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(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 7, 2020.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6210-N-01]

### Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2020

**AGENCY:** Office of the General Counsel, Housing and Urban Development (HUD).

**ACTION:** Notice.

**SUMMARY:** Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on January 1, 2020 and ending on March 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** For general information about this notice, contact Aaron Santa Anna, Acting Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410-0500, telephone 202-708-3055 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the first quarter of calendar year 2020.

**SUPPLEMENTARY INFORMATION:**

Section 106 of the HUD Reform Act added a new section 7(q) to the

Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from January 1, 2020 through March 31, 2020. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal

Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the first quarter of calendar year 2020) before the next report is published (the second quarter of calendar year 2020), HUD will include any additional waivers granted for the first quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

The Principal Deputy General Counsel, Michael B. Williams, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Samuel Pearson-Moore, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

Dated: August 7, 2020.

**Samuel Pearson-Moore,**

*Federal Register Liaison for the Department of Housing and Urban Development.*

## Appendix

### Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development January 1, 2020 Through March 31, 2020

*Note to Reader:* More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Fair Housing and Equal Opportunity.

III. Regulatory waivers granted by the Office of Housing.

IV. Regulatory waivers granted by the Office of Public and Indian Housing.

#### Regulatory Waivers Granted by the Office of Community Planning and Development (CPD)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- *Regulations:* 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i).

*Project/Activity:* Citizen participation in substantial amendments to Consolidated Plans/Action Plans.

*Nature of Requirement:* 24 CFR 91.105(c)(2) and (k) for local governments and 24 CFR 91.115(c)(2) and (i) for States require that citizens be provided not less than 30 days to comment on substantial amendments to a jurisdiction's Consolidated Plan/Action Plan.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* Given the need to expedite actions to respond to COVID-19, HUD waived 24 CFR 91.105(c)(2) and (k), 91.115(c)(2) and (i) to balance the need to respond quickly to the growing spread and effects of COVID-19 with the statutory requirement to provide reasonable notice and opportunity for citizens to comment on substantial amendments concerning the proposed uses of funds provided under CPD's formula programs.

*Applicability:* The 30-day public comment period requirement is waived for substantial amendments, provided that no less than 5 days are provided for public comments on each substantial amendment. The waiver is available through the end of each jurisdiction's 2020 program year. Any jurisdiction wishing to undertake further amendments to prior year plans following the 2020 program year can do so during the development of its FY 2021 Annual Action Plan.

*Contact:* James Höemann, Office of Block Grant Assistance, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402-5716. [james.e.hoemann@hud.gov](mailto:james.e.hoemann@hud.gov).

- *Regulations:* 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i), 24 CFR 91.401.

*Project/Activity:* Citizen participation in substantial amendments to Consolidated Plans/Action Plans.

*Nature of Requirement:* Jurisdictions that receive funding under formula programs administered by CPD are required to follow their citizen participation plans, which identify how they are to give their citizens the opportunity to comment on substantial amendments to the Consolidated Plan/Action Plan. Those opportunities are primarily provided by public hearings and citizen meetings.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date:* March 31, 2020.

*Justification:* HUD recognizes the efforts to contain COVID-19 require limiting public gatherings, such as public hearings used to gather citizens' comments and that there is a need to respond quickly to the growing spread and effects of COVID-19. Therefore, HUD waived 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) to allow jurisdictions to determine what constitutes reasonable notice and opportunity to comment given their circumstances.

*Applicability:* This authority is in effect through the end of each jurisdiction's 2020 program year.

*Contact:* Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402-5916, [Amy.L.Palilonis@hud.gov](mailto:Amy.L.Palilonis@hud.gov).

- *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

*Project/Activity:* The city of Berkeley, California, requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by local public housing agency (PHA) for a HOME-assisted project—Grayson Street Apartments.

*Nature of Requirement:* The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

*Granted By:* David C. Woll Jr., Principal Deputy Assistant Secretary for Community Planning and Development.

*Date Granted:* February 11, 2020.

*Reason Waived:* The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility

allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

*Contact:* Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708-2684.

- *Regulation:* 24 CFR 92.300(a)(3) Rental Housing Developed by Community Housing Development Organizations (CHDO).

*Project/Activity:* The Newton HOME Consortium in Massachusetts, requested that HUD waive 24 CFR 92.300(a)(3) to permit a CHDO to transfer ownership of three HOME-assisted rental projects to the Newton Housing Authority to ensure that the units will be maintained as affordable housing for at least for the affordability period.

*Nature of Requirement:* This provision requires that rental housing developed with CHDO set-aside funds must be owned by the CHDO for a period at least equal to the period of affordability in 24 CFR 92.252.

*Granted By:* David C. Woll Jr., Principal Deputy Assistant Secretary for Community Planning and Development.

*Date Granted:* January 31, 2020.

*Reason Waived:* The Newton HOME Consortium provided HOME funds to Citizens for Affordable Housing in Newton Development Organization (CAN-DO), a CHDO, to develop 13 HOME-assisted rental projects. Of those 13 projects, three remain within the HOME affordability period and are subject to the 2013 HOME final rule. CAN-DO no longer has sufficient staff or resources to manage its HOME portfolio. Without a waiver, the affordable housing may fall into disrepair or be lost to foreclosure and the consortium would be required to repay the HOME funds invested.

