered the request and agreed that it is consistent with the overall purposes of the 1974 Act for the state to be able to use its CDBG disaster recovery grant funds to assist projects involving rehabilitation, reconstruction, or construction of buildings for the general conduct of government that the state has selected in accordance with the method described in its Action Plan for Disaster Recovery and that the state has determined have substantial value in promoting disaster recovery.

Eligibility—Research Commercialization and Educational Enhancement. According to the state's Action Plan amendment, the Research Commercialization and Educational Enhancement (RCEE) Program is "intended to restore the economic impact of scientific and technology research facilities within higher education institutions in the most severely affected areas." Activities under this program may include, but are not limited to, stipends for students, related training, purchase of critical equipment, stipends for research professionals, and development of a master strategic plan for meeting the program's intent.

Normally, HUD provides funds to a research institution or a university either to increase its capacity to carry out a CDBG activity such as rehabilitation of housing, to carry out specific research, or to provide training. By contrast, the RCEE program is directed at stabilizing and increasing research and education sector employment and functions themselves. The state has stated that this sector was a significant regional job generator before the covered disasters, that Hurricane Katrina and its aftermath critically damaged many aspects of the research sector, and that the RCEE program is a critical component of the state's long-term economic recovery.

To accomplish its stated intention, the state is funding strategic planning followed by a pilot assistance program for research institutions located in the most impacted areas. At HUD's request, the state has agreed that this planning process will identify critical performance measures for this program, so that all parties involved can assess the usefulness of the RCEE model as part of overall disaster recovery.

The RCEE program design does not break down neatly into CDBG eligibility categories. Portions of the RCEE

program are eligible CDBG activities, such as training (public services) and strategic planning. Other portions, especially the stipends and other direct support for retaining key faculty researchers, are outside the usual CDBG realm, although modeled on other government research and endowment grant programs. Program staff will be coordinating the various types of assistance into a coherent whole, moving between supporting eligible and currently ineligible activities.

In the March 6, 2007, notice (72 FR 10014), HUD provided a waiver and alternative requirement to create the eligible activity called Louisiana Research Commercialization and Educational Enhancement to include all activities carried out in accordance with the RCEE program described in the HUD-approved Action Plan, beginning with the amendment introducing this program, accepted January 3, 2007. (The allowable cost provisions of applicable OMB Circulars still apply, as do statutory prohibitions on duplications of benefit with other forms of assistance, such as from federal programs.) The state asked HUD to reconsider this waiver to include an alternative program income requirement. On reconsideration, HUD has also agreed to waive, for the RCEE program only, the definition of "program income" to allow the state to define program income for the purposes of the RCEE program, provided that the institution of higher education that is an RCEE CDBG grant subrecipient uses any program revenues generated under the program on activities that benefit the subrecipient and its research mission, as stabilizing this sector and making it one of the drivers of the recovery was a purpose of the RCEE program. Finally, the Department is clarifying that the state may also, for RCEE subrecipients only, provide for alternative policies related to disposition of equipment, so that the RCEE subrecipients are allowed to manage their RCEE-assisted equipment in accordance with their agreements with the state and their own research missions.

Eligibility—Operating Subsidy for Affordable Rental Housing. The state requested and HUD is retaining a waiver to allow a Project-Based Rental Subsidy (PBRA) and assistance to establish operating reserves to encourage developers to rebuild rental and mixed-income housing in the areas that suffered the greatest disaster impact. The subsidy funding, which may be "piggyback" funding generally designed to be linked to the use of housing tax credits or funding under another of the rental programs delineated in the state's

HUD approved Action Plan for Disaster Recovery, targets housing for low-income and very low-income families and is limited in amount to the difference between the rents that a project is projected to need to sustain itself, and a specified lower level that can be reasonably afforded by the tenants. With its affordable rental programs, the state proposes to address specific barriers unique to the affordable rental programs outlined by the state's Action Plan (see the Road Home Housing Programs described in the state's Action Plan for Disaster Recovery), such as the lack of affordability in the most heavily damaged areas, the lack of permanent financing for mixed-income rentals, and the need for more risk-tolerant pre-development capital.

In its Road Home rental programs, the state has set a high priority on deep affordability for some rental units and on placing these units within mixed-income communities wherever feasible. The state included new scoring factors in the piggyback tax credit selection process that reflect these priorities and that emphasize long-term viability and reduce operating costs. According to the state, the biggest remaining challenge in providing rental units affordable to very low-income households is the difference between what tenants can afford to pay and the projected cost of operating the units.

The state has researched existing housing models, and concluded that the piggyback model and the small rental and homeless programs described in the Road Home and its amendments are needed to ensure production of affordable units. The state believes it has a critical need for income-targeted rental housing production programs. Although the state has made financing available for rental housing construction, it believes that it will need also to provide operating subsidy options for some projects to ensure they are affordable to very low-income households.

HUD agreed and continues to agree that keeping housing affordable to very low-income households over time may require additional operating subsidy after construction is complete. To allow the state flexible options, HUD will allow CDBG assistance for subsidizing operating costs using PBRA and funding initial operating reserves in the context of the Road Home rental programs as described in the Action Plan. The Department encourages the state to avoid using CDBG for operating subsidies if other financing is available or if the project can reasonably be structured to achieve and maintain its

target affordability without the operating subsidy.

HUD recommends that the state establish written requirements for income eligibility, maximum rents, utility allowances, structure quality, and affirmative marketing of projects. HUD also recommends that inflation adjustments set by the state generally not exceed the Section 8 allowable adjustments.

