

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Plan for Retrospective Review of Regulatory Actions under E.O. 13563

I. INTRODUCTION

HUD plays a significant role in the lives of families and in communities throughout America. HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. Consistent with that mission, HUD has statutory responsibility for a wide variety of regulations. HUD's regulatory programs and initiatives help create suitable living environments, and help to ensure that all citizens have access to decent, safe, and sanitary housing. HUD's regulations also assist in the enforcement of the nation's fair housing laws. HUD regulations also govern the provision of housing and other essential support to a wide range of individuals and families with special needs, including homeless individuals, the elderly, and persons with disabilities.

On January 18, 2011, President Obama issued Executive Order 13563, "Improving Regulation and Regulatory Review."¹ The Executive Order requires federal agencies to seek less costly, less burdensome, more affordable, less intrusive ways to achieve policy goals and give careful consideration to the benefits and costs of those regulations. Agencies are directed to tailor their regulations to impose the minimal amount of burden on society to obtain regulatory objectives. The Executive Order also emphasizes the importance of meaningful public participation in the rulemaking process, and encourages agencies to increase their use of online technologies to simplify and facilitate participation for all stakeholders. Executive Order 13563 also requires agencies to coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.

The Executive Order recognizes that these principles should guide the federal government's approach not only to new regulations, but to existing ones as well. To that end, agencies are required to review existing significant regulations to determine if they are outmoded, ineffective, insufficient or excessively burdensome. Executive Order 13563 also requires that each agency develop and submit to the Office of Management and Budget's Office of Information and Regulatory Affairs a preliminary plan for periodically reviewing existing significant regulations so as to make the agency's regulatory program more effective or less burdensome in achieving regulatory objectives.

¹ The Executive Order was subsequently published in the Federal Register on January 21, 2011, at 76 FR 3821.

On March 2, 2011, at 76 FR 11395, HUD published a notice in the Federal Register inviting public comments, through May 2, 2011, to assist in the development of the plan required by the Executive Order and in identifying specific current regulations that should be the subject of HUD review. HUD received comments from 42 commenters, including nonprofit advocacy groups, private industry groups, housing authorities, and private individuals, amounting to more than 300 specific suggestions. Most of the comments were in regards to specific program regulations; however, HUD also received several comments on the retrospective review process itself. HUD solicited public comment on the Department's preliminary plan and list of candidate rules through a second Federal Register notice published on June 2, 2011, at 76 FR 31844. This plan follows publication of HUD's June 2, 2011, notice, and takes into consideration the comments received on the two Federal Register notices.

The appendix to this plan identifies the initial set of HUD regulatory actions being taken in response to Executive Order 13563 and the concerns raised by the commenters. HUD's review of the comments received in response to the Federal Register notices is ongoing and the list of rules will be expanded based on that ongoing assessment. HUD notes that many of the public comments requested changes that would require statutory amendments and, therefore, at this time HUD is unable to accommodate those suggested changes. Many of the comments also recommended changes to HUD's processes, as opposed to program requirements. HUD appreciates these comments and will continue to streamline these processes as its updates to its technological systems come on line.

The reforms listed in the Appendix promise to produce significant savings in terms of burdens. For example, one of the proposed rules would remove the time restrictions on the use of Federal Housing Administration (FHA) financing to purchase properties that are resold after the previous acquisition within certain time periods. Up until now, HUD has handled this issue through regulatory waivers, which have enabled FHA to insure 17,114 mortgages that would not have been eligible for FHA insurance otherwise. In addition, overall HUD real estate owned (REO) purchases and investor purchases have increased by 20 and 25 percent, respectively. Permanent codification of this policy will have a significant and positive impact on the availability of FHA mortgage insurance. Another example is the final rule to revise the application process for participation in HUD's mixed finance public housing development programs by simplifying and streamlining the application, review, and approval processes. The amendments will significantly reduce the document submission burdens on public housing agencies. HUD estimates that a potential maximum of \$7.5 million could be saved annually with the implementation of the final rule.

Executive Order 13563 calls not for a single exercise, but for "periodic review of existing significant regulations," with close reference to empirical evidence. It explicitly states that "retrospective analyses, including supporting data, should be released online wherever possible." Consistent with the commitment to periodic review and to public participation, HUD will continue to assess its existing significant regulations in accordance with the requirements of Executive Order 13563. HUD welcomes public suggestions about appropriate reforms. If, at any time, members of the public identify possible reforms to streamline requirements and to reduce existing burdens, HUD will give those suggestions careful consideration.