*Contact:* Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708-2684.

- *Regulations:* 24 CFR 574.310(b).

*Project/Activity:* Property Standards for Tenant-Based Rental Assistance (TBRA).

*Nature of Requirement:* This section of the HOPWA regulations provides that units occupied by recipients of HOPWA TBRA meet the Housing Quality Standards (HQS) established in this section. This waiver is required to

enable grantees and project sponsors to expeditiously meet the critical housing needs of the many eligible families that have been affected by COVID-19 while also minimizing the spread of the coronavirus.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date:* March 31, 2020.

*Justification:* This waiver is required to enable grantees and project sponsors to expeditiously meet the critical housing needs of the many eligible families that have been affected by COVID-19 while also minimizing the spread of the coronavirus.

*Applicability:* This waiver is in effect 4/1/2021, for recipients and project sponsors that are able to meet the following criteria:

a. The recipient or project sponsor is able to visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and

b. The recipient or subrecipient has written policies to physically reinspect the unit after the health officials determine special measures to prevent the spread of COVID-19 are no longer necessary.

*Contact:* Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402-5916. *Amy.L.palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.310(b)(2)(iii).

*Project/Activity:* Space and Security.

*Nature of Requirement:* This section of the HOPWA regulations provide that each resident must be afforded adequate space and security for themselves and their belongings.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date:* March 31, 2020.

*Justification:* This waiver is required to enable grantees and project sponsors operating housing facilities and shared housing arrangements the flexibility to use optional appropriate spaces for quarantine services of eligible households affected by COVID-19. Optional spaces may include the placement of families in a hotel/motel room where family members may be required to utilize the same space not allowing for adequate space and security for themselves and their belongings.

*Applicability:* This space and security requirement is waived for grantees addressing appropriate quarantine space for affected eligible households during

the allotted quarantined time frame recommended by local health care professionals.

*Contact:* Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7248, Washington, DC 20410, telephone (202) 402-5916. *Amy.L.Palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.320(a)(2).

*Project/Activity:* Rent Standards.

*Nature of Requirement:* Grantees must establish rent standards for their tenant-based rental assistance programs based on FMR (Fair Market Rent) or the HUD approved community-wide exception rent for unit size. Generally, the TBRA payment may not exceed the difference between the rent standard and 30 percent of the family's adjusted income.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date:* March 31, 2020.

*Justification:* This waiver of the FMR rent standard limit permits HOPWA grantees to establish rent standards, by unit size, that are reasonable, and based upon rents being charged for comparable unassisted units in the area, taking into account the location, size, type, quality, amenities, facilities, management and maintenance of each unit.

*Applicability:* Such rent standards may be used for up to 4/1/2021.

*Contact:* Amy Palilonis, Office of HIV/AIDS Housing, Office of Community and Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402-5916. *Amy.L.Palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.530.

*Project/Activity:* Records.

*Nature of Requirement:* Each grantee must maintain records to document compliance with HOPWA requirements, which includes determining the eligibility of a family to receive HOPWA assistance.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date:* March 31, 2020.

*Justification:* This waiver will permit HOPWA grantees and project sponsors to rely upon a family member's self-certification of income and credible information on their HIV status (such as knowledge of their HIV-related medical care) in lieu of source documentation to determine eligibility for HOPWA assistance of families and grantees affected by COVID-19.

*Applicability:* This waiver is in effect for recipients who require written

certification of the household seeking assistance of their HIV status and income, and agree to obtain source documentation of HIV status and income eligibility within 3 months of public health officials determining no additional special measures are necessary to prevent the spread of COVID-19.

*Contact:* Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402-5916. *Amy.L.palilonis@hud.gov.*

• *Regulations:* 24 CFR 576.106(d)(1).

*Project/Activity:* Rental assistance funded under the Emergency Solutions Grants (ESG) Program.

*Nature of Requirement:* Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To assist recipients and subrecipients in quickly locating additional units to house individuals and families experiencing homelessness, which is necessary to prevent the spread of COVID-19.

*Applicability:* The FMR restriction is waived for any individual or family receiving rapid re-housing or homelessness prevention assistance who executes a lease for a unit between March 31 and September 30, 2020 so long as the recipient or subrecipient ensures that the units meet the rent reasonableness standard.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, *brett.d.esders@hud.gov.*

• *Regulations:* 24 CFR 576.107(a)(2).

*Project/Activity:* Homeless Management Information System (HMIS) activities funded under the ESG Program.

*Nature of Requirement:* 24 CFR 576.107(a)(2) requires the ESG recipient be the HMIS Lead in order to use ESG funds to pay eligible costs of hosting and managing the HMIS.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To allow more recipients to use ESG funding to upgrade or enhance the HMIS as needed to incorporate ESG program data related to COVID-19.

*Applicability:* The allowance for ESG recipients that are not the CoC designated HMIS Lead to pay for costs at 24 CFR 576.107(a)(2) is waived until September 30, 2020 to the extent the costs are necessary to incorporate data on ESG program participants and ESG activities related to COVID-19.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 576.401(b).

*Project/Activity:* Homelessness prevention and rapid re-housing assistance funded under the ESG Program.