Rental programs of this type can be risky; HUD again reminds the state of the regulatory requirement for annual financial audits of its programs and of the requirement published in **Federal Register** notices 71 FR 7666, 71 FR 73337, and 73 FR 46312, that its entire program be under the purview of an internal auditor.

Eligibility—Homeless Prevention and Rapid Rehousing. The state requested, and HUD is retaining, an eligibility waiver to allow it to implement a Homeless Prevention and Rapid Rehousing Program using funds designated for homeless activities in its Action Plan. The principle of this program model is to minimize the time a family is homeless by providing rehousing and rental assistance, and by linking the family to services designed to help it become stable and self-sufficient. The state's request noted that it modeled its program on the rapid rehousing program approach that the National Alliance to End Homelessness has endorsed as a national best practice. The state also noted that as a consequence of Hurricanes Katrina and Rita, "Thousands of families today are doubled up with family and friends, facing eviction, in temporary housing conditions affordable only with time limited FEMA rental assistance, or living in FEMA trailer villages—unsure what they are going to do when assistance runs out."

To carry out this program, the state needs an eligibility waiver for the rental assistance and utility payments that are paid for up to 2 years on behalf of homeless and at-risk households. The program also includes rental and utility deposits and back payments for housing when the state determines that such payments are necessary to help prevent a family from becoming homeless. To the extent the existing CDBG program rules explicitly allow payments for these purposes, the program establishes a shorter time limitation (3 months) and generally discourages or disallows back payments.

The state's program could measurably advance the Department's priority on supporting forward-thinking solutions to help communities that are struggling to house and serve persons and families

that are homeless or at risk of homelessness because of the effects of Hurricanes Katrina and Rita. Therefore, this notice, on reconsideration, continues to grant the eligibility waiver as requested.

Documentation of low- and moderate-income benefit and public benefit for certain economic development activities. For some of its economic development programs, the state requested continuation of one waiver to allow it to provide alternate documentation of low- and moderate-income benefit, and another waiver to extend the public benefit standard waiver granted in **Federal Register** notice 71 FR 7666 for the Bridge Loan Program to the economic development activities from Action Plan Amendments 2 and 8, and to Federal Emergency Management Agency (FEMA) public assistance cost share infrastructure projects carried out for the purpose of creating or retaining jobs.

For the national objective documentation for the business assistance activities, the state asked to be able to apply individual salaries or wages per job and the income limits for a household of one, rather than the usual CDBG standard of total household income and the limits-by-total-household size. The state asserted that its proposed documentation would be simpler and quicker for its participating lenders to administer, easier to verify, and would not misrepresent the amount of low- and moderate-income benefit provided.

Further, for the Bridge Loan Program and for infrastructure projects carried out to create or retain jobs or businesses, the state argued for this approach because the state considers these critical recovery activities to need the most streamlined approach to documentation that is consistent with prudent management. On review and following several discussions with state staff, HUD accepted the state's arguments for the activities and programs cited above and granted and is continuing the waiver as requested.

HUD granted this waiver because of the magnitude of the disaster. However, because the validity of this approach has not been verified systematically, HUD may not grant similar waivers in the future. The public benefit provisions set standards for individual economic development activities (such as a single loan to a business) and for economic development activities in the annual aggregate. Currently, public benefit standards limit the amount of CDBG assistance per job retained or created, or the amount of CDBG assistance per low- and moderate-income person to which

goods or services are provided by the activity. Essentially, the public benefit standards are a proxy for all the other possible public benefits provided by an assisted activity. These dollar thresholds were set more than a decade ago and, under disaster recovery conditions (which often require a larger investment to achieve a given result), can be too low and thus impede recovery by limiting the amount of assistance the grantee may provide to a critical activity. The state has made public in its Action Plan the disaster recovery needs each activity is addressing and the public benefits expected.

After consideration, this notice retains the waiver of the public benefit standards for the cited activities, except that the state shall continue to report and maintain documentation on the creation and retention of: (a) Total jobs, (b) number of jobs within certain salary ranges, (c) the average amount of assistance per job and activity or program, and (d) the types of jobs. As a conforming change for the same activities or programs, HUD also waived paragraph (g) of 24 CFR 570.482 to the extent its provisions are related to public benefit.

Documentation of low- and moderate-income household benefit for multi-unit housing projects. Rehabilitation and reconstruction of housing is an eligible CDBG activity. Prior to granting this waiver, HUD granted the state an eligibility waiver to allow new construction of housing. Later, the state requested a related waiver to allow it to fund multi-unit projects and to measure benefit to low- and moderate-income households in such projects in a manner more supportive of mixed-income housing than the structure basis required by 24 CFR 570.483(b)(3). (Under the cited regulation, the general rule is that at least 51 percent of the residents of an assisted structure must be income eligible.)

HUD has reviewed other housing assistance programs that measure benefit differently: by the housing unit. Under the most basic unit-based approach, one or more of the units in a structure must house income-eligible families, but the remainder of the units may be market rate, so long as the proportion of assistance provided compared to the overall project budget is no more than the proportion of units that will be occupied by income-eligible households compared to the number of units in the overall project. In other words, the rule under the usual CDBG structure approach is that a dollar of CDBG assistance to a structure means that 51 percent of the units must meet

income requirements. Under the proportional units approach, the number of income-eligible units is proportional to the amount of assistance provided. Based on HUD experience, the second approach is generally more compatible with large-scale development of mixed-income housing.