II. PLAN FOR RETROSPECTIVE REVIEW OF HUD REGULATORY ACTIONS

In accordance with Executive Order 13563, this document sets forth HUD's plan for the periodic review of its existing regulations to determine whether any of these regulations should be modified, streamlined, expanded, or repealed. As appropriate for a "look back" at existing regulatory actions, HUD will review regulations that have been in effect for a sufficient amount of time to warrant a fair evaluation, rather than revisiting recently issued rules. HUD's retrospective reviews will complement its ongoing efforts to improve the effectiveness of its regulations. HUD will continue to amend its regulations as needed to eliminate unjustified burdens and costs, to reflect policy determinations, or better to adapt to changing circumstances and market conditions.

A. HUD General Policy on Retrospective Regulatory Review

In accordance with the procedures established by this plan, HUD will undertake periodic review of its regulations. The purpose of this review is to assess whether HUD's regulations remain current, necessary, are appropriately tailored to the subject matter of the regulation, and achieve regulatory objectives without imposing unwarranted costs and burdens. HUD is committed to maintaining a culture of retrospective review. Where appropriate and consistent with applicable law, HUD will incorporate experimental designs in reviewing existing and prospective regulations and solicit the peer review of data underlying new or revised regulatory policies.

B. Role of the Office of General Counsel

The Office of General Counsel, as an independent office from the offices responsible for implementing regulations and as HUD's office with responsibility for overseeing the Department's compliance with Executive Orders and the legal requirements governing the federal rulemaking process, will be HUD's principal point of contact for the retrospective review of regulatory actions. The Principal Deputy General Counsel is HUD's Regulatory Policy Officer under Executive Order 12866, "Regulatory Planning and Review," and will oversee the work of the Office of General Counsel in this regard.

C. Public Input

Public input is a principal component of HUD's rulemaking process, and will be a principal component of HUD's retrospective regulatory review efforts. Executive Order 13563 emphasizes the importance of public participation, and it is HUD's policy to provide for meaningful public input in the rulemaking process.² The knowledge of the effects of regulations is widely dispersed in society, and members of the public have valuable information and perspectives on the usefulness and impacts of HUD's rules.

² See HUD's rule on rulemaking policies and procedures at 24 CFR 10.1.

HUD is taking the following steps to actively solicit the input of stakeholders and members of the general public in identifying specific current regulations that may be obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive and, therefore, should be subject to retrospective review:

1. Regulatory review website and e-mail inbox. HUD will establish a regulatory review website to solicit input and update the public on HUD's regulatory review efforts. The website, which will link to appropriate government-wide websites, will contain a link to this plan, to the list of candidate rules that HUD intends to review, as well as to other useful sites providing information on HUD rules and the federal rulemaking process in general. The website will direct interested members of the public to HUD's e-mail inbox at RegulatoryReview@hud.gov which parties may use, on an ongoing basis, to identify regulations that may be in need of review.

2. Solicitation for public input in HUD's Semiannual Regulatory Agenda. Section 4(b) of Executive Order 12866, "Regulatory Planning and Review," requires each department or agency to prepare semiannually an agenda of: (1) regulations that the department or agency has issued or expects to issue, and (2) rules currently in effect that are under departmental or agency review.³ HUD customarily includes the following solicitation for public comment in the preamble to its Semiannual Agenda of Regulations:

Since the purpose of publication of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about the Department's future regulatory actions, HUD invites all interested members of the public to comment on the rules listed in the agenda.

3. Solicitation for public input on HUD rules. When appropriate, HUD will add the following solicitation for comment in the "Findings and Certifications" section of the preamble to its rules issued for public comment:⁴

Retrospective Review of Regulatory Actions.

In accordance with Executive Order 13563, "Improving Regulation and Regulatory Review," HUD has reviewed the program regulations in their entirety in the development of this rule to evaluate their continued effectiveness in addressing circumstances for which the regulations were promulgated. HUD specifically solicits comments on whether, in addition to the regulatory changes contained in this rule, the program regulations should be modified, streamlined, expanded, or repealed so as to make the HUD's regulatory program more effective or less burdensome in achieving regulatory objectives.

³ Executive Order 12866 was originally issued on September 30, 1993 and subsequently published in the Federal Register on October 4, 1993, at 58 FR 51735.

⁴ As implied by its name, the "Findings and Certifications" section of the preamble to HUD's rules provides statements indicating HUD's compliance with the authorities governing the rulemaking process, including Executive Order 12866, "Regulatory Planning and Review," the Regulatory Flexibility Act, the Paperwork Reduction Act, the National Environmental Policy Act, and the Unfunded Mandates Reform Act.

4. Public meetings. HUD, as appropriate, will convene town hall meetings open to the general public and meetings with affected stakeholders to solicit public feedback on rules that may merit retrospective review.