*Nature of Requirement:* 24 CFR 576.401(b) requires recipients or subrecipients providing homelessness prevention assistance to re-evaluate the program participant's eligibility, and the types and amounts of assistance the program participant needs not less than once every three months.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To help program participants remain stable during the economic uncertainty caused by COVID-19.

*Applicability:* The requirement to re-evaluate program participants receiving homelessness prevention assistance not less than once every 3 months is waived until March 31, 2022 so long as the recipient or subrecipient conducts the required re-evaluations not less than once every 6 months.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 576.401(e).

*Project/Activity:* Housing stability case management funded under the ESG Program.

*Nature of Requirement:* 24 CFR 576.401(e) requires case managers to meet with program participants not less than once per month to assist program participants in ensuring long-term housing stability.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To help program participants remain stably housed and prevent the spread of COVID-19.

*Applicability:* The requirement for program participants to meet with a case manager not less than once per month is waived from March 31, 2020 until May 31, 2020.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 578.3, definition of permanent housing, 24 CFR 578.51(l)(1).

*Project/Activity:* Permanent housing projects funded under the Continuum of Care (CoC) Program.

*Nature of Requirement:* 24 CFR 578.3, definition of permanent housing, and 24 CFR 578.51(l)(1) require program participants residing in permanent housing to be the tenant on a lease for a term of one year that is renewable and terminable for cause.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To allow recipients to quickly identify permanent housing for individuals and families experiencing homelessness, which is helpful in preventing the spread of COVID-19.

*Applicability:* The requirement to have an initial lease term of one-year for permanent housing is waived until September 30, 2020, so long as the initial lease term of all leases is more than one month.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 578.37(a)(1)(ii)(F).

*Project/Activity:* Permanent housing-rapid re-housing projects funded under the CoC Program.

*Nature of Requirement:* 24 CFR 578.37(a)(1)(ii)(F) requires program participant of permanent housing-rapid re-housing projects to meet with a case manager at least monthly to assist them in ensuring long-term housing stability. The project is exempt from this requirement if the Violence Against

Women Act of 1994 (42 U.S.C. 13925 *et seq.*) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*) prohibits the recipient from making its housing conditional on the participant's acceptance of services.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To alleviate capacity issues of recipients and subrecipients as staff members are home for a variety of reasons related to COVID-19 and to solve the fact that not all program participants have the capacity to meet via phone or internet.

*Applicability:* The requirement that projects require program participants to meet with case managers not less than once per month is waived for all permanent housing-rapid re-housing projects until May 31, 2020.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 578.49(b)(2).

*Project/Activity:* Housing leased with CoC Program leasing funds.

*Nature of Requirement:* The CoC Program regulation at 24 CFR 578.49(b)(2) prohibits a recipient from using grant funds for leasing to pay above FMR when leasing individual units, even if the rent is reasonable when compared to other similar, unassisted units.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To assist recipients in locating additional units to house individuals and families experiencing homelessness and reduce the spread and harm of COVID-19.

*Applicability:* The FMR restriction on leasing individual units with CoC Program leasing dollars is waived until September 30, 2020. The affected recipient or subrecipient must still ensure that rent paid for individual units that are leased with CoC Program leasing dollars meet the rent reasonableness standard in 24 CFR 578.49(b)(2).

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 578.53(e)(8)(ii)(B) and 24 CFR 578.53(d). *Project/Activity:* Housing search and counseling services funded under the CoC Program.

*Nature of Requirement:* 24 CFR 578.53(d) limits eligible supportive service costs to those explicitly listed in 24 CFR 53(e), which is more limited than what is eligible under the McKinney-Vento Act. 24 CFR 578.53(e)(8) allows recipients and subrecipients to use funds to pay for housing search and counseling services to help program participants locate, obtain, and retain suitable housing. 24 CFR 578.53(e)(8)(ii)(B) makes eligible the costs of credit counseling, accessing a free personal credit report, and resolving personal credit issues. However, the payment of rental or utility arrears is not included as an eligible cost.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To remove barriers to obtaining housing quickly and help reduce the spread and harm of COVID-19.

*Applicability:* The allowance to pay for up to 6 months of a program participants rental and utility arrears is in place until September 30, 2020 as necessary to help program participants obtain housing.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 578.75(b)(1).

*Project/Activity:* Leasing or rental assistance projects funded under the CoC Program.

*Nature of Requirement:* 24 CFR 578.75(b)(1) requires that recipients or subrecipients physically inspect each unit to assure that it meets HQS before any assistance will be provided for that unit on behalf of a program participant.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To prevent the spread of COVID-19 by limiting the in-person requirements of recipients.

*Applicability:* The requirement to physically inspect units before providing rental assistance or leasing assistance is waived until September 30, 2020. Recipients and subrecipients must be able to meet the following criteria: (1) The recipient is able to visually inspect

the unit using technology to ensure the unit meets HQS before any assistance is provided; and (2) the recipient or subrecipient has written policies to physically re-inspect each unit within 3 months after health officials determine special measures to prevent the spread of COVID-19 are no longer necessary.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 578.75(b)(2).

*Project/Activity:* Leasing and rental assistance projects funded under the CoC Program.