There is HUD precedent for using some variation on a proportional unit basis in two programs familiar to the state: (1) The CDBG program rule has a built-in exception that allows limited use of the unit basis for multi-unit non-elderly new construction structures with between 20 and 50 percent low- and moderate-income occupancy, and (2) the HOME Investment Partnerships program, HUD's primary housing production program, successfully uses its own variation on the proportional unit approach. After review of the state's Action Plan for Disaster Recovery and learning more about the state's intention to encourage mixed-income housing development, HUD has determined that it is consistent with the overall purposes of the 1974 Act to provide the state with the requested additional flexibility in measuring program benefit.

Therefore, the reconsidered waiver and alternative requirements continue to allow the state a choice. The state may measure benefit within a housing development project (1) according to the existing CDBG requirements, (2) according to the HOME program requirements at 24 CFR 92.205(d), or (3) according to the modified CDBG alternative requirements specified in this notice, which extend the CDBG exception noted above. The state must select and use just one method for each project.

For these purposes, the term "project" will have the same meaning as in the HOME program at 24 CFR 92.2. Unlike the HOME program, the CDBG program does not regulate the maximum amount of assistance per unit, require unit and income reviews in the years following initial occupancy, require a specific form of subsidy layering review, or define affordability. The state is reminded, however, that CDBG does require that costs be necessary and reasonable and that the state must develop procedures and documentation to ensure that its housing investments meet this requirement. The state must also meet all civil rights and fair housing requirements.

General planning activities use entitlement presumption. The annual state CDBG program requires that local government grant recipients for planning-only grants must document that the use of funds meets a national

objective. In the state CDBG program, these planning grants are typically used for individual project plans. By contrast, planning activities carried out by entitlement communities are more likely to include nonproject-specific plans such as functional land use plans, historic preservation plans, comprehensive plans, development of housing codes, and neighborhood plans related to guiding long-term community development efforts comprising multiple activities funded by multiple sources. In the annual entitlement program, these more general stand-alone planning activities are presumed to meet a national objective under the requirements at 24 CFR 570.208(d)(4). The Department notes that almost all effective CDBG disaster recoveries in the past have relied on some form of area-wide or comprehensive planning activity to guide overall redevelopment independent of the ultimate source of implementation funds. Therefore, the Department waived and is retaining the waiver of the eligibility requirement that CDBG disaster recovery-assisted planning-only grants or state directly administered planning activities that guide recovery in accordance with the appropriations act must comply with the state CDBG program rules at 24 CFR 570.483(b)(5) or (c)(3).

Special economic development job retention activities. Under the public benefit implementing regulations, CDBG grantees are limited to a specified annual amount of CDBG assistance per job retained or created or the amount of CDBG assistance per low- and moderate-income person to whom goods or services are provided by the assisted activity. Grantees must maintain documentation to show that a job is a retained job or a created job and that the job was made available to or taken by a low- and moderate-income person. This policy and the specified documentation are effective and suitable for relatively small-scale economic development programs of hundreds of thousands of dollars or a few millions of dollars and of tens or hundreds of businesses. The State of Louisiana has undertaken a special economic development portfolio valued at over \$200 million to potentially serve thousands of businesses. The state has requested and received regulatory waivers related to public benefit documentation that have helped it to implement its economic development programs' large-scale disaster recovery special economic development activities in a short time frame. HUD is retaining those waivers as several of these programs are ongoing.

Anti-pirating. The limited waiver of the anti-pirating requirements allows the flexibility to provide assistance to a business located in another state or market area within the same state if the business was displaced from a declared area within the state by the disaster and the business wishes to return. This waiver is necessary to allow a grantee affected by a major disaster to rebuild its employment base.

Voluntary acquisition under the Piggyback Program. In connection with the state's Low Income Housing Tax Credit Piggyback Program, various developers obtained options for the acquisition of specific properties to create mixed-income rental housing and workforce housing projects to replace rental housing lost during the hurricanes. The options were obtained on a voluntary basis by developers without the use or threat of eminent domain and prior to the availability of federal funding. However, since these projects will now be receiving CDBG disaster funding assistance, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601 *et seq.*) (the URA) will apply where the property acquisition has not been completed. The state requested and HUD is retaining a waiver related to acquisition requirements under the URA for specific projects with existing options. The state has asked that HUD permit the waivers to help complete the acquisition of property and promote the replacement of housing in a timely and efficient manner. The state believes that these waivers will have little impact on those persons who voluntarily entered into these option agreements prior to the availability of federal funding. Because CDBG funds are federal financial assistance, their use in projects that involve acquisition of property for a federally assisted project, or that involve acquisition, demolition, or rehabilitation that force a person to move permanently, are subject to the URA and the governmentwide implementing regulations found at 49 CFR part 24. The URA provides assistance and protections to individuals and businesses affected by federal or federally assisted projects. HUD waived the following URA requirements to help promote accessibility to suitable decent, safe, and sanitary housing for victims of Hurricanes Katrina and Rita:

The acquisition requirements of the URA and implementing regulations, so that they do not apply to an arm's length voluntary purchase carried out by a person that does not have the power of eminent domain, in

connection with the purchase of properties for the projects listed in the waiver below. According to the state, the failure to suspend these requirements would impede disaster recovery. This waiver would not affect any lawful occupants of the affected projects, in terms of relocation assistance and payments, and would only waive certain transaction-related requirements vis a vis the project owners.

