since it meets the requirements for that status under INA 217, as amended.

Argentina does not require visas for nationals of the United States entering for ninety (90) days or less. Thus it meets the requirement of providing reciprocal treatment for United States nationals. Other requirements are that the country meet statutorily prescribed limits on visa refusal rates for the prior two year period as well as the prior year; that it meet statutorily prescribed limits on rates of exclusion at port of entry and on overstay limits, and that it have a machine readable passport program. Argentina meets these additional requirements. Argentina is, therefore, added effective July 8, 1996 as a participating country in the Visa Waiver Pilot Program. (See the Immigration and Naturalization Service rule also published in this issue of the Federal Register.) Therefore, effective on the publication date of this interim rule, citizens of Argentina shall be eligible for participation in the Visa Waiver Pilot Program.

Interim Rule

The implementation of this rule as an interim rule, with a 30-day provision for post-promulgation public comments, is based upon the ''good cause'' exceptions established by 5 U.S.C. 553(b)(B) and 553(d)(3). This rule grants or recognizes an exemption or relieves a restriction under 5 U.S.C. 553(d)(1) and is considered beneficial to both the traveling public and United States businesses. Therefore, it is being made effective thirty days after publication in the Federal Register. In accordance with 5 U.S.C. 605(b) [Regulatory Flexibility Act], it is certified that this rule does not have a ''significant adverse economic impact'' on a substantial number of small entities, because it is inapplicable. This rule is exempt from E.O. 12866, but has been coordinated with the Immigration and Naturalization Service because joint action of the Secretary of State and the Attorney General is required under section 217 of the INA, as amended. The rule imposes no reporting or record-keeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule has been reviewed as required by E.O. 12988 and is certified to be in compliance therewith.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Visas, Passports, Temporary Visitors, Waivers.

In view of the foregoing, 22 CFR Part 41 is amended as follows:

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read:

Authority: 8 U.S.C. 1104, 66 Stat. 174; 8 U.S.C. 1187, 108 Stat. 4312 and 4313.

2. In § 41.2 the last sentence of paragraph (l)(2) is amended by removing the period and adding the following text at the end of the sentence:

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(l) Visa Waiver Pilot Program. * * *; and Argentina July 8, 1996.

Dated: July 13, 1996.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 96–17194 Filed 7–5–96; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 630

[FHWA Docket No. 94–30]

RIN 2125–AD43

Federal-Aid Project Authorization

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation on Federal-aid program approval and project authorization. In light of changes made by the Intermodal Surface Transportation Efficiency Act of 1991, in the area of statewide planning and transportation improvement programs, and the joint FHWA/Federal Transit Administration (FTA) regulations implementing those changes, this regulation removes the obsolete project programming provisions from this part. This regulation provides more flexible funding arrangements and a more flexible Federal-aid authorization process. Changes contained in related laws are included.

EFFECTIVE DATE: This final rule is effective August 7, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Wasley, Office of Engineering, 202–366–4658, or Wilbert Baccus, Office of the Chief Counsel, 202–366–0780, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590. Office Hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday except Federal holidays.

SUPPLEMENTARY INFORMATION: The amendments in this final rule are based primarily on the notice of proposed rulemaking (NPRM) published in the February 17, 1995, Federal Register at 60 FR 9306 (FHWA Docket No. 94–30). All comments received in response to this NPRM have been considered in adopting these amendments.

The initiation of work for transportation projects funded under the Federal-aid highway program is a two-step process. First, the State, in cooperation and consultation with local officials, as appropriate, through the metropolitan and statewide planning process, determines activities which will be advanced with Federal funds made available under title 23, United States Code, and the Federal Transit Act (49 U.S.C. 5301–5338) and develops a Statewide program of projects for these activities. Prior to passage of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240, 105 Stat. 1914) (ISTEA), the requirements for developing the program of projects were found in 23 U.S.C. 105 and the implementing regulations in 23 CFR part 630, subpart A. With passage of the ISTEA, title 23, U.S.C., was modified and the new requirements concerning development of a program of projects, now referred to as the Statewide transportation improvement program, are contained in 23 U.S.C. 135. The implementing regulation for this section is in 23 CFR part 450 and was initiated through previous rulemaking actions.

