

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Secretary**

24 CFR Subtitle A, Subtitle B, and Parts 200, 202a, 222, 233, 241, 260, 266, 267 and 850

[Docket No. FR-3993-F-01]

RIN 2501-AC14

Elimination of Unnecessary Codifications

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule removes from title 24 of the Code of Federal Regulations the Department's codified appendices, parts, subparts, and text which are unnecessary. Following a review of existing HUD regulations in accordance with the President's regulatory reinvention initiative, the Department has determined that the codified appendices, parts, subparts, and text identified in this rule are unnecessary to be retained in the Code of Federal Regulations because the programs will not receive additional funding; no regulatory requirements are included in the codifications and, therefore, the provisions need not be codified or can be provided through other non-rulemaking means; e.g., notices or handbooks; the regulatory text is duplicative and can be found elsewhere; the program has ended; or there are only a few outstanding mortgages or contracts under the program.

This final rule also removes several provisions describing cross-cutting definitions and HUD's waiver authority that were not addressed in the Department's final rule creating part 5, which was published on February 9, 1996. Part 5 was designed to set forth those definitions and program requirements which cut across several of the Department's programs.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410. Telephone: (202) 708-3055; TDD: (202) 708-3259.

SUPPLEMENTARY INFORMATION:**A. Elimination of Unnecessary Codifications**

President Clinton's memorandum of March 4, 1995, titled "Regulatory Reinvention Initiative" directed heads of Federal departments and agencies to

review all existing regulations to eliminate those that are outdated and modify others to increase flexibility and reduce burden. As a part of HUD's overall effort to reduce regulatory burden and streamline the content of title 24 of the Code of Federal Regulations, this rule removes those appendices, parts, subparts, and text which are unnecessary. Guidance presently provided in these appendices codified will be available through other non-rulemaking means.

To the extent that regulations are needed to implement new legislation, they will be issued separately from this document. Any determination to issue new regulations will be carefully considered to ensure that it is consistent with the President's regulatory reform efforts and the principles in Executive Order 12866.

Appendices unnecessary because the programs will not receive additional funding: 24 CFR Subtitle A, Appendices A and B. Appendices A and B of Subtitle A, which contain the program guidelines for the HOPE 1 and HOPE 2 programs will be removed.

Note: HOPE 1 (Appendix A) implementation and planning grantees will comply with the HOPE 1 program guidelines published in the Federal Register on January 14, 1992, at 57 FR 1527, as modified by any subsequent Federal statutory enactments or executive orders. HOPE 2 (Appendix B) implementation and planning grantees will comply with the HOPE 2 program guidelines published in the Federal Register on January 14, 1992, at 57 FR 1562, as modified by any subsequent Federal statutory enactments or executive orders. Grantees for both programs also remain subject to any requirements set forth in the implementation or planning grant agreement, as applicable, including HUD handbooks and notices.

Appendices and subparts unnecessary because no regulatory requirements are included and the provisions need not be codified or can be provided through other non-rulemaking means; e.g., notices or handbooks: 24 CFR Subtitle B, Chapter I, Subchapter A, Appendices II, III and IV; 24 CFR part 200, subparts A, C, and D (except for § 200.93); 24 CFR part 265.

Removal of Appendices. Appendices II, III, and IV of Subtitle B, Chapter I, Subchapter II contain the Fair Housing Accessibility Guidelines, the preamble to the final Fair Housing Accessibility Guidelines, and a document entitled "Questions and Answers about the Fair Housing Accessibility Guidelines. The Fair Housing Accessibility Guidelines are not mandatory, nor do they prescribe specific requirements which must be met and which if not met, would constitute unlawful discrimination under the Fair Housing

Act. The purpose of the guidelines is to provide technical guidance on designing dwelling units as required by the Fair Housing Amendments Act. Removal of the Guidelines will make it easier for HUD to update the Guidelines, if necessary and appropriate, to address issues that may arise with respect to new types of designs for dwelling units (the CFR is updated only once a year).

Note: Copies of the Fair Housing Accessibility Guidelines (Appendix II), the preamble to the final Fair Housing Act Accessibility Guidelines (Appendix III), and the document entitled "Questions and Answers about the Fair Housing Accessibility Guidelines" (Appendix IV) are available from the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Room 5230, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-0288. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708-0113 or 1-800-877-8399 (Federal Information Relay Service TDD). Other than the 800 number, these are not toll-free numbers.

Removal of Subparts A, C and D from Part 200. Subparts A, C, and D of part 200 pertain to origin and establishment, organization and management, and delegations to particular positions, respectively. These provisions need not be codified (except for § 200.93) and will be made available through non-rulemaking means. Section 200.93 (presently contained in subpart D) pertains to the membership and functions of the Multifamily Participation Review Committee and is being retained as a new § 200.227 within subpart H.

Subpart unnecessary because the regulatory text is duplicative and can be found elsewhere by cross-reference: Subpart I of 24 CFR part 200 is being removed except for § 200.300, pertaining to nondiscrimination and fair housing policy, which is being retained with minor editorial revisions to maintain the cross-references to the controlling regulations.

Part unnecessary because the program has ended or was never implemented: 24 CFR parts 202a and 260.

Part 202a, which pertains to Title I Mortgage Insurance, is being removed because the program has expired. Part 260 pertains to Interest Subsidy Grants, for which regulations were promulgated, but the program was never implemented.

Parts for expiring programs, under which there are only a few outstanding mortgages, contracts or grants: 24 CFR part 850.

No new grants have been issued under part 850, the Housing Development Grants Program. This is an expiring program.

Note: The grants associated with part 850 (Housing Development grants) will continue to be administered under the regulations that existed immediately before April 1, 1996.