**Uniform Relocation Act Requirements.** The state has engaged in voluntary acquisition and optional relocation activities (partly in a form sometimes called "buyouts") by using waivers related to acquisition and relocation requirements under the URA and the replacement of housing and relocation assistance provisions under section 104(d) of the 1974 Act. The state asked and received HUD's permission to grant the waivers to help promote the acquisition of property and the replacement of housing in a timely and efficient manner. To date, the state believes that these waivers have had little impact on those persons whose property is voluntarily acquired or who are required to move permanently for a federally assisted project. Because CDBG funds are federal financial assistance, their use in projects that involve acquisition of property necessary for a federally assisted project, or that involve acquisition, demolition, or rehabilitation that force a person to move permanently, are subject to the URA and the governmentwide implementing regulations found at 49 CFR part 24. The URA provides assistance and protections to individuals and businesses affected by federal or federally assisted projects. HUD has waived the following URA requirements to help promote accessibility to suitable decent, safe, and sanitary housing for victims of Hurricanes Katrina and Rita:

- The acquisition requirements of the URA and implementing regulations, so that they do not apply to an arm's length voluntary purchase carried out by a person who does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person. According to the state, the failure to suspend these requirements would impede disaster recovery and may result in windfall payments.

- A limited waiver of the URA implementing regulations, to the extent that they require grantees to provide URA financial assistance sufficient to reduce the displaced person's post-displacement rent/utility cost to 30 percent of household income. The failure to suspend these one-size-fits-all requirements could impede disaster

recovery. To the extent that a tenant has been paying rents in excess of 30 percent of household income without demonstrable hardship, rental assistance payments to reduce tenant costs to 30 percent would not be required.

- The URA and implementing regulations, to the extent necessary to permit a grantee to meet all or a portion of a grantee's replacement housing financial assistance obligation to a displaced renter by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy (e.g., Section 8 rental voucher or certificate), provided that the renter is also provided referrals to suitable, available rental replacement dwellings where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months. Failure to grant the waiver would impede disaster recovery whenever TBRA program subsidies are available but when funds for cash relocation assistance are limited. The change provides access to an additional relocation resource option.

- The URA and implementing regulations, to the extent that they require a grantee to offer a person displaced from a dwelling unit the option to receive a "moving expense and dislocation allowance" based on the current schedule of allowances prepared by the Federal Highway Administration, provided that the grantee establishes and offers the person a moving expense and dislocation allowance under a schedule of allowances that is reasonable for the jurisdiction and takes into account the number of rooms in the displacement dwelling, whether the person owns and must move the furniture, and, at a minimum, the kinds of expenses described in 49 CFR 24.301. Failure to suspend this provision would impede disaster recovery by requiring grantees to offer allowances that do not reflect current local labor and transportation costs. Persons displaced from a dwelling remain entitled to choose a payment for actual reasonable moving and related expenses if such persons find that approach preferable to the locally established moving expense and dislocation allowance.

In addition to the URA waivers, HUD waived requirements of section 104(d) of the 1974 Act dealing with one-for-one replacement of low- and moderate-income housing units demolished or converted in connection with a CDBG-assisted development project for housing units damaged by one or more disasters. HUD waived this requirement because it does not take into account the large, sudden changes a major disaster

may cause to the local housing stock, population, or local economy. Further, the requirement does not take into account the threats to public health and safety and to economic revitalization that may be caused by the presence of disaster-damaged structures that are unsuitable for rehabilitation. As it stands, the requirement would impede disaster recovery and discourage grantees from acquiring, converting, or demolishing disaster-damaged housing because of excessive costs that would result from replacing all such units within the specified time frame. HUD also waived the relocation assistance requirements contained in section 104(d) of the 1974 Act to the extent they differ from those of the URA. This change will simplify implementation, while preserving statutory protections for persons displaced by federal projects.

The state has provided the following additional reason for these waivers related to its decision to administer policy for the funds under this notice and for Federal Emergency Management Agency (FEMA) mitigation funding through the same agencies. The statutory requirements of the URA are also applicable to the administration of FEMA assistance, and disparities in rental assistance payments for activities funded by HUD and by FEMA will thus be eliminated. FEMA is subject to the requirements of the URA. Pursuant to this authority, FEMA requires that rental assistance payments be calculated on the basis of the amount necessary to lease or rent comparable housing for a period of 42 months. HUD is also subject to these requirements, but is also covered by alternative relocation provisions authorized under 42 U.S.C. 5304(d)(2)(A)(iii) and (iv) and implementing regulations at 24 CFR 42.350. These alternative relocation benefits, available to low- and moderate-income displacees opting to receive them in certain HUD programs, require the calculation of similar rental assistance payments on the basis of 60 months, rather than 42 months, thereby creating a disparity between the available benefits offered by HUD and FEMA (although not always an actual cash difference). The waiver assures uniform and equitable treatment, by allowing the URA benefits requirements to be the standard for assistance under this notice.