Accordingly, those requirements pertaining to a program of projects in 23 CFR part 630, subpart A, no longer need to be retained. This final rule therefore eliminates these programming references.

The second step in initiation of work is the project authorization process. The State highway agency (SHA) requests FHWA authorization to proceed with a proposed Federal-aid highway project. The FHWA authorization commits the Federal government to participate in the funding of a project, except in those instances where the State requests FHWA authorization without the commitment of Federal funds. In addition, FHWA authorization also establishes a point in time after which costs incurred on a project are eligible for Federal participation. The requirements covering project authorization are contained in this final rule. The following is a section-by-section analysis of the amendments

made by this final rule to the present regulations.

Section-by-Section Analysis

Section 630.102 Purpose

The statement of purpose is revised to eliminate the reference to programming of projects since this activity is eliminated from this subpart.

Section 630.104 Applicability

The existing § 630.104, Definitions, is replaced by a new section identifying the types of projects that are covered by this subpart. FHWA planning and research funds, as defined in 23 CFR 420.103, are authorized using the procedures in the regulations dealing specifically with these types of funded projects. Projects utilizing special funding may have unique authorization requirements, and these types of projects will be authorized as set out in implementing instructions or regulations.

Section 630.106 Authorization to Proceed

The current § 630.106, Policy, is removed. A new § 630.106, Authorization to proceed, is redesignated from current § 630.114, covering the authorization process, and it retains many of the basic principles set forth in existing § 630.114. Modifications were made to provide greater flexibility in some funding areas, and other additions were made for clarification. The following discussion breaks down new § 630.106 by individual paragraph.

Paragraph (a) retains the requirement that FHWA authorization to proceed with a Federal-aid project will only be given in response to a request from the SHA, and then only if the applicable requirements in law have been satisfied for the project.

Paragraph (b) retains the longstanding requirement that Federal-aid funds will only participate in costs incurred after the date the FHWA has authorized the State to proceed with the project. However, exceptions to this requirement are allowed under a process set forth in 23 CFR 1.9(b). For informational purposes, wording has been included in paragraph (b) to identify and cross reference the exception process.

Paragraphs (c), (d), and (e) retain the requirement that, at the time a Federal-aid project is authorized, the total amount of appropriate Federal funds for the project must be available. Four general categories of exceptions to this rule are retained from the existing regulation. A fifth category of exceptions in the existing regulation, related to bond issue projects under 23 U.S.C. 122, has been eliminated. Section 311 of the National Highway System Designation Act of 1995 (Pub. L. 104–59, 109 Stat. 568)(NHS Act), enacted November 28, 1995, significantly revised 23 U.S.C. 122. Previously, section 122 allowed certain types of projects to be approved as bond issue projects. Similar to advance construction, these projects were advanced as Federal-aid projects without any commitment of Federal funds until the bonds matured and the State converted the projects to regular Federal-aid. As amended, section 122 makes bond related costs eligible for Federal reimbursement on any Federal-aid project; however, the process of converting bond issue projects similar to advance construction projects is no longer set forth in the section. As a result, paragraph (c) of § 630.106 has dropped bond issue projects from the listing of exceptions.

Paragraph (f) is added for purposes of clarification. The FHWA authorization represents a contractual action by the FHWA, and the Federal share of eligible costs must be agreed upon when the authorization occurs. The Federal share may be in the form of a specified percentage of eligible costs or a lump sum amount. Use of the lump sum share is intended to accommodate those instances where there is a desire to commit a fixed amount of Federal funds to a project. The lump sum amount may not exceed the legal pro rata share for the Federal funds involved; this may require downward adjustment of the lump sum amount when costs of eligible work on a project are less than the initial estimates at the time of FHWA authorization.