*Nature of Requirement:* 24 CFR 578.75(b)(2) requires that recipients or subrecipients inspect each unit which are supported with leasing or rental assistance funds at least once annually during the grant period to ensure the units continue to meet HQS.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To prevent the spread of COVID-19 by limiting the in-person requirements of recipients.

*Applicability:* The requirement to re-inspect units to ensure they meet HQS is waived until March 31, 2021.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

- *Regulations:* 24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B).

*Project/Activity:* Permanent Supportive Housing projects funded under the CoC Program; Program records.

*Nature of Requirement:* The CoC Program interim rule at 24 CFR 578.103(a) requires recipients to maintain records providing evidence they met program requirements and 24 CFR 578.103(a)(4)(i)(B) establishes the requirements for documenting disability for individuals and families that meet the “chronically homeless” definition in 24 CFR 578.3. Acceptable evidence of disability includes intake-staff recorded observations of disability that, no later than 45 days from the application for assistance, is confirmed and accompanied by evidence in paragraphs 24 CFR 578.103(a)(4)(i)(B)(1), (2), (3), or (5). HUD is waiving the requirement to obtain additional evidence.

*Granted By:* John Gibbs, Acting Assistant Secretary for Community Planning and Development.

*Date Granted:* March 31, 2020.

*Reason Waived:* To allow recipients to house people with observed disabilities quickly while providing recipients’ intake staff with additional time to confirm disability from healthcare workers inundated by COVID-19 responses.

*Applicability:* The requirement to obtain third-party documentation of a qualifying individual’s disability is waived until September 30, 2020.

*Contact:* Brett Esders, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300, [brett.d.esders@hud.gov](mailto:brett.d.esders@hud.gov).

## II. Regulatory Waivers Granted by the Office of Fair Housing and Equal Opportunity

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR Section 115.305.

*Project/Activity:* Fair Housing Assistance Program Agencies-Temporary Waiver for Special Enforcement Effort (SEE) fund 20% limitation.

*Nature of Requirement:* As part of their participation in the FHAP, state and local agencies litigate cause findings in administrative hearings or in court.

*Granted By:* Anna Maria Farias, Assistant Secretary for Fair Housing and Equal Opportunity.

*Date Granted:* February 27, 2020.

*Reason Waived:* Commencing and maintaining litigation actions has become increasingly costly and may strain the capabilities of FHAP agencies. For FY2020, FHEO is providing an Enforcement Fund under its existing SEE fund authority set forth at 24 CFR 115.305 for the purpose of providing financial assistance to FHAP agencies struggling with these costs.

*Contact:* Erik Steinecker, Enforcement Branch, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410, telephone (202) 402-5158.

## III. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see

the name of the contact person that immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 5.801 (C) (2).

*Project/Activity:* Annual financial statement due date.

*Nature of Requirement:* For specified Multifamily and Residential Care Borrowers otherwise required to submit Annual Financial Statements on or before April 30, 2020, extend the due date of the Borrower Annual Financial Statements from 90-days to 120-days after end of the fiscal year.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

*Date Granted:* March 18, 2020.

*Reason Waived:* Due to COVID-19 National Health Emergency the Borrower Annual Financial Statements have been extended by 30-days.

*Contact:* John Hartung, Director, Policy, Risk Analysis & Lender Relations Division, Office of Residential Care Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 1222 Spruce Street, 3rd Floor, St. Louis, MO 63103, telephone (314) 418-5238.

*Regulation:* 24 CFR 203.604.

*Project/Activity:* Single Family mortgagees are required to meet with mortgagor(s) face-to-face prior to foreclosing on a property that is insured with an FHA mortgage; however, in light of the COVID-19 pandemic, meetings in person presented a general health risk to both mortgagee employees and contractors as well as borrowers and the general public.

*Nature of Requirement:* 24 CFR 203.604, Contact with the Mortgagor, requires a mortgagee to meet with mortgagor(s) face-to-face prior to foreclosing on a property. The primary purpose of the meeting is to ascertain that the mortgagor is not eligible for a loss mitigation retention option that will enable the mortgagor to avoid foreclosure.

*Granted By:* Brian Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

*Date Granted:* March 13, 2020.

*Reason Waived:* To reduce risk of exposure to COVID-19 for both employees and contractors of the mortgagee and mortgagors.

*Contact:* Elissa O. Saunders, Acting Director, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh St. SW, Room 9278, Washington, DC 20410, telephone (202) 402-2378.

- *Regulation:* 24 CFR Section 219.220(b).

*Project/Activity:* Methouse Apartments, Project Number 033-SH012, Pittsburg, PA. Owner has requested to defer the Flexible Subsidy payments in order to apply for set-aside Tenant Protection Vouchers (“TPVs”).

*Nature of Requirement:* The Section 202 direct loan totaling \$1,284,000, with a 3 percent interest rate matured April 1, 2019 and has been paid in full. Due to the limited cash flow, the project has not been able to meet the short and long-term improvement needs of the aging building. The project was awarded a Flexible Subsidy Operating Assistance Loan in the amount of \$1,301,400 in 1991 at 3 percent interest per annum. The Flexible Subsidy Loan Agreements contain a provision requiring payment of the principal and the interest, in full, if the Section 202 direct mortgage loan is refinanced or paid in full. The request to defer the Flexible Subsidy payments as part of the owner’s proposal to apply for set-aside tenant protection vouchers (TPV5), per Notice 2019-01, for the at-risk unassisted tenants at Methouse Apartments. Upon approval for the set-aside TPVs, the project will be better positioned financially to apply for a Section 223(f) loan to fund the needed \$1,600,000 of short and long-term capital needs and repay the Flexible Subsidy Loan.