5. HUD Ideas in Action. HUD, as appropriate, will make use of its idea generation tool, HUD Ideas in Action,⁵ to allow public stakeholders to submit ideas on regulations that should be reexamined. Users can then vote and submit comments on those ideas.

HUD Ideas in Action is designed to:

- Engage employees and stakeholders through an open and transparent process to ensure every employee has a voice in the way the agency and its operations evolve;
- Collect constant, fresh input and perspectives on how to improve HUD's ability to achieve its mission; and
- Disseminate information about new and existing programs, initiatives, and policies.

6. Working with state, local, and tribal governments. In accordance with President Obama's memorandum to the heads of executive departments and agencies dated February 28, 2011, entitled "Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments," HUD will work with state, local, and tribal governments to identify the best opportunities to realize efficiency, promote program integrity, and improve program outcomes, including opportunities, consistent with law, that reduce or streamline duplicative paperwork, reporting, and regulatory burdens and those that more effectively use federal resources across multiple programs or states.

D. Coordination with Other Forms of Retrospective Analysis and Review

HUD currently undertakes efforts to retrospectively review its regulations and will build upon those efforts in its implementation of Executive Order 13563.

1. Comprehensive review of regulations during development of amendments. It is HUD's practice to review regulations in their entirety when developing amendments to specific sections of those regulations. HUD program staff and legal counsel review the regulations to determine whether they are outmoded, ineffective, or excessively burdensome, and therefore should be amended or removed. For purposes of implementing Executive Order 13563, HUD will expand upon this current practice by, as noted, including language in the preambles to its rules advising the public that HUD has undertaken a comprehensive review of the relevant regulations and soliciting public comment as to whether further amendments are merited.

2. Manufactured housing consensus committee. The Manufactured Housing Consensus Committee (MHCC) is a statutory federal advisory committee charged with providing recommendations to the Secretary on the revision and interpretation of HUD's manufactured

⁵ See the HUD Ideas in Action website, at http://portal.hud.gov/hudportal/HUD?src=/open/innovation_ideas_in_action.

home construction and safety standards and related procedural and enforcement regulations. The MHCC was established under section 604(a)(3) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.⁶ The MHCC serves as an ongoing forum for soliciting stakeholder feedback on HUD's regulation of the manufactured housing industry.

3. Regulatory Flexibility Act. Section 610 of the Regulatory Flexibility Act (RFA) requires federal agencies to review regulations that have a significant economic impact on a substantial number of small entities within 10 years of their adoption as final rules.⁷ As an agency with a primary mission that revolves around the awarding of grants and other forms of assistance, HUD does not issue many rules having a significant economic impact on small entities, as defined by the RFA. However, in conducting the review of a regulation subject to section 610 of the RFA, HUD will also retrospectively review the rule for purposes of Executive Order 13563. In addition, HUD conducts an analysis of the impact on small entities for every rule that the Department publishes. This analysis helps to ensure HUD's commitment to the principles of the RFA in every regulatory issuance, even beyond the 10-year review.

Further, in accordance with President Obama's memorandum to the heads of federal executive departments and agencies dated January 18, 2011, entitled "Regulatory Flexibility, Small Business, and Job Creation,"⁸ HUD will, when initiating rulemaking that will have a significant economic impact on a substantial number of small entities, give serious consideration, consistent with law and regulatory objectives, to reducing regulatory burdens on small businesses, through increased flexibility. Such flexibility may take many forms, including:

- Extended compliance dates that take into account the resources available to small entities;
- Performance standards rather than design standards;
- Simplification of reporting and compliance requirements (as, for example, through streamlined forms and electronic filing options);
- Different requirements for large and small firms; and
- Partial or total exemptions.

E. Prioritization

HUD will consider the following factors, among others, in prioritizing rules for retrospective review. The following list is not exclusive, but provides examples of the types of factors that HUD will consider in determining whether a particular regulation merits retrospective review. HUD will make such determinations on a case-by-cases basis based on the specific factors for each rule.

1. Identified by the public. HUD will prioritize regulations for review that have been identified by affected stakeholders.

⁶ 42 U.S.C. 5403.

⁷ 5 U.S.C. 610.

⁸ The memorandum was subsequently published in the Federal Register on January 21, 2011, at 76 FR 3827.

2. Widely-used regulations. HUD recognizes that the effectiveness of its most widely-used or relied upon programs often depend upon the effectiveness of the regulations that serve as the foundation for the programs. Not only will the need for revision be more evident for such regulations, but any changes to those programs may have the greatest positive impact on HUD's mission. Examples of HUD's widely used program regulations include the Community Development Block Grants program (24 CFR part 570), the Federal Housing Administration single family and multifamily mortgage insurance programs (24 CFR parts 202, 203, and 207), the Public Housing Operating Fund program (24 CFR part 990), the Public Housing Capital Fund program (24 CFR Part 905), and the Housing Choice Voucher program (24 CFR part 982), to name a few.