The Federal share agreed to at the time of FHWA authorization is to continue through the life of the project. Manipulation of funding levels of individual projects to accommodate program funding changes or needs is not allowed. However, adjustments to the Federal share are permitted for projects where bid prices are significantly different from the estimates at the time of FHWA authorization and should be made prior to, or shortly after, contract award.

In addition, Federal participation is based on eligible costs incurred by the State. The Federal share of such costs cannot exceed the maximum share permitted by legislation.

Paragraph (g) incorporates into the regulation the provision in 23 U.S.C. 120(i) that allows a State to contribute more than the normal State match on a Federal-aid project. This provision has been interpreted to mean that a State may overmatch and not be tied to a mandatory Federal share. However, project financing proposals that result in the Federal share representing only a minor percentage of eligible work should be avoided unless they are based on sound project management decisions.

Discussion of Comments

Interested persons were invited to participate in the development of this final rule by submitting written comments on the NPRM to FHWA Docket No. 94–30 on or before April 18, 1995. There were 10 commenters to this docket, all representing State transportation agencies.

Three State transportation agencies specifically endorsed the proposed rewrite of the regulation. The other State agencies raised several issues for consideration, which have been grouped into the following categories: (1) Third party (private) cash donations; (2) token financing; (3) the relationship of this rulemaking to FHWA's innovative financing test and evaluation project; and (4) establishing a project's Federal share.

Third Party Cash Donations

This issue received the most comments. The NPRM proposed to include a new provision in the regulation that would clearly set forth the cost sharing principles for Federal-aid highway projects, including the requirement at the time the NPRM was issued that a third party cash contribution to a specific project could not be applied to the required State matching share but instead had to be applied to reduce the overall project cost. The commenters felt the requirement on third party donations was overly restrictive, diminished the incentive for States to seek third party contributions, and could adversely affect the advancement of certain projects. Although these points are well taken, the requirement on third party cash contributions, as stated in the NPRM, reflected a legal interpretation consistent with title 23 as it existed at that time.

A significant change has occurred in Federal highway law related to third party donations since the NPRM was issued. The NHS Act amended 23 U.S.C. 322 to allow the value of third party funds, materials, or services donated to a specific Federal-aid project to be applied to the State's matching share. Thus, Congress has provided legislative relief on this matter.

The FHWA has issued implementing guidance on 23 U.S.C. 322 and the application of third party donations of

funds, materials, or services towards the State's matching share. That guidance is available for review in FHWA Docket No. 94–30 in the FHWA Docket Room at the address listed above. Accordingly, the matter of third party contributions will not be addressed in this regulation.

Token Financing

Several commenters expressed concern about the NPRM provision on ''token financing'' and the accompanying preamble discussion which suggested that, as a general rule of thumb, Federal funding for a specific project should represent at least 50 percent of eligible project costs. It was pointed out that the phrase ''token financing'' is vague and not clearly defined in the regulation. Further, the NPRM preamble discussion that suggested a project have at least a target Federal funding level of ''50 percent'' was interpreted as being too inflexible. Several commenters recommended a lower percentage threshold or a minimum dollar figure.

Section 630.106(g) of the final rule adds a new provision to implement 23 U.S.C. 120(i) which allows the State to contribute more than the normal State match on a project. The phrase ''token financing'' has not been used in the regulation. Instead, the concept of ''token financing'' has been expressed in the phrase, ''project financing proposals that result in the Federal share representing only a minor percentage of eligible work should be avoided.'' The phrase ''minor percentage'' has not been defined, by a specific value or a general target value, in either the regulation or this preamble and considerable flexibility is intended. As expressed in § 630.106(g), this provision is to be applied based on sound project management decisions. For example, it would make little sense to place small amounts of Federal funds in a large number of projects. This could overburden the FHWA and would unnecessarily Federalize a large number of projects. It is expected that a State and FHWA division office will reach agreement on a reasonable implementation of this requirement based on project circumstances.