*Granted By:* Brian Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

*Date Granted:* February 5, 2020.

*Reason Waived:* The owner requested and was granted a waiver of the requirement to defer repayment of the Flexible Subsidy Operating Assistance Loan. An award of PBV vouchers under the Section 223(f) loan program will ensure preservation of affordable housing for individuals and family tenants in these low-income households.

*Contact:* John Ardovini, Branch Chief, Office of Recapitalization, Multifamily, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410, telephone (202) 402-3001.

- *Regulation:* 24 CFR 232.7.

*Project/Activity:* Golden Horizons of Crosslake FHA #092-22164, is an Assisted Living/Memory Care facility. The facility does not meet the requirements of 24 CFR 232.7 “Bathroom” of FHA’s regulations. The project location is Crosslake, Minnesota.

*Nature of Requirement:* The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom

cannot be accessed from a public corridor or area.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

*Date Granted:* January 8, 2020.

*Reason Waived:* The project currently has a resident to shower ratio of 13:1. The memory care residents require assistance with bathing. These residents are housed in units in a secure, lock-down area, with a half-bathroom each and access to the shower rooms through a hallway. The project meets the State of Minnesota licensing requirements for bathing and toileting facilities.

*Contact:* John Hartung, Director of Policy, Risk Analysis & Lender Relations, Office of Residential Care Facilities, Office of Healthcare Programs, Department of Housing and Urban Development, 1222 Spruce Street, 3rd Floor, St. Louis, MO 63103, telephone (314) 418-5238.

- *Regulation:* 24 CFR 242.72.

*Project/Activity:* Metro Pavia Hospital Group, LLC (MPHG), headquartered in Guaynabo, Puerto Rico.

*Nature of Requirement:* 24 CFR 242.72 prohibits the leasing of hospitals by proposed Borrowers, effectively requiring that the owner (Borrower) of the facility and the operator of the facility be the same organization.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

*Date Granted:* March 24, 2020.

*Reason Waived:* The waiver will allow the Federal Housing Administration to refinance debt of MPHG through the hospital mortgage insurance program.

*Contact:* Paul Giaudrone, Underwriting Director, Office of Hospital Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 409 3rd Street SW, Washington, DC 20024, telephone (202) 708-0599.

*Regulation:* 24CFR 266.200(b)(2).

*Project/Activity:* California Housing Finance Agency, Sacramento, California, The Department requires, in 24 CFR 266.200(b)(2), Substantial Rehabilitation, that substantial rehabilitation (S/R) is defined as any combination of the following work to an existing facility of a project that aggregates to at least 15 percent of the project’s value after the rehabilitation and that results in material improvement of the project’s economic life, livability, marketability, and profitability.

*Nature of Requirement:* The Waiver of 24 CFR 266.200(b)(2), Substantial Rehabilitation. The waiver would

permit California Housing Finance Agency (CalHFA) to use the revised definition published in the Revised MAP Guide on January 29, 2016, such that S/R is: Any scope of work that either (a) exceeds in aggregate cost a sum equal to the 'base per dwelling unit limit' times the applicable \* High Cost Factor, or (b) replacement of two or more building systems. \*Replacement is when the cost of replacement work exceeds 50 percent of the cost of replacing the entire system.

\* The High Cost Factors for 2019 were published through a Housing Notice—2019–08 on May 20, 2019, and the revised statutory limits were recently published in the **Federal Register** on January 1, 2018. The 2019 base dwelling unit amount to determine substantial rehabilitation for FHA insured loan programs has been increased from \$15,000 (changed from \$6,500 per unit in the 2016 MAP guide) to \$15,933. This amount will change annually based upon the change in the annual Consumer Price Index (CPI), along with the statutory limits or other inflation cost index published by HUD or CalHFA can utilize the approved amounts for the applicable year for both the High Cost Factor and base dwelling unit.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

*Date Granted:* February 21, 2020.

*Reason Waived:* CalHFA was approved as a Risk Share lender since 1994. It has originated \$724 Million on Risk Share loans for 120 affordable housing developments with 12,120 units, and with a portfolio delinquency rate of less than 1%. CalHFA requests a waiver of two existing risk sharing requirements to meet agency's massive affordable housing needs in a post 1<sup>41</sup>B environment. The Department is approving your request for thirty (30) insured under the 542(c) HFA Risk Sharing Program expiring on December 31, 2023.

*Contact:* Patricia M. Burke, Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–8000, telephone (202) 402–5693.

• *Regulation:* 24 CFR 266.200(c)(2).

*Project/Activity:* The Waiver of 24 CFR 266.200(c)(2), Existing Project "Equity Take-out", that the refinancing of HFA refinance loan is permissible if the preservation is the result, with certain conditions: (1) Occupancy at least 93 percent for previous 12 months; (2) underwrite to the lower of Section 8 or market rents; (3) no equity take-outs: Risk sharing loan cannot exceed sum of

existing indebtedness, cost of repairs, and transaction costs; (4) no defaults in the last 12 months of HFA loans. The waiver of 24 CFR 266.200(c)(2) would permit equity take-outs for any existing property, including both CalHFA-financed developments and those outside of CalHFA's portfolio, to be refinanced by CalHFA, where CalHFA and HUD split the risk of loss 50/50.