**Program Income.** A combination of CDBG provisions limits the flexibility available to the state for the use of program income. Prior to 2002, program income earned on disaster recovery grants has usually been program income in accordance with the rules of the

regular CDBG program of the applicable state and has lost its disaster grant identity, thus losing use of the waivers and streamlined alternative requirements. Also, the state CDBG program rule and law are designed for a program in which the state distributes all funds rather than carrying out activities directly. The 1974 Act specifically provides for a local government receiving CDBG grants from a state to retain program income if it uses the funds for additional eligible activities under the annual CDBG program. The 1974 Act allows the state to require return of the program income to the state under certain circumstances. This notice waives the existing statute and regulations to give the state, in all circumstances, the choice of whether a local government receiving a distribution of CDBG disaster recovery funds and using program income for activities in the Action Plan can retain this income and use it for additional disaster recovery activities. In addition, this notice allows program income to the disaster recovery grant generated by activities undertaken directly by the state or its agent(s) to retain the original disaster recovery grant's alternative requirements and waivers and to remain under the state's discretion until grant closeout, at which point any program income on hand or received subsequently will become program income to the state's annual CDBG program. The alternative requirements provide all the necessary conforming changes to the program income regulations.

**Timely Distribution of Funds.** The state CDBG program regulation regarding timely distribution of funds is at 24 CFR 570.494. This provision is designed to work in the context of an annual program in which almost all grant funds are distributed to units of general local government. Because the state may use disaster recovery grant funds to carry out activities directly, and because Congress expressly allowed this grant to be available until expended, HUD has waived this requirement. However, HUD expects the State of Louisiana to expeditiously obligate and expend all funds, including any recaptured funds or program income, in carrying out activities in a timely manner.

#### **Waivers and Alternative Requirements**

**1. Housing-related eligibility waivers.** 42 U.S.C. 5305(a) is waived to the extent necessary to allow homeownership assistance for households with up to 120 percent of area median income and downpayment assistance for up to 100 percent of the down payment (42 U.S.C.

5305(a)(24)(D)), and to allow new housing construction.

**2. Compensation for loss of housing or incentives to resettle in Louisiana.** 42 U.S.C. 5305(a) is waived to the extent necessary to make eligible incentives to resettle in Louisiana or compensation for loss of housing caused by the disaster and in accordance with the state's approved Action Plan and published program design.

**3. Waiver to permit some activities in support of the tourism industry.** 42 U.S.C. 5305(a) and 24 CFR 570.489(f) are waived to the extent necessary to make eligible use of no more than \$30 million for assistance for the tourism industry, including promotion of a community or communities in general, provided that the assisted activities are designed to support tourism to the most impacted and distressed areas related to the effects of Hurricanes Katrina and Rita. This waiver will expire 4 years after the effective date of this notice, after which previously ineligible support for the tourism industry, such as promotion of a community in general, will again be ineligible for CDBG funding.

**4. Buildings for the general conduct of government.** 42 U.S.C. 5305(a) and 24 CFR 507.207(a)(1) are waived to the extent necessary to allow the state to use the grant funds under this notice to assist projects involving rehabilitation, reconstruction, or construction of buildings for the general conduct of government that the state has selected in accordance with the method described in its Action Plan for Disaster Recovery and that the state has determined have substantial value in promoting disaster recovery.

**5. Eligibility—Louisiana Research Commercialization and Educational Enhancement program (RCEE).** Activities carried out in accordance with the HUD-approved Action Plan for the RCEE program approved January 3, 2007, are eligible. Further, for the RCEE program only, the definition of "program income" may be defined by the state, provided that the institution of higher education that is an RCEE CDBG grant subrecipient uses any program revenues generated under the program on activities that benefit the RCEE subrecipient's research mission. The state may also, for RCEE activities only, provide for alternative policies related to disposition of equipment, to allow management of RCEE-assisted equipment, in accordance with subrecipient agreements with the state and to the benefit of the assisted research mission.

**6. Waiver to permit operating subsidies for affordable rental housing.**

42 U.S.C. 5305(a) is waived to the extent necessary to make eligible the Road Home project-based rental assistance program included in the state's HUD-approved Action Plan for Disaster Recovery, provided that the assisted activities are designed to ensure that CDBG funds will be invested only to the extent of reasonably anticipated need. Also in conjunction with the Road Home rental program, the grantee may provide assistance to establish an initial operating reserve account for a project receiving other Road Home assistance.

7. *Eligibility of certain activities to support homeless prevention and rapid rehousing programs.* 42 U.S.C. 5305(a) is waived to the extent necessary to make eligible rental assistance and utility payments paid for up to 2 years on behalf of homeless and at-risk households when such assistance or payments are part of a homeless prevention or rapid rehousing program. Eligible assistance in these programs may also include rental and utility deposits and back payments for housing when the State of Louisiana determines that such payments are necessary to help prevent a family from being homeless.

8. *Documentation of low- and moderate-income benefit for multi-unit housing projects.* Under the following circumstances, HUD will consider assistance for a multi-unit housing project involving new construction, acquisition, reconstruction, or rehabilitation to benefit low- and moderate income households:

a.(1) The CDBG assistance defrays the development costs of a housing project providing eligible permanent residential units that, upon completion, will be occupied by low- and moderate-income households; and

(2) If the project is rental, the units occupied by low- and moderate-income households will be leased at affordable rents. The grantee or unit of general local government shall adopt and make public its standards for determining "affordable rents" for this purpose; and

(3) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low- and moderate income households; or

b. When CDBG funds defray the development costs of eligible permanent residential units, such funds shall be considered to benefit low- and moderate-income persons if the grantee follows the provisions of 24 CFR 92.205(d); or

c. The requirements of 24 CFR 570.483(b)(3) are met.

d. The state must select and use just one method for each project.

e. The term "project" will be defined as in the HOME program at 24 CFR 92.2.

f. If the state applies option (a) or (b) above to a housing project, 24 CFR 570.483(b)(3) is waived for that project.