3. Complexity and scope of regulations. HUD will consider the overall number, complexity, and structure of the regulations for a specific program in determining the frequency of retrospective review. HUD programs with few or closely linked regulatory requirements may lend themselves to a periodic comprehensive review of all regulatory requirements. Other programs, either because of the number of regulations or the far-reaching scope of the requirements, may be subject to more frequent or ongoing reviews, with each review focused on a particular component of the regulations. For example, HUD's public housing programs and multifamily assisted housing programs both provide rental assistance to lower income households. However, because of the governmental nature of public housing agencies, the regulations for the public housing program are more numerous and detailed. HUD may elect to comprehensively review all of the multifamily assistance program regulations once every few years, while, in the public housing context, it may be more appropriate for HUD to conduct ongoing reviews focused on specific regulatory requirements (such as the Public Housing Agency Plan requirements, the Operating and Capital Funds, and the Public Housing Assessment System requirements, among others).

4. Need for regulatory waiver. HUD will prioritize review of any regulation which becomes the subject of frequent requests for waivers by affected stakeholders, and HUD has determined that good cause exists for the granting of waivers.

F. Analysis of Costs, Benefits, and Reduced Regulatory Burden

HUD will analyze the costs and benefits (both quantitative and qualitative) of regulations selected for retrospective review where HUD determines, with OMB concurrence, that the rule is a significant regulatory action. HUD will also attempt to measure the reduction in regulatory burden resulting from the modification or repeal of a rule that was subject to a retrospective review. HUD posts the economic analyses for its rule on www.regulations.gov. For rules issued pursuant to Executive Order 13563 and this plan, HUD will also make the analyses available on its regulatory review website.

III. UPCOMING REGULATORY REVIEW

The Appendix to this Plan identifies the initial list of HUD rules initiated in response to Executive Order 13563. The Appendix includes rules governing Federal Housing Administration programs, including Single-Family and Multifamily Mortgage Insurance, Office of Public and Indian Housing programs, including Public Housing and Section 8, and Community Planning and Development programs.

IV. FOR FURTHER INFORMATION CONTACT

Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10282, Washington, DC 20410; telephone number 202-708-1793 (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 Information Relay Service at 800-877-8339.

Appendix
Regulatory Actions to Implement Executive Order 13563, Improving Regulation and Regulatory Review
Regulatory Actions Planned or Underway

Regulation	Description	Regulatory Review Action
Office of Housing – Federal Housing Administration		
Federal Housing Administration (FHA): Refinancing an Existing Cooperative under Section 207 Pursuant to Section 223(f) of the National Housing Act; Final Rule 24 CFR 200.24	This final rule will remove a regulatory barrier to the refinancing of existing mortgage debt with FHA insurance by owners of multifamily cooperative housing projects. Although the statutory language authorizing such insurance does not distinguish between rental or cooperative multifamily projects, HUD’s current regulations limit FHA insurance to existing rental projects. Given the current state of the capital markets and the significant downturn in the multifamily market, HUD determined it is an appropriate time to reconsider this regulatory imposed limitation with respect to the mortgage insurance for the refinancing of cooperative projects. The final rule follows publication of a February 1, 2011, proposed rule (76 FR 5518).	<ul style="list-style-type: none"> Removes a regulatory restriction on FHA refinancing of existing mortgage debt by owners of multifamily cooperative projects, thus expanding the number of individuals eligible to participate in FHA programs.