*Nature of Requirement:* The Waiver of 24 CFR 266.200(c)(2), Existing Projects "Equity Take-outs". The waiver of 24 CFR 266.200(c)(2) would permit equity take-outs for any existing property, including both CalHFA-financed developments and those outside of CalHFA's portfolio, to be refinanced by CalHFA, where CalHFA and HUD split the risk of loss 50/50.

The regulatory waiver is subject to the following conditions:

1. The waiver is limited to thirty (30) projects and expires on December 31, 2023 (*i.e.*, HUD issuance of a firm approval letter by December 31, 2023).

2. CalHFA must elect to take 50 percent or more of the risk of loss on all transactions;

3. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;

4. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225;

5. CalHFA must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;

6. Occupancy is no less than 93 percent for previous 12 months;

7. No defaults in the last 12 months of the HFA loan to be refinanced;

8. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542 (c) statutory definition;

9. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and;

10. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012–14—Use of "New Regulation" Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time CalHFA determines that a project's

excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, CalHFA must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/ purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 21, 2020.

*Reason Waived:* HUD has reviewed and approved CalHFA's underwriting guidelines as indicated in Appendix B—Multifamily Loan Underwriting Standards and Reference Manual revised on November 2018. CalHFA will meet massive affordable housing needs in post CalHFA requests a waiver of two existing risk sharing requirements to meet agency's massive affordable housing needs in a post 1<sup>41</sup>B environment. The Department is approving your request for thirty (30) insured under the 542(c) HFA Risk Sharing Program expiring on December 31, 2023.

*Contact:* Patricia M. Burke, Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6132, Washington, DC, telephone (202) 402–5693.

• *Regulation:* 24 CFR 266.410(e).

*Project/Activity:* Rhode Island Housing, Providence, Rhode Island, no project name or number.

*Nature of Requirement:* The 24 CFR 266.410(e), which requires mortgages insured under the 542(c) Housing Finance Agency Risk Sharing Program to be fully amortized over the term of the mortgage. The waiver would permit Rhode Island Housing to use balloon loans that would have a minimum term of 17 years and a maximum amortization period of 40 years for the projects identified in the "Multifamily Pipeline Projects".

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 3, 2020.

*Reason Waived:* The waiver was granted to allow Rhode Island Housing's clients additional financing options to their customers and to align Rhode Island Housing business practices with industry standards. Rhode Island Housing granted an amendment of the April 12, 2018 Waiver approval of 24

CFR 266.410(e) The regulatory waiver is subject to the following conditions:

1. The waiver is limited to twelve (12) transactions and expires on December 31, 2022.

2. Rhode Island Housing must elect to take 50 percent or more of the risk of loss on all transactions;

3. Mortgages made under this waiver may have amortization periods of up to 40 years, but with a minimum term of 17 years;

4. All other requirements of 24 CFR 266.410—Mortgage Provision remain applicable. The waiver is applicable only to loans made under Rhode Island Housing's Risk Sharing Agreement;

5. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;

6. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225;

7. Rhode Island Housing must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;

8. The loans exceeding \$50 million require a separate waiver request;

9. Occupancy is no less than 93 percent for previous 12 months;

10. No defaults in the last 12 months of the HFA loan to be refinanced;

11. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;

12. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and

13. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

i. a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012–14—Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time Rhode Island Housing determines that a project's excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, Rhode Island Housing must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project

operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned.

*Contact:* Patricia M. Burke, Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6132, Washington, DC 20410, telephone (202) 402–5693.

• *Regulation:* 24 CFR 266.410(e).

*Project/Activity:* District of Columbia Housing Agency (DCHFA), Washington, DC, no project name or number.

*Nature of Requirement:* The 24 CFR 266.410(e), which requires mortgages insured under the 542(c) Housing Finance Agency Risk Sharing Program to be fully amortized over the term of the mortgage. The waiver would permit DCHFA to use balloon loans that would have a minimum term of 17 years and a maximum amortization period of 40 years for the projects identified in the “Multifamily Pipeline Projects”.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 3, 2020.

*Reason Waived:* The waiver was granted to allow DCHFA's clients additional financing options to their customers and to align DCHFA business practices with industry standards, thus furthering the creation of a preservation of affordable housing throughout Washington, DC. The regulatory waiver is subject to the following conditions:

1. This waiver is limited to the projects listed in DCHFA's “Multifamily Pipeline Projects” and expires on December 31, 2022.

2. DCHFA must elect to take 50 percent or more of the risk of loss on all transactions.

3. Mortgages made under this waiver may have amortization periods of up to 40 years, but with a minimum term of 17 years.

4. All other requirements of 24 CFR 266.410—Mortgage Provision remain applicable. The waiver is applicable only to loans made under DCHFA's Risk Sharing Agreement.

5. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents.

6. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225.