9. *Planning requirements.* For CDBG disaster recovery-assisted planning activities that will guide recovery in accordance with the 2006 Act, the state CDBG program rules at 24 CFR 570.483(b)(5) and (c)(3) are waived and the presumption at 24 CFR 570.208(d)(4) applies.

10. *National objective documentation for certain economic development activities.* 24 CFR 570.483(b)(4)(i) is waived to allow the grantee to establish low- and moderate-income jobs benefit by documenting for each person employed the name of the business, type of job, and the annual wages or salary of the job. HUD will consider the person income-qualified if the annual wages or salary of the job is at or under the HUD-established income limit for a one-person family.

11. *Public benefit standards for economic development activities.* For economic development activities designed to create or retain jobs or businesses (including but not limited to BRIDGE, long-term, short-term, infrastructure projects), the public benefit standards at 42 U.S.C. 5305(e)(3) and 24 CFR 570.482(f)(1), (2), (3), (4)(i), (5), and (6) are waived, except that the grantee shall report and maintain documentation on the creation and retention of total jobs, the number of jobs within certain salary ranges, the average amount of assistance provided per job by activity or program, and the types of jobs. Paragraph (g) of 24 CFR 570.482 is also waived to the extent its provisions are related to public benefit.

12. *Waiver and modification of the anti-pirating clause to permit assistance to help a business return.* 42 U.S.C. 5305(h) and 24 CFR 570.482 are hereby waived only to allow the grantee to provide assistance under this grant to any business that was operating in the covered disaster area before the incident date of Hurricane Katrina or Rita, as applicable, and has since moved in whole or in part from the affected area to another state or to a labor market area within the same state to continue business.

13. *Waiver of one-for-one replacement of units damaged by disaster.*

a. One-for-one replacement requirements at 42 U.S.C. 5304(d)(2) and (d)(3), and 24 CFR 42.375(a) are waived for low- and moderate-income dwelling units:

(1) Damaged by the disaster,

(2) For which CDBG funds are used for demolition, and

(3) Which are not suitable for rehabilitation.

b. Relocation assistance requirements at 42 U.S.C. 5304(d)(2)(A) and at 24 CFR 42.359 are waived to the extent they differ from those of the URA and its implementing regulations at 49 CFR part 24, following waivers to activities involving buyouts and other activities covered by the URA and related to disaster recovery housing activities assisted by the funds covered by this notice and included in an approved Action Plan.

14. *Uniform Relocation Act requirements.*

a. The requirements at 49 CFR 24.101(b)(2)(i)–(ii) are waived to the extent that they apply to an arm's length voluntary purchase carried out by a person who does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person.

b. The requirements at 49 CFR 24.2, 24.402(b)(2), and 24.404 are waived to the extent that they require the state to provide URA financial assistance sufficient to reduce the displaced person's post-displacement rent/utility cost to 30 percent of household income. To the extent that a tenant has been paying rents in excess of 30 percent of household income without demonstrable hardship, rental assistance payments to reduce tenant costs to 30 percent would not be required. Before using this waiver, the state must establish a definition of "demonstrable hardship."

c. The requirements of sections 204 and 205 of the URA, and of 49 CFR 24.402(b), are waived to the extent necessary to permit a grantee to meet all or a portion of a grantee's replacement housing financial assistance obligation to a displaced renter by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy (e.g., Section 8 rental voucher or certificate), provided that the renter is also provided referrals to suitable, available rental replacement dwellings where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months.

d. The requirements of section 202(b) of the URA and of 49 CFR 24.302 are waived to the extent that they require a grantee to offer a person displaced from a dwelling unit the option to receive a "moving expense and dislocation allowance" based on the current schedule of allowances prepared by the Federal Highway Administration, provided that the grantee establishes



and offers the person a moving expense and dislocation allowance under a schedule of allowances that is reasonable for the jurisdiction and takes into account the number of rooms in the displacement dwelling, whether the person owns and must move the

furniture, and, at a minimum, the kinds of expenses described in 49 CFR 24.301.

15. *Voluntary acquisition under the Piggyback program.* The requirements at 49 CFR 24.101(b)(2)(i)–(ii) are waived to the extent that they apply to an existing option for the arm's length voluntary

purchase carried out by a person that does not have the power of eminent domain, in connection with the purchase of property for the projects listed below, so long as the initial option pre-dates December 22, 2006.