Regulation	Description	Regulatory Review Action
Office of Housing – Federal Housing Administration		
<p>Streamlining Inspection and Warranty Requirements for Federal Housing Administration (FHA) Single Family Mortgage Insurance: Removal of the FHA Inspector Roster and of the Ten-Year Protection Plan Requirements for High Loan-to-Value Ratio Mortgages; Proposed Rule</p> <p>24 CFR 200.145, 203.18, 203.50, and 203.200-209.</p>	<p>This proposed rule would streamline the inspection and home warranty requirements for FHA single family mortgage insurance. HUD’s regulations currently require the use of an inspector listed on FHA’s Inspector Roster as a condition for FHA mortgage insurance. The Inspector Roster lists inspectors selected by FHA as eligible to determine if the construction quality of a one unit property is acceptable as security for an FHA-insured loan. Current regulations also require newly constructed homes to have a 10-year protection plan in order to qualify for high loan-to-value (LTV) FHA-insured mortgages. Although such protection plans are no longer statutorily mandated, HUD continued to require the plans through regulation. The proposed streamlining changes recognize the sufficiency and quality of inspections carried out by local jurisdictions as a result of the building permit and certification of occupancy processes.</p>	<ul style="list-style-type: none"> • Removes the regulations for the FHA Inspector Roster, making it easier for lenders and borrowers to have inspections performed and streamlining the mortgage insurance application process. • Removes the outdated 10-year protection plan requirement for high LTV newly constructed single family homes securing FHA-insured mortgages. This eliminates an unnecessary layer of regulatory burden.
<p>Approval of Farm Credit System Lending Institutions in FHA Mortgage Insurance Programs; Proposed Rule</p> <p>2CFR Part 202</p>	<p>This proposed rule would amend HUD regulations to enable the direct lending institutions of the Farm Credit System to seek approval to participate in the FHA mortgage insurance programs as approved mortgagees and lenders. HUD’s current regulations governing the approval of lending institutions at 24 CFR part 202 regulations do not currently authorize such approval. Recent difficulties in mortgage finance markets have reduced the availability of housing credit in rural areas. HUD proposes to extend FHA mortgagee and lender eligibility to the Farm Credit System to provide an additional avenue for mortgage financing in these areas.</p>	<ul style="list-style-type: none"> • Enables direct lending institutions of the Farm Credit System to seek approval as FHA mortgagees and lenders, removing a regulatory barrier to participation in FHA programs.

Regulation	Description	Regulatory Review Action
Office of Housing – Federal Housing Administration		
<p>Expansion of Eligibility of Nonprofit Organizations to Participate in FHA Single Family Mortgage Insurance Programs; Proposed Rule</p> <p>24 CFR Part 203</p>	<p>The FHA Nonprofit Organization Roster lists nonprofit organizations that HUD has determined are qualified to participate in certain specified FHA single family activities. This proposed rule will expand the eligibility of nonprofit organizations for placement on the roster and thereby help provide affordable housing opportunities through secondary financing and other activities.</p>	<ul style="list-style-type: none"> • Expands roster eligibility to include nonprofit organizations created by state and local governments that qualify for tax exemption under section 115 of the Internal Revenue Code. • Removes requirement that a nonprofit organization have a voluntary board in order to be eligible for roster placement.
<p>Federal Housing Administration (FHA) Single Family Mortgage Insurance: Removal of Requests for Alternative Mortgage Amounts; Proposed Rule</p> <p>24 CFR 203.18b</p>	<p>This proposed rule would remove the regulations providing for requests for an alternative maximum mortgage amount in the FHA single family mortgage insurance programs and, in doing so, would establish certainty in FHA’s annual announcement of applicable maximum mortgage amounts for the calendar year. The existing regulations provide for requests to be submitted at any time with no end date provided for the submission of requests. This open-ended practice, initiated in 1980, does not bring stability to a mortgage market. Over 30 years later, the quality of FHA’s data in establishing mortgage amounts for any given geographic area is such that the requests for alternative mortgage amounts have dropped dramatically in the past few years so that no requests were submitted to FHA in calendar year 2010. The removal of this process in and of itself will signal the certainty to FHA’s annual announcement of maximum mortgage amounts.</p>	<ul style="list-style-type: none"> • Brings certainty to and streamlines the announced maximum mortgage amounts for each calendar year, by removing a regulation that is no longer relevant.

Regulation	Description	Regulatory Review Action
Office of Housing – Federal Housing Administration		
<p>Federal Housing Administration (FHA): Suspension of FHA’s Regulation Placing Time Restrictions on Resale of FHA-Insured Property Proposed Rule</p> <p>24 CFR 203.37a</p>	<p>This proposed rule would suspend HUD’s regulations placing time restriction on the resale of FHA-insured property. Resale of a property recently acquired at an artificially inflated value for a considerable profit, often as a result of a lender’s collusion with the appraiser, is referred to as property “flipping.” In an effort to preclude this collusion with respect to mortgages insured by FHA, HUD regulations at 24 CFR 203.37a provide that FHA, with certain exceptions, will not insure a mortgage if the contract of sale is executed within 90 days of acquisition of the property by the seller. Section 203.37a was promulgated at a time when the housing market was inflated and consequently property flipping was more prevalent and profitable. The proposed rule would give HUD the discretion to reactivate the time resale restrictions if HUD determines that activation is necessary to protect the FHA insurance fund and consumers. HUD determined that the current market has changed to such a degree that the time resale restrictions are currently impractical and impede rehabilitation of foreclosed and abandoned homes. With the downturn in the housing market, acquisition and resale of properties is an important part of stabilizing the market.</p>	<ul style="list-style-type: none"> • Removes permanent time restrictions on resale of FHA-insured properties, thus lifting burdensome regulatory impediments to receiving FHA mortgage insurance.