Relationship of This Rulemaking to FHWA's Innovative Financing Test and Evaluation Project

In 1994, the FHWA established a nationwide innovative financing test and evaluation project, known as TE–045, to evaluate new financing concepts to increase investment or reduce public agency costs on Federal-aid highway projects. Under TE–045, numerous concepts are currently being evaluated. Two of these concepts, ''phased funding'' and ''tapered share,'' were mentioned by commenters on the NPRM as issues that could be addressed in this regulation.

When the FHWA authorizes a State to proceed with a Federal-aid highway project, the FHWA is required to obligate Federal funds for the full Federal share of the cost of the work being authorized. Phased funding is an exception to this requirement. Under phased funding, the FHWA obligates an amount of Federal funds for each year a project is under construction, the annual amount obligated being equal to the estimated project construction expenditures expected in the year. Thus, phased funding is a financing technique that can accelerate project advancement because a State can proceed with project construction before the full Federal share of the cost of the work is available to the State.

Previously, under § 630.114(h)(5), the FHWA Administrator had the authority, in special cases, to allow a project to proceed without the full Federal share of costs being available to a State. This authority had been used to approve phased funding on a small number of very costly Interstate projects. Early on, TE–045 accepted proposals to experiment further with the phased funding concept; however, no additional proposals are planned for testing. This is because of the FHWA's 1995 revision of its policy on advance construction projects that now allows an advance construction project to be converted to a regular Federal-aid project in increments over time. Partial conversion of advance construction projects can accomplish much of the same flexibility that phased funding provides a State. As a result, the FHWA has decided there is no need at this time to modify the phased funding authority the Administrator has under this regulation. The provision that allows the Administrator to approve special case exceptions for phased funding is retained as § 630.106(c)(4).

Tapered share is an alternate means of making project reimbursement to a State. Under the tapered share concept, the Federal share of costs incurred can vary as reimbursement is provided to a State, as long as the overall Federal funding provided to the State does not exceed the amount of Federal funds obligated when the project was authorized. For example, on a project that is being cost shared at 80 percent Federal, 20 percent State, the State's billings to the FHWA are normally reimbursed with Federal funds at 80 percent of the billed amount. However, the tapered share concept could be applied to allow a State to receive 100 percent Federal funds on early billings with the Federal share tapering off on later billings.

The tapered share concept is a reimbursement or payment issue, not an authorization issue. Because this regulation covers authorization requirements, the tapered share concept will not be addressed in this regulation. The FHWA continues to evaluate the tapered share concept under TE–045 and it is expected that any proposals to allow this concept, including recommendations on needed statutory changes, will emerge from TE–045.

Establishing a Project's Federal Share

In the NPRM, § 630.106(f) was proposed to clarify that the Federal share could be established either as a percentage of eligible project costs or as a lump sum amount, provided the lump sum amount did not exceed the maximum legal percentage allowed for the Federal-aid funding being used on the project.

One commenter suggested another alternative, i.e., that the authorization would specify a percentage with a maximum amount of Federal funds also specified. If a State establishes Federal share as a percentage, any decision to further impose an upper limit on additional Federal funds it will provide to a project, should overruns occur, is a State decision. This decision has no impact on the amount of Federal funds being obligated on the project when the FHWA initially authorizes the work because the amount of Federal funds obligated would still be determined based on the specified Federal share percentage. Consequently, this proposed alternative has not been incorporated into the regulation. If a State desires to set an upper limit for Federal funding on a project where Federal share has been established by percentage and desires to alert all parties involved with the project of the limit, one means of accomplishing this is with an appropriate note on the Federal-aid project agreement.

Several comments were received concerning the adjustment of Federal share during the life of a project. The authorization of a project, with the accompanying obligation of Federal funds, is a contractual action by the FHWA, which has been viewed as fixing or establishing the Federal share of the project. The FHWA's longstanding position has been that Federal share could not be adjusted after the initial project authorization. Recognizing that some flexibility is desirable, particularly in situations involving construction work where bid prices are significantly

different from the engineer's estimate on which the initial authorization of construction is based, the NPRM proposed to allow the Federal share to be adjusted after authorization to reflect bids received.