LHFA project ID	Project name	Parish	Est. total units
0708FA37	The Meadows	Calcasieu	180
0708FA43	Renoir Acres Estates II	Calcasieu	60
0708FA44	Monet Acres Estates II	Calcasieu	60
0708FA48	Sulphur Retirement Community	Calcasieu	60
0708FA52	Grand Lake Elderly	Cameron	30
0708FA01	Timberlane Apartments	Jefferson	164
0708FA22	Beechgrove Homes	Jefferson	100
0708FA28	Wellswood Manor	Jefferson	84
0708FA49	Oak Villa	Jefferson	80
0708FA30	Lafitte Redevelopment	Orleans	568
0708FA26	St. Bernard I	Orleans	465
0708FA24	BW Cooper I	Orleans	410
0708FA25	CJ Peete III	Orleans	410
0708FA42	Rivergarden CSII	Orleans	310
0708FA57	Canterbury House Apts—New Orleans East	Orleans	276
0708FA47	The Marquis Apartments	Orleans	250
0708FA08	The Villas at Lake Forest	Orleans	230
0708FA11	The Crescent Club	Orleans	226
0708FA41	Walnut Square Apartments	Orleans	209
0708FA13	200 Carondelet	Orleans	190
0708FA10	The Preserve	Orleans	183
0708FA38	Crescent Garden Homes	Orleans	143
0708FA36	Levey Gardens	Orleans	100
0708FA40	Nine 27	Orleans	76
0708FA09	Jefferson Davis Apartments	Orleans	72
0708FA61	Indiana Homes	Orleans	60
0708FA64	Orleans Place	Orleans	60
0708FA27	Classic Construction of New Orleans Venture II	Orleans	56
0708FA29	Constance Lofts	Orleans	47
0708FA23	Delta Oaks Homes	Orleans	40
0708FA63	Old Morrison Homes	Orleans	38
0708FA07	Lakeside Apartments	St. Tammany	250
0708FA06	Tiffany Apartments	Vermilion	250
Totals			5,737

16. *Program income alternative requirement.* 42 U.S.C. 5304(j) and 24 CFR 570.489(e) are waived to the extent that they conflict with the rules stated in the program income alternative requirement below. The following alternative requirement applies instead.

a. Program income.

(1) For the purposes of this subpart, “program income” is defined as gross income received by a state, a unit of general local government, a tribe, or a subrecipient of a unit of general local government or of a tribe that was generated from the use of CDBG funds, except as provided in paragraph (a)(2) of this section. When income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used (e.g., a single loan supported by CDBG funds and other funds, or a single parcel of land purchased with CDBG funds and

other funds). Program income includes, but is not limited to, the following:

- (i) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- (ii) Proceeds from the disposition of equipment purchased with CDBG funds;
- (iii) Gross income from the use or rental of real or personal property acquired by the unit of general local government or tribe or subrecipient of a state, a tribe, or a unit of general local government with CDBG funds; less the costs incidental to the generation of the income;
- (iv) Gross income from the use or rental of real property owned by a state, tribe, or the unit of general local government or a subrecipient of a state, tribe, or unit of general local government, that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;

(v) Payments of principal and interest on loans made using CDBG funds;

(vi) Proceeds from the sale of loans made with CDBG funds;

(vii) Proceeds from the sale of obligations secured by loans made with CDBG funds;

(viii) Interest earned on program income pending disposition of the income, but excluding interest earned on funds held in a revolving fund account;

(ix) Funds collected through special assessments made against properties owned and occupied by households not of low and moderate income, where the special assessments are all or part of the CDBG portion of a public improvement; and

(x) Gross income paid to a state, tribe, or a unit of general local government or a subrecipient from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.



(2) "Program income" does not include the following:

(i) The total amount of funds which is less than \$25,000 received in a single year that is retained by a unit of general local government, tribe, or subrecipient;

(ii) Amounts generated by activities eligible under section 105(a)(15) of the 1974 Act and carried out by an entity under the authority of section 105(a)(15) of the Act;

(3) The state may permit the unit of general local government or tribe which receives or will receive program income to retain the program income, subject to the requirements of paragraph (a)(3)(ii) of this section, or the state may require the unit of general local government or tribe to pay the program income to the state.

(i) Program income paid to the state. Program income that is paid to the state or received by the state is treated as additional disaster recovery CDBG funds subject to the requirements of this notice and must be used by the state or distributed to units of general local government in accordance with the state's Action Plan for Disaster Recovery. To the maximum extent feasible, program income shall be used or distributed before the state makes additional withdrawals from the United States Treasury, except as provided in paragraph (b) of this section.

(ii) Program income retained by a unit of general local government or tribe.

(A) Program income that is received and retained by the unit of general local government or tribe before closeout of the grant that generated the program income is treated as additional disaster recovery CDBG funds and is subject to the requirements of this notice.

(B) Program income that is received and retained by the unit of general local government or tribe after closeout of the grant that generated the program income, but that is used to continue the disaster recovery activity that generated the program income, is subject to the waivers and alternative requirements of this notice.

(C) All other program income is subject to the requirements of 42 U.S.C. 5304(j) and subpart I of 24 CFR part 570.

(D) The state shall require units of general local government or tribes, to the maximum extent feasible, to disburse program income that is subject to the requirements of this notice before requesting additional funds from the state for activities, except as provided in paragraph (b) of this section.

**b. Revolving funds.**

(1) The state may establish or permit units of general local government or tribes to establish revolving funds to carry out specific, identified activities.

A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the Treasury for revolving fund activities. Such program income is not required to be disbursed for nonrevolving fund activities.

(2) The state may also establish a revolving fund to distribute funds to units of general local government or tribes to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to fund grants to units of general local government to carry out specific activities which, in turn, generate payments to the fund for additional grants to units of general local government to carry out such activities. Program income in the revolving fund must be disbursed from the fund before additional grant funds are drawn from the Treasury for payments to units of general local government which could be funded from the revolving fund.

(3) A revolving fund established by either the state or unit of general local government shall not be directly funded or capitalized with grant funds.

c. Transfer of program income. Notwithstanding other provisions of this notice, the state may transfer program income before closeout of the grant that generated the program income to its own annual CDBG program or to any annual CDBG-funded activities administered by a unit of general local government or tribe within the state.

d. Program income on hand at the state or its subrecipients at the time of grant closeout by HUD and program income received by the state after such grant closeout shall be program income to the most recent annual CDBG program grant of the state.