B. Cross-Cutting requirements. Continued consolidation of certain cross-cutting requirements.

On February 9, 1996 (61 FR 5198), the Department published a final rule creating a new 24 CFR part 5. HUD established part 5 to set forth those requirements which are applicable to one or more program regulations. Consolidation of these requirements in part 5 will eliminate redundancy in title 24 and assist in the Department's overall efforts to streamline the content of its regulations.

This rule removes §§ 222.248, 233.248, 266.35, and 267.4 which set forth the Department's waiver authority. Further, this rule also removes the definition of the term "Secretary" in § 241.1. HUD's waiver authority and the definition of "Secretary" are already set forth in 24 CFR part 5.

Justification for Final Rule

In accordance with 24 CFR part 10, it is the practice of the Department to offer interested parties the opportunity to comment on proposed regulations. However, this rule merely removes unnecessary appendices, parts, subparts and text from title 24 of the Code of Federal Regulations. Removal of these codifications does not establish or affect substantive policy. Therefore, the Department has determined that public comment is unnecessary and contrary to the public interest.

Other Matters

Environmental Review

This rulemaking does not have an environmental impact. This rulemaking simply amends existing regulations by removing unnecessary provisions and does not alter the environmental effect of the regulations being amended. Findings of No Significant Impact with respect to the environment were made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of the implementing regulations. Those Findings remain applicable to this rule and are 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.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before

publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities because this rule pertains to the administrative matter of removing unnecessary codifications from the Code of Federal Regulations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions) or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 202a

Mortgage insurance.

24 CFR Part 222

Condominiums, Military personnel, Mortgage insurance.

24 CFR Part 233

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 241

Energy conservation, Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 260

Grant programs—housing and community development, Low and moderate income housing.

24 CFR Part 266

Aged, Fair housing, Intergovernmental relations, Mortgage insurance, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 267

Appraisals, Mortgage insurance, Property valuation, Reporting and recordkeeping requirements.

24 CFR Part 850

Grant programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

Accordingly, pursuant to the Secretary's authority under 42 U.S.C. 3535(d), subtitle A, subtitle B, and parts 200, 202a, 222, 233, 241, 260, 266, 267, and 850 of title 24 of the Code of Federal Regulations are amended as follows:

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

Appendices A and B of Subtitle A [Removed]

1. Appendices A and B to subtitle A are removed.

Subtitle B—Regulations Relating to Housing and Urban Development

CHAPTER I—OFFICE OF ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subchapter A—Fair Housing

Appendices II, III, and IV of Subtitle B, Chapter I, Subchapter A [Removed]

2. Subtitle B, chapter I, subchapter A is amended by removing Appendices II, III, and IV.

PART 200—INTRODUCTION

3. Part 200 is amended:

Subparts A and C [Removed and Reserved]

a. By removing and reserving subparts A (§§ 200.1 through 200.4) and C (§§ 200.40 through 200.44);

§ 200.93 [Redesignated as § 200.27]

b. By redesignating § 200.93 as § 200.227;

Subpart D [Removed and Reserved]

c. By removing and reserving subpart D (§§ 200.50 through 200.129);

§ 200.224 [Amended]

d. By amending § 200.224 by removing the reference to “§ 200.93”, and adding in its place “§ 200.227”; and

e. By revising subpart I, to read as follows:

Subpart I—Nondiscrimination and Fair Housing**§ 200.300 Nondiscrimination and fair housing policy.**

Federal Housing Administration programs shall be administered in accordance with:

(a) The nondiscrimination and fair housing requirements set forth in 24 CFR part 5; and

(b) The affirmative fair housing marketing requirements in 24 CFR part 200, subpart M and 24 CFR part 108.

PART 202a [REMOVED]

4. Part 202a is removed.

PART 222—SERVICEPERSON'S MORTGAGE INSURANCE**§ 222.248 [Removed]**

5. Section 222.248 is removed.

PART 233—EXPERIMENTAL HOUSING MORTGAGE INSURANCE**§ 233.248 [Removed]**

6. Section 233.248 and the undesignated heading preceding it are removed.

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES**§ 241.1 [Amended]**

7. Section 241.1 is amended by removing paragraph (j) and by redesignating paragraphs (k) and (l) and paragraphs (j) and (k), respectively.

PART 260 [REMOVED]

8. Part 260 is removed.

PART 266—HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS**§ 266.35 [Removed]**

9. Section 266.35 is removed.

PART 267—APPRAISAL AND PROPERTY VALUATION**§ 267.4 [Removed]**

10. Section 267.4 is removed.

PART 850—HOUSING DEVELOPMENT GRANTS

11. Section 850.1 is revised to read as follows:

§ 850.1 Applicability and savings clause.

(a) *Applicability.* This part implements the Housing Development Grant Program contained in section 17 of the United States Housing Act of 1937 (42 U.S.C. 1437o). The Program authorized the Secretary to make

housing development grants to support the new construction or substantial rehabilitation of real property to be used primarily for residential rental purposes. Section 289(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12839) repealed section 17 effective October 1, 1991. Section 289(a) prohibited new grants under the Housing Development Grant Program except for projects for which binding commitments had been entered into prior to October 1, 1991.

(b) *Savings clause.* Any grant made pursuant to a binding commitment entered into before October 1, 1991 will continue to be governed by subparts A through E of this part in effect immediately before April 1, 1996, and by subpart F of this part as currently in effect.

§ 850.3 [Removed]

12. Section 850.3 is removed.

Subparts B, C, D, and E [Removed and Reserved]

13. Subparts B (§§ 850.11 through 850.17), C (§§ 850.31 through 850.39), D (§§ 850.61 through 850.79), and E (§§ 850.101 through 850.107) are removed and reserved.

Dated: February 22, 1996.
Henry G. Cisneros,
Secretary.

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