One commenter suggested eliminating the provision that Federal share is established at authorization and replacing it with a requirement that Federal share be established when the Federal-aid project agreement is executed, after which it could not be adjusted. This suggestion is not being implemented. The timing of when a Federal-aid project agreement is executed for a project can vary considerably, with it sometimes being combined directly with the authorization and sometimes following the authorization by several weeks. Keeping in mind that the FHWA's authorization is a legally binding action on the agency's part, it is at this point that the Federal share being committed to the project needs to be clearly defined.

Other commenters suggested that a State be allowed to continue to make adjustments to Federal share throughout the life of a project. Allowing these adjustments raises several concerns. How many times could changes be made? Would changes be allowed after construction is physically completed? Could changes be retroactive and applied to costs already incurred? What are the Federal fiscal implications of unrestricted changes? At this time, the decision has been made not to expand flexibility for adjusting Federal share beyond that proposed in the NPRM, namely, that Federal share could be adjusted based on the bids received. The final rule has added clarifying language to indicate that any such adjustment should occur before or shortly after award of the contract.

Another comment concerned Federal shares for various project activities. The commenter appears to be interpreting the word ''project'' to include all work phases of a project, such as design, right-of-way, and construction. The commenter was concerned that if a specific Federal share was established for design work, a State would be locked into using that same Federal share on all subsequent activities, such as the construction work. This is not the intent of the regulation. The term ''project'' is intended to mean that particular activity or phase of work for which Federal funds are being authorized. Federal share is established for each individual authorization. Design work could be authorized at one Federal share and construction work later authorized at a different Federal share.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The amendments would simply make minor changes to update the Federal-aid project authorization regulations to conform to recent laws, regulations, and guidance, and to clarify existing policies. It is anticipated that the economic impact of this rulemaking will be minimal because the amendments would only clarify or simplify procedures presently being used by SHAs. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities. The proposed amendments would only clarify or simplify procedures used by SHA's in accordance with existing laws, regulations, or guidance.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This action merely conforms the Federal-aid project authorization regulations to recent laws, regulations, and guidance; clarifies these regulations; and gives the SHAs more flexibility in implementing them.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The Agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et.seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 630

Government contracts, Grant programs—transportation, Highways and roads, Project authorization.

Issued on: June 26, 1996.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending title 23, Code of Federal Regulations, by revising part 630, subpart A to read as follows:

PART 630—PRECONSTRUCTION PROCEDURES

Subpart A—Federal-Aid Project Authorization

Sec.

Authority: 23 U.S.C. 106, 118, 120, and 315; 49 CFR 1.48(b).

Subpart A—Federal-Aid Project Authorization

§ 630.102 Purpose.

The purpose of this subpart is to prescribe policies for authorizing Federal-aid projects.

§ 630.104 Applicability.

(a) This regulation is applicable to all Federal-aid projects unless specifically exempted.

(b) Projects financed with FHWA planning and research funds, as defined in 23 CFR 420.103 are not covered by this subpart. These projects are to be handled in accordance with 23 CFR parts 420 and 450.

(c) Other projects which involve special procedures shall be authorized as set out in the implementing instructions for those projects.

§ 630.106 Authorization to proceed.

(a) The FHWA issuance of an authorization to proceed with a Federal-

aid project shall be in response to a written request from the State highway agency (SHA). Authorization can be given only after applicable prerequisite requirements of Federal laws and implementing regulations and directives have been satisfied.

(b) Federal funds shall not participate in costs incurred prior to the date of authorization to proceed except as provided by 23 CFR 1.9(b).

(c) Authorization of a Federal-aid project shall be deemed a contractual obligation of the Federal government under 23 U.S.C. 106 and shall require that appropriate funds be available at the time of authorization for the total agreed Federal share, either pro rata or lump sum, of the cost of eligible work to be incurred by the State, except as follows:

(1) Advance construction projects authorized under 23 U.S.C. 115.