Regulation	Description	Regulatory Review Action
Office of Housing – Federal Housing Administration		
<p>Federal Housing Administration (FHA): Suspension of Single Family Mortgage Insurance for Military Impacted Areas; Proposed Rule</p> <p>24 CFR 203.43e</p>	<p>This proposed rule would suspend FHA’s military impacted areas program, and remove the regulations for the program at 24 CFR 203.43e. Section 238(c) of the National Housing Act authorizes HUD to insure mortgages executed in connection with the construction, repair, rehabilitation, or purchase of property located near any installation of the Armed Forces of the United States in federally impacted areas. The program has been little utilized by eligible borrowers. Additionally, these mortgage loans are insured under comparable terms and conditions as HUD’s primary single family mortgage insurance program under section 203(b) of the National Housing Act. Accordingly, those borrowers that would be served under section 238(c) of the Act are served equally well under the section 203(b) mortgage insurance program. The President’s Budget for Fiscal Year 2011 acknowledges the underutilization of the Section 238(c) program and advised that HUD would take action to halt the availability of the program in light of significant underutilization.</p>	<ul style="list-style-type: none"> • Removes regulations for an underutilized program, streamlining the application process for FHA-insured mortgages.
<p>Federal Housing Administration (FHA): Approval of Lending Institutions and Mortgagees— Alternative Reporting Requirements for Small Supervised Lenders</p> <p>24 CFR 202.5 and 202.6</p>	<p>This proposed rule would create alternative financial statement reporting requirements for FHA-approved lenders and mortgagees supervised by a Federal banking agency and possessing consolidated assets of less than \$500 million. HUD’s regulations at 24 CFR § 202.5 currently require all lenders and mortgagees to submit audited financial statements as a condition for FHA lender approval and renewal. Through this proposed rule, in lieu of an audited financial statement, smaller supervised lenders and mortgagees would be required to submit a copy of their unaudited regulatory report prepared for another Federal agency that aligns with their fiscal year end. Because the Federal banking agencies do not require an audited financial statement for financial institutions with consolidated assets less than \$500 million, this rule would align HUD practice with that of other agencies and lift an excessive regulatory burden in order to reduce the cost of participating in FHA programs. This rule would not affect the requirement that larger supervised lenders and mortgagees and all unsupervised lenders and mortgagees submit an audited financial statement and thus would not impact HUD’s strong risk management practices.</p>	<ul style="list-style-type: none"> • Removes overly burdensome reporting requirements for small lenders wishing to participate in FHA programs. • Eliminates duplicative reporting requirements for lenders who already report to other Federal agencies, thus reducing paperwork and minimizing the burden of the process of becoming an FHA-approved lender.

Regulation	Description	Regulatory Review Action
Office of Housing – Federal Housing Administration		
<p>Section 8 New Construction and Substantial Rehabilitation Programs: Changes to Limitation on Distributions of Project Funds and Adjustment of Initial Equity; Proposed Rule</p> <p>24 CFR Parts 880, 881, and 883</p>	<p>The proposed rule streamlines the regulations governing the participation of nonprofit organizations in the Section 8 new construction and substantial rehabilitation programs. These programs made rental assistance available in connection with the development of newly constructed and the improvement and renovation of existing privately owned rental housing financed with any type of construction or permanent financing, including the applicable FHA Multifamily Mortgage Insurance Programs. In 1979 and 1980, HUD issued final rules that revised regulations pertaining to the Section 8 Housing Assistance Payments Program for New Construction (24 CFR part 880), Substantial Rehabilitation (24 CFR part 881), and State Housing Agencies (24 CFR part 883) in order to impose limits on distribution of project funds to profit-motivated owners and prohibiting entitlement to distribution entirely for nonprofit owners. This rule removes the prohibition, thereby providing an incentive for nonprofit owners to contribute to the availability of affordable housing.</p>	<ul style="list-style-type: none"> • By reducing regulatory barriers, this change removes a disincentive for nonprofit owners to promote affordable housing.
<p>Streamlining Requirements Governing the Use of Funding for Supportive Housing for the Elderly and Persons with Disabilities Programs; Proposed Rule</p> <p>24 CFR Part 891</p>	<p>This proposed rule would amend HUD’s regulations governing the Section 202 Supportive Housing for the Elderly Program (Section 202) and the Section 811 Supportive Housing for Persons with Disabilities Program (Section 811) for the purpose of streamlining the requirements for mixed-financed Section 202 and Section 811 developments. The amendments made by this proposed rule would attract private capital and the expertise of the private developer community to create attractive and affordable supportive housing developments for the elderly and for persons with disabilities.</p>	<ul style="list-style-type: none"> • Removes restrictions on the portions of developments not funded through capital advances. • Removes regulatory barriers on participation s by creating new exemptions to the conflict of interest provisions. • Provides flexibility regarding amenities that may be provided in projects. • Streamlines requirements for release of capital advance funds upon completion of the project.