17. *Waiver of state CDBG requirement for timely distribution of funds.* 24 CFR 570.494 regarding timely distribution of funds is waived.

**Notes on Applicable Statutory Requirements**

18. *Note on the eligibility of providing funds to Enterprise and Local Initiatives Support Corporation (LISC) for certain purposes.* The appropriations statute provides that the States of Louisiana and Mississippi may each use up to \$20,000,000 (with up to \$400,000 each

for technical assistance) from funds made available under this heading for LISC and the Enterprise Foundation for activities authorized by section 4 of the HUD Demonstration Act of 1993 (Pub. L. 103-120, 42 U.S.C. 9816 note), as in effect immediately before June 12, 1997, and for activities authorized under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 42 U.S.C. 12805 note), including demolition, site clearance and remediation, and program administration.

**19. Notes on rules applicable to flood buyouts activities.**

a. Payment of pre-flood values for buyouts. HUD disaster recovery entitlement communities, state grant recipients, and tribes have the discretion to pay pre-flood or post-flood values for the acquisition of properties located in a flood way or floodplain. In using CDBG disaster recovery funds for such acquisitions, the grantee must uniformly apply whichever valuation method it chooses.

b. Ownership and maintenance of acquired property. Any property acquired with disaster recovery grants funds being used to match FEMA Section 404 Hazard Mitigation Grant Program funds is subject to section 404(b)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, which requires that such property be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices. In addition, with minor exceptions, no new structure may be erected on the property and no subsequent application for federal disaster assistance may be made for any purpose. The acquiring entity may want to lease such property to adjacent property owners or other parties for compatible uses in return for a maintenance agreement. Although federal policy encourages the leasing rather than the sale of such property, the property may be sold. In all cases, a deed restriction or covenant running with the land must require that the property be dedicated and maintained for compatible uses in perpetuity.

c. Future federal assistance to owners remaining in floodplain. (1) Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a) (Section 582) prohibits disaster assistance in certain circumstances. In general, it provides that no federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration of

damage to any personal, residential, or commercial property, if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable federal law on such property. (Section 582 is self-implementing without regulations.) This means that a grantee may not provide disaster assistance for the above-mentioned repair, replacement, or restoration to a person who has failed to meet this requirement.

(2) Section 582 also implies a responsibility for a grantee that receives CDBG disaster recovery funds or that, under 42 U.S.C. 5321, designates annually appropriated CDBG funds for disaster recovery. That responsibility is to inform property owners receiving disaster assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so. These requirements are described below.

(3) Duty to notify. In the event of the transfer of any property described in paragraph d below, the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to:

(i) Obtain flood insurance in accordance with applicable federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(ii) Maintain flood insurance in accordance with applicable federal law with respect to such property. Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(4) Failure to notify. If a transferor fails to provide notice as described above and, subsequent to the transfer of the property:

(i) The transferee fails to obtain or maintain flood insurance, in accordance with applicable federal law, with respect to the property;

(ii) The property is damaged by a flood disaster; and

(iii) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage. The transferor shall be required to reimburse the federal government in an amount equal to the amount of the federal disaster relief assistance provided with respect to the property.

d. The notification requirements apply to personal, commercial, or residential property for which federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable federal law with respect to such property.

e. The term "Federal disaster relief assistance" applies to HUD or other federal assistance for disaster relief in "flood disaster areas." The term "flood disaster area" is defined in section 582(d)(2) to include an area receiving a presidential declaration of a major disaster or emergency as a result of flood conditions.

19. *Non-Federal Cost Sharing of Army Corps of Engineers Projects*. Public Law 105-276, Title II, October 21, 1998, 112 Stat. 2478, provided in part that: "For any fiscal year, of the amounts made available as emergency funds under the heading 'Community Development Block Grants Fund' and notwithstanding any other provision of law, not more than \$250,000 may be used for the non-Federal cost-share of any project funded by the Secretary of the Army through the Corps of Engineers."

#### Finding of No Significant Impact

A new Finding of No Significant Impact with respect to the environment has been 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(2)(C)). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at 202-708-3055 (this is not a toll-free number).

Dated: October 6, 2008.

**Roy A. Bernardi,**

*Deputy Secretary.*

[FR Doc. E8-24535 Filed 10-14-08; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF INTERIOR

### Office of the Secretary

#### Blackstone River Valley National Heritage Corridor Commission: Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the John H. Chafee Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, November 20, 2008.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene on November 20, 2008 at 9 a.m. at Central Mass Regional Planning Commission, located at 2 Washington Square, 2nd floor, Worcester, MA for the following reasons:

1. Approval of Minutes
2. Chairman's Report
3. Executive Director's Report
4. Financial Budget
5. Public Input

It is anticipated that about thirty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Jan H. Reitsma, Executive Director, John H. Chafee, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762-0250.

Further information concerning this meeting may be obtained from Jan H. Reitsma, Executive Director of the Commission at the aforementioned address.

**Jan H. Reitsma,**

*Executive Director, BRVNHCC.*

[FR Doc. E8-24359 Filed 10-14-08; 8:45 am]

**BILLING CODE 4310-RK-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R9-IA-2008-N0274; 96300-1671-0000-P5]

#### Issuance of Permits

**AGENCY:** Fish and Wildlife Service, Interior.