7. DCHFA must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions.

8. The loans exceeding \$50 million require a separate waiver request.

9. Occupancy is no less than 93 percent for previous 12 months.

10. No defaults in the last 12 months of the HFA loan to be refinanced.

11. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition.

12. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and

13. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

i. a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012–14—Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time DCHFA determines that a project's excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, DCHFA must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned.

*Contact:* Patricia M. Burke, Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6132, Washington, DC 20410–8000, telephone (202) 402–5693.

• *Regulation:* 24 CFR 266.410(e).

*Project/Activity:* New York Housing Development Corporation (NYHDC), New York, New York, no project name or number.

*Nature of Requirement:* The 24 CFR 266.410(e), which requires mortgages insured under the 542(c) Housing Finance Agency Risk Sharing Program to be fully amortized over the term of the mortgage. The waiver would permit NYHDC to use balloon loans that would have a minimum term of 17 years and a maximum amortization period of 40 years for the projects identified in the “Multifamily Pipeline Projects”.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 3, 2020.

*Reason Waived:* The waiver was granted to allow NYHDC's clients additional financing options to their customers and to align NYHDC business practices with industry standards, thus furthering the creation of a preservation of affordable housing throughout Washington, DC.

The regulatory waiver is subject to the following conditions:

1. The waiver is limited to ten (10) transactions and expires on December 31, 2021.

2. New York City Housing Development Corporation must elect to take 50 percent or more of the risk of loss on all transactions;

3. Mortgages made under this waiver may have amortization periods of up to 40 years, but with a minimum term of 17 years;

4. All other requirements of 24 CFR 266.410—Mortgage Provision remain applicable. The waiver is applicable only to loans made under New York City Housing Development Corporation's Risk Sharing Agreement;

5. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;

6. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225;

7. New York City Housing Development Corporation must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;

8. The loans exceeding \$50 million require a separate waiver request;

9. Occupancy is no less than 93 percent for previous 12 months of the HFA loan to be refinanced;

10. No defaults in the last 12 months of the HFA loan to be refinanced;

11. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition.

12. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and

13. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

i. a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR

883.306(e), and Housing Notice 2012–14—Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time New York City Housing Development Corporation determines that a project's excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, New York City Housing Development Corporation must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned.

*Contact:* Patricia M. Burke, Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6132, Washington, DC 20410–8000, telephone (202) 402–5693.

## II. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 972.212(b).

*Project/Activity:* Housing Authority of St. Louis County (HASLC) Voluntary Conversion Application from Section 9 (public housing) to Section 8 (tenant voucher-based assistance) and a Voluntary Conversion Plan, identified as application DDAOO 10432.

*Nature of Requirement:* 24 CFR 972.212(b) states that HUD will not approve a voluntary conversion plan until completion of the required environmental review under part 58 or part 50.

*Granted By:* R. Hunter Kurtz, Assistant Secretary for Public and Indian Housing, granted this pursuant to 24 CFR 5.110, and found good cause to approve HASLC's request for the waiver noted above, thus allowing for PIH's approval of the subject Voluntary Conversion Plan and expediting the provision of tenant-based (Housing Choice Voucher) assistance for residents of the former Wellston Housing Authority public housing properties. Note that PIH did not waive the requirement in 24 CFR 972.212(b) that a Public Housing Authority (PHA) may not demolish or dispose of units or

property until competition of the environmental review.

*Date Granted:* January 13, 2020.

*Reason Waived:* This will allow HASLC to request and receive Tenant Protection Vouchers (TPVs) from HUD and begin the process of converting the units from public housing by providing relocation opportunities to the residents with Housing Choice Voucher (HCV) tenant-based assistance.

*Contact:* Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402–4780.

• *Regulation:* 24 CFR 972.218(a)–(e).

*Project/Activity:* Housing Authority of St. Louis County (HASLC) Voluntary Conversion Application from Section 9 (public housing) to Section 8 (tenant voucher-based assistance) and a Voluntary Conversion Plan, identified as application DDAOO 10432.

*Nature of Requirement:* 24 CFR 972.218(a)–(e) requires that a PHA submit a Conversion Assessment “cost test.”

*Granted By:* R. Hunter Kurtz, Assistant Secretary for Public and Indian Housing, granted this pursuant to 24 CFR 5.110 and Section 22(b)(3) of the 1937 Act, and found good cause to approve HASLC's request for the waiver noted above, thus allowing for PIH's approval of the subject Voluntary Conversion Plan and expediting the provision of tenant-based (Housing Choice Voucher) assistance for residents of the former Wellston Housing Authority public housing properties.

*Date Granted:* January 13, 2020.

*Reason Waived:* This will allow HASLC to request and receive Tenant Protection Vouchers (TPVs) from HUD and begin the process of converting the units from public housing by providing relocation opportunities to the residents with Housing Choice Voucher (HCV) tenant-based assistance.

*Contact:* Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402–4780.

• *Regulation:* 24 CFR 972.227(c)(1)(i).

*Project/Activity:* Housing Authority of St. Louis County (HASLC) Voluntary Conversion Application from Section 9 (public housing) to Section 8 (tenant voucher-based assistance) and a Voluntary Conversion Plan, identified as application DDAOO 10432.

*Nature of Requirement:* 24 CFR 972.227(c)(1)(i) requires for resident consultation specifically to include an explanation of the requirements of Section 22 of the 1937 Act as they apply to residents of the properties subject to Voluntary Conversion.