Regulation	Description	Regulatory Review Action
Office of Public and Indian Housing		
<p>Public Housing Assessment System (PHAS); Final Rule</p> <p>24 CFR Part 902</p>	<p>On February 23, 2011, HUD published an interim rule to amend HUD’s Public Housing Assessment System (PHAS) regulations for the purposes of (1) consolidating the regulations governing assessment of public housing in one part of the Code of Federal Regulations (CFR); (2) revising certain PHAS regulations based on HUD’s experience with PHAS since it was established in 1998; (3) updating certain PHAS procedures to reflect changes in public housing operations resulting from conversion by Public Housing Agencies (PHAs) to asset management; and (4) removing HUD’s predecessor assessment regulations, the Public Housing Management Assessment Program (PHMAP) at 24 CFR part 901. The changes implemented by the interim rule will enhance the efficiency and utility of PHAS, and are based on changes submitted for public comment in an August 21, 2008, proposed rule. The changes made by the interim rule, became effective March 25, 2011, and took into consideration the public comments received on the August 21, 2008, proposed rule.</p> <p>The interim rule solicited additional public comment. The public comment period on the interim rule closed on April 25, 2011. HUD will consider the public comments in development of the final rule.</p>	<ul style="list-style-type: none"> • Consolidates assessment regulations in CFR part, part 902. • Removes outdated PHMAP regulations at 24 CFR part 901.
<p>Public Housing Capital Fund Program; Final Rule</p> <p>24 CFR Part 905</p>	<p>This final rule combines and streamlines the former legacy public housing modernization programs, including the Comprehensive Grant Program , the Comprehensive Improvement Assistance Program, and the Public Housing Development Program (which encompasses mixed-finance development), into the Capital Fund Program. The final rule also provides the ability for PHAs to request a total development cost exception for integrated utility management, capital planning, and other capital and management activities that maximize energy conservation and efficiency, including green construction and retrofits.</p> <p>The final rule follows publication of a February 7, 2011, proposed rule. The public comments period closed on April 8, 2011 and HUD received 15 public comments. HUD is considering the comments in development of the final rule.</p>	<ul style="list-style-type: none"> • Streamlines public housing modernization requirements. • Consolidates the modernization requirements for the public housing programs in HUD’s Capital Fund Program regulations at 24 CFR part 905. • Removes outdated parts 941, 968, 969, which currently codify the legacy modernization program

Regulation	Description	Regulatory Review Action
Office of Public and Indian Housing		
<p>Streamlined Application Process in Public/Private Partnerships for Mixed-Finance Development of Public Housing Units Proposed Rule</p> <p>24 CFR Part 941</p>	<p>This proposed rule would revise the current application process for participation in HUD’s mixed-finance public housing development programs, including HOPE VI (public housing mixed finance programs), by simplifying and streamlining the application, review, and approval processes. Currently under the public housing mixed-finance programs, a public housing agency (PHA) is required to submit a variety of closing documents to HUD, both before closing and after recordation. This proposed rule would retain this two-step process. However, rather than submitting all documents related to the closing, a PHA would complete and retain for inspection or audit all of the closing documents, and submit to HUD only a portion of the closing documents, along with all necessary certifications of the fulfillment of the closing requirements.</p>	<p>requirements.</p> <ul style="list-style-type: none"> • Reduces document submission burdens on PHAs.
<p>Revisions to the Consortia of Public Housing Agencies; Proposed Rule</p> <p>24 CFR Part 943</p>	<p>This proposed rule revises the PHA consortium regulations to provide additional flexibility and increase administrative efficiencies associated with forming a consortium. The changes will also help ensure maximum family choice in locating suitable housing. The proposed rule would allow PHAs to form a new category of cross-jurisdictional consortia for administration of the Section 8 Housing Choice Voucher (HCV) program. The proposed rule would also revise the categories of Section 8 programs eligible to be administered under a consortium. Specifically, the Section 8 programs administered by HUD’s Office of Multifamily Housing programs would no longer be eligible for consortia administration. HUD also proposes to establish new requirements regarding the timeframes for the establishment and dissolution of a consortium. Further, HUD has taken the opportunity afforded by this proposed rule to make several technical, non-substantive changes to improve the clarity and organization of the consortium regulations.</p>	<ul style="list-style-type: none"> • Enables PHAs to establish cross-jurisdictional consortia that would be treated as a single PHA, with a single jurisdiction and a single set of reporting and audit requirements, for purposes of administering the HCV program in a more streamlined and less burdensome fashion.
<p>Removal of the Indian HOME Investment Partnerships Program Regulations; Final Rule</p> <p>24 CFR Part 954</p>	<p>This final rule removes HUD’s outdated regulations for the legacy Indian HOME Investment Partnerships (Indian HOME) program. Under the Indian HOME program, HUD awarded funds competitively to eligible applicants to provide more affordable housing. The Indian HOME program was replaced by the Indian Housing Block Grant program established under the Native American Housing Assistance and Self-Determination Act of 1996</p>	<ul style="list-style-type: none"> • Removes outdated regulations for the legacy Indian HOME program.