(2) Projects for preliminary studies for the portion of the preliminary engineering and right-of-way (ROW) phase(s) through the selection of a location.

(3) Projects for ROW acquisition in hardship and protective buying situations through the selection of a particular location. This includes ROW acquisitions within a potential highway corridor under consideration where necessary to preserve the corridor for future highway purposes. Authorization of work under this paragraph shall be in accordance with the provisions of 23 CFR part 712.

(4) In special cases where the Federal Highway Administrator determines it to be in the best interest of the Federal-aid highway program.

(d) The authorization to proceed with a project under 23 CFR 630.106(c)(1) through (c)(4) shall contain the following statement: ''Authorization to proceed shall not constitute any commitment of Federal funds, nor shall it be construed as creating in any manner any obligation on the part of the Federal government to provide Federal funds for that portion of the undertaking not fully funded herein.''

(e) When a project has received an authorization under 23 CFR 630.106(c)(2) and (c)(3), subsequent authorizations beyond the location stage shall not be given until appropriate available funds have been obligated to cover eligible costs of the work covered by the previous authorization.

(f)(1) The Federal-aid share of eligible project costs shall be established at the time of project authorization in one of the following manners:

(i) Pro rata, with the authorization stating the Federal share as a specified percentage, or

(ii) Lump sum, with the authorization stating that Federal funds are limited to a specified dollar amount not to exceed the legal pro rata.

(2) The pro-rata or lump sum share may be adjusted before or shortly after contract award to reflect any substantive change in the bids received as compared to the SHA's estimated cost of the project at the time of FHWA authorization, provided that Federal funds are available.

(3) Federal participation is limited to the agreed Federal share of eligible costs incurred by the State, not to exceed the maximum permitted by enabling legislation.

(g) The State may contribute more than the normal non-Federal share of title 23, U.S.C., projects. In general, financing proposals that result in only minimal amounts of Federal funds in projects should be avoided unless they are based on sound project management decisions.

[FR Doc. 96–17232 Filed 7–5–96; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 901

[Docket No. FR–3447–F–02]

RIN 2577–AA89

Office of the Assistant Secretary for Public and Indian Housing; Public Housing Management Assessment Program—Conforming Change

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule removes the adjustment for the heating degree day (HDD) factor from Indicator #4, Energy Consumption, of the Public Housing Management Assessment Program (PHMAP) at 24 CFR part 901. The effect of removing this adjustment is to conform the indicator to current HUD practice, which no longer makes use of the HDD factor.

EFFECTIVE DATE: August 7, 1996.

FOR FURTHER INFORMATION CONTACT: MaryAnn Russ, Deputy Assistant Secretary for Public and Assisted Housing Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 708–1380. A telecommunications device for hearing or speech impaired persons (TTY) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: On October 13, 1994 (59 FR 51852), a final rule was published in the Federal Register that eliminated the application of the HDD factor for utility consumption. That rule will first affect PHAs with fiscal year ending December 31, 1995. The PHMAP scores for these PHAs are computed as of June 30, 1996. This rule makes a conforming change to eliminate the HDD factor as an adjustment in Indicator #4, Energy Consumption.

The Department has published a proposed rule (61 FR 20358, May 6, 1996) that would revise all of the PHMAP, including the current Indicator #4. However, because a comprehensive PHMAP final rule will not be published in time to correct Indicator #4 for the June 1996 PHMAP computation, HUD is issuing this final rule to remove the HDD factor. This action will avoid confusion and permit the timely computation of PHMAP scores.

Other Matters

Justification for Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest.'' (24 CFR 10.1) The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure is unnecessary. This rule eliminates an adjustment factor that can no longer be used because of other regulatory changes.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The FONSI made in the development of the proposed rule published on May 6, 1996 (61 FR 20358) remains applicable to this final rule and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.