*Granted By:* R. Hunter Kurtz, Assistant Secretary for Public and Indian Housing, granted this pursuant to 24 CFR 5.110, and found good cause to approve HASLC's request for the waiver noted above, thus allowing for PIH's approval of the subject Voluntary Conversion Plan and expediting the provision of tenant-based (Housing Choice Voucher) assistance for residents of the former Wellston Housing Authority public housing properties.

*Date Granted:* January 13, 2020.

*Reason Waived:* This will allow HASLC to request and receive Tenant Protection Vouchers (TPVs) from HUD and begin the process of converting the units from public housing by providing relocation opportunities to the residents with Housing Choice Voucher (HCV) tenant-based assistance.

*Contact:* Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402-4780.

[FR Doc. 2020-17658 Filed 8-11-20; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R1-ES-2020-N105;  
FXES1114010000-201-FF01E00000]

#### Proposed Habitat Conservation Plan for the Taylor's Checkerspot Butterfly and Three Subspecies of the Mazama Pocket Gopher, Puget Sound Energy; Categorical Exclusion

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the Fish and Wildlife Service (Service), received an application from Puget Sound Energy (applicant) for an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended. The ITP would authorize the applicant's take of three threatened subspecies of the Mazama pocket gopher incidental to otherwise lawful activities during replacement, repair, and upgrade of existing utility systems in Thurston

County, Washington. The application includes a habitat conservation plan (HCP) with measures to minimize and mitigate the impacts of the taking on the covered species, including maintenance of occupied habitat. The HCP would also result in habitat improvement for the endangered Taylor's checkerspot butterfly, which is not a covered species, at one mitigation site. The Service has prepared a draft environmental action statement for our preliminary determination that the HCP and permit decision may be eligible for a categorical exclusion under the National Environmental Policy Act. We invite the public to review and comment on these documents.

**DATES:** To ensure consideration, please submit written comments by September 11, 2020.

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods:

- *Internet:* You may view or download copies of the HCP, draft EAS, and additional information on the internet at <http://www.fws.gov/wafwo/>.
- *Email:* [wfwocomments@fws.gov](mailto:wfwocomments@fws.gov).

Include "PSE HCP" in the subject line of the message.

- *U.S. Mail:* Public Comments Processing, Attn: FWS-R1-ES-2020-N105; U.S. Fish and Wildlife Service; Washington Fish and Wildlife Office; 510 Desmond Drive SE, Suite 102; Lacey, WA 98503.

**FOR FURTHER INFORMATION CONTACT:** Tim Romanski, Conservation Planning and Hydropower Branch Manager, Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **ADDRESSES**), telephone: 360-753-5823. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** We, the Fish and Wildlife Service (Service), received an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). If the application is approved, the ITP would authorize the applicant's "take" of three threatened subspecies of the Mazama pocket gopher (*Thomomys mazama pugetensis*, *T. m. yelmensis*, and *T. m. tumuli*) incidental to otherwise lawful activities during replacement, repair, and upgrades of existing utility systems in Thurston County, Washington, for a period of 5 years. The application includes a habitat conservation plan (HCP) with measures to minimize and mitigate the impacts of the taking on the above covered species, and to improve

habitat for the endangered Taylor's checkerspot butterfly (*Euphydryas editha taylori*), which is not a covered species. We have also prepared a draft environmental action statement (EAS) for our preliminary determination that the HCP and permit decision may be eligible for a categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

### Background

Puget Sound Energy proposes to conduct maintenance, replacement, and upgrades of existing electric power and natural gas systems in Thurston County, Washington. Covered activities may include pole replacement, cable or pipe repairs, and tree pruning projects for purposes of safety and efficiency. Work may also include conversion of overhead power lines to underground power lines in existing rights-of-way, short extension of existing feeder lines, and new gas service to existing homes where the gas supply pipes already exists at the street. In some cases, project activity would occur in potential habitat for three subspecies of the Mazama pocket gopher, but would not occur in critical habitat for these species. Puget Sound Energy would offset impacts to each of the covered species through the establishment and maintenance of permanent mitigation sites. Specifically, the applicant would permanently maintain suitable breeding, feeding and sheltering habitat for each of the covered species. In addition, the applicant would improve habitat for the Taylor's checkerspot butterfly at one mitigation site. However, the applicant does not anticipate any take of Taylor's checkerspot butterfly, and is not currently seeking ITP coverage for take of the Taylor's checkerspot butterfly.

The permit area includes 340,000 acres of lands in Thurston County, bounded to the west by the Black River and to the north by Interstate 5, and an area of more-preferred soils for the Mazama pocket gopher, as depicted in the HCP (Figure 3-1). The permit area encompasses lands where covered activities may occur, as well as 13 parcels of mitigation lands at 5 locations where mitigation would occur. The Service proposes to issue an ITP with a term limit of 5 years based on Puget Sound Energy's commitment to implement their proposed HCP, if permit issuance criteria are met.

### Endangered Species Act

Section 9 of the ESA (16 U.S.C. 1531 *et seq.*) prohibits "take" of fish and wildlife species listed as endangered or threatened. Under the ESA, the term "take" means to harass, harm, pursue,