Regulation	Description	Regulatory Review Action
Office of Public and Indian Housing		
	(NAHASDA); however, HUD retained the Indian HOME program regulations as they continued to govern existing grant awards made prior to the enactment of NAHASDA. All Indian HOME program grants are now closed and, therefore, the regulations are no longer necessary.	
<p>Public Housing and Section 8 Programs: Housing Choice Voucher - Improving Portability for Voucher Families Proposed Rule</p> <p>24 CFR Part 982</p>	<p>This proposed rule would amend HUD’s regulations governing portability in the Housing Choice Voucher program (HCV program). Portability is a feature of the HCV program that allows an eligible family with a housing choice voucher to use that voucher to lease a unit anywhere in the United States where there is a public housing agency (PHA) operating a housing choice voucher program. The purpose of HUD’s proposed changes to the portability regulations is to streamline the process for such inter-jurisdictional moves. Reducing the administrative burdens involved with processing portability requests will enable initial and receiving PHAs to better serve families and expand housing opportunities.</p>	<ul style="list-style-type: none"> Removes the administrative burdens involved with processing portability requests.
<p>Revision to the Section 8 Management Assessment Program (SEMAP) Lease-Up Indicator; Proposed Rule</p> <p>24 CFR Part 985</p>	<p>This proposed rule would amend HUD’s SEMAP regulations to conform the process by which HUD measures and verifies performance under the SEMAP lease-up indicator to the process by which HUD measures and verifies voucher leasing and cost data. The amendment will reflect that assessment of a lease-up rate (that is, SEMAP lease-up indicator) by a public housing agency (PHA) is based on a calendar year cycle, rather than a fiscal year cycle. HUD measures and verifies voucher leasing and cost data on a calendar year basis. The two different systems of measurement result in administrative burden for PHAs and inefficiencies in the voucher program. This rule also clarifies that units assisted under the voucher homeownership option or under a project-based housing assistance (HAP) contract are included in the assessment of PHA units leased. In addition to the change made by this rule, HUD is considering regulatory revisions to the SEMAP to address management and oversight objectives for SEMAP. This future rulemaking will address SEMAP indicators, including those pertaining to utilization, de-concentration, and housing quality standards. The rulemaking would also address minimum thresholds for receiving a high performer status.</p>	<ul style="list-style-type: none"> Removes complexity and administrative burden caused by use of both the fiscal year and calendar year systems Provides a critical synchronization of administration of the voucher program, which will reduce program inefficiencies.

Regulation	Description	Regulatory Review Action
Office of Community Planning and Development		
<p>Implementation of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act)</p> <p>24 CFR Parts 577 to 579</p>	<p>The rules implementing the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) consolidate and amend three separate homeless assistance programs administered by HUD under the McKinney-Vento Homeless Assistance Act into a single Continuum of Care (CoC) grant program, revise the Emergency Shelter Grants(ESG) program to shift the focus to assisting people to quickly regain stability in permanent housing after experiencing a crisis and/or homelessness, establish the Rural Housing Stability Assistance Program to meet the needs of persons who are homeless, at risk of homelessness, and in worst-case housing in their geographic area, and develop regulations to govern the Homeless Management Information System.</p>	<ul style="list-style-type: none"> • Provides for consolidated grant application and administration to ease administrative burden and improve coordination among providers and, consequently, increase the effectiveness of responses to the needs of homeless persons. • Provides for increased coordination and planning between programs to better meet the needs of homeless persons. • Modernizes the CoC Program and ESG Program.
<p>HOME Investment Partnerships—Improving Performance and Accountability; Updating Property Standards and Instituting Energy Efficiency Standards</p> <p>24 CFR Part 92</p>	<p>The Cranston-Gonzalez National Affordable Housing Act of 1990 authorized the HOME Investment Partnerships (HOME) Program, an affordable housing block grant under which funds are allocated to States and units of local government by formula. The program has been funded each year since 1992. This rule would amend HOME regulations to implement performance standards and require more timely housing production. The rule would also update the property standards to incorporate green building techniques and energy-efficiency standards for HOME-assisted units.</p>	<ul style="list-style-type: none"> • This proposed rule would update HUD’s program regulations to reflect current legal requirements with respect to HOME projects.