

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 598 and 599**

[Docket No. FR-4663-I-01]

RIN 2506-AC09

Designation of Round III Urban Empowerment Zones and Renewal Communities

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule governs the designation of Round III Urban Empowerment Zones (EZs) and Renewal Communities (RCs) nominated by States and local governments. The designation of an area as an EZ or an RC provides special Federal income tax treatment as an incentive for businesses to locate within the area. This rule lays the foundation for designations to be made on the basis of applications submitted in response to the Notice Inviting Applications published elsewhere in this issue of the **Federal Register**.

DATES: Effective Date: August 8, 2001.

Comment Due Date: September 7, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Regulations Division, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Comments should refer to the above docket number and title of the rule. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours (weekdays 7:30 a.m. to 5:30 p.m. Eastern time) at the above address. (In addition, see the Paperwork Reduction Act heading under the Findings and Certifications section of this preamble regarding submission of comments on the information collection burden.)

FOR FURTHER INFORMATION CONTACT: For EZ/EC issues, Lisa Hill, and for RC issues, John Haines, at the Department of Housing and Urban Development, Room 7130, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-6339. (This telephone number is not toll-free.) For hearing- and speech-impaired persons, this telephone number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (toll-free).

SUPPLEMENTARY INFORMATION:**I. Community Renewal Tax Relief Act of 2000—Authorization for Round III Empowerment Zones and for Renewal Communities**

The Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 2001 (Omnibus Act) (Pub. L. 106-554, 114 Stat. 2763, approved December 21, 2000) enacted into law the provisions of a number of bills of the 106th Congress. One of the bills enacted by the Omnibus Act is H.R. 5662, the Community Renewal Tax Relief Act of 2000 (CRTR Act).

The CRTR Act, among other things, authorizes the designation of nine Round III Empowerment Zones (EZs). Seven of the Round III EZs are to be designated in urban areas by the Secretary of HUD. The remaining two Round III EZs are to be designated in rural areas by the Secretary of Agriculture. The CRTR Act also conforms and enhances the tax incentives for Round I and Round II EZs, and makes the new Round III EZs eligible for these incentives. The availability of the tax incentives is extended to December 31, 2009 for all EZs.

The CRTR Act also authorizes HUD to designate up to 40 Renewal Communities (RCs) within which special tax incentives would be available. At least 12 of the designated RCs must be in rural communities. Unlike the EZ program, which splits the designation responsibility between HUD and the Department of Agriculture for urban and rural areas respectively, all RC designations are to be made by HUD.

This rule would implement the designation requirements for Round III EZs and for RCs as discussed in the following preamble sections.

II. Designation of Round III Empowerment Zones

Section 111 of the CRTR Act adds a new subsection (h), which authorizes the designation of nine additional EZs, to section 1391 of Subchapter U of Chapter 1 of the Internal Revenue Code of 1986. Subchapter U governs the designation and treatment of Empowerment Zones, Enterprise Communities, and Rural Development Investment Areas, and provided authorization by separate legislative enactments for the designation of Round I EZs in 1993, and Round II EZs in 1997.

HUD promulgated Round I EZ regulations at 24 CFR part 597 in 1994, and Round II EZ regulations at 24 CFR part 598 in 1998. Separate Round I and Round II regulations were issued

because although many of the Round I and II submission requirements, such as the strategic plan, were similar, there were some differences in the authorizing statutes for each Round. For example, the legislation authorizing the Round II designations changed the eligibility and selection criteria from the Round I requirements. Two specific changes in the Round II eligibility criteria were an increase in the size of zones and elimination of the requirement that at least half of the nominated area consist of census tracts with poverty rates of 35 percent. Round II designations were also permitted to except up to three "developable sites"—parcels that may be developed for commercial or industrial purposes—from satisfying the two poverty rate criteria that otherwise would be applicable, but the size of the area given this special poverty rate treatment was restricted to a total of 2,000 acres.

Unlike the differences in Round I and Round II, the eligibility and selection criteria for the Round III EZs are the same as the criteria that applied to the Round II EZs. HUD is therefore implementing Round III in a timely and efficient manner by making only conforming changes to include references to Round III in part 598. This approach will continue, and not disrupt, the EZ designation process with which interested parties have already become familiar. The regulation at 24 CFR part 598 will apply for Round III designations for urban areas as it did for Round II. The designation of rural areas as EZs will continue to be implemented separately by the Department of Agriculture.

III. The Renewal Communities Program

Section 101 of the CRTR Act adds a new Subchapter X, consisting of sections 1400E through 1400J, to Chapter 1 of the Internal Revenue Code of 1986. Subchapter X governs the designation of, and tax incentives for, Renewal Communities. This rule would implement, at 24 CFR part 599, sec. 1400E, which authorizes HUD to designate up to 40 Renewal Communities and provides the process by which these designations are to be made.

The Renewal Communities program represents a different approach from the EZ program to the economic revitalization of distressed communities and to help residents gain employment, succeed in their careers and become economically self-sufficient. Rather than providing grants of funds or guarantees to finance development projects in the distressed communities, the RC program seeks to achieve its goals through the

coordinated efforts of government at the Federal, State and local levels to attract and encourage business development in the designated areas. The government incentives provided in RCs are, generally, incentives of forbearance: the business activities in the RCs will not be subject to the same levels of taxation or regulatory restrictions that apply elsewhere. An additional significant component to the success of RCs is a commitment from State and local governments to improve the infrastructure and enhance and make more efficient a variety of services for businesses and residents in the designated areas. The increase in business activity that results from these actions will provide economic growth and benefits to the RCs and surrounding communities.

The Federal commitment to RCs is twofold. First, substantial Federal tax incentives, described immediately below, are made available for businesses located in RCs. Second, and perhaps more significant, is HUD's commitment to work with RCs in planning and organizing their development activities and in reaching out to the business community to promote the many attractive features of, and encourage investment in, RCs.

General description of tax benefits. The tax incentives available in Renewal Communities, administered by the Treasury Department, are authorized in secs. 1400F through 1400J of the Internal Revenue Code, and are generally available during the period beginning January 1, 2002 and ending December 31, 2009. A brief description of these incentives follows:

1. *Zero-percent capital gains rate.* A zero-percent capital gains rate applies with respect to gain from the sale of a qualified community asset acquired after December 31, 2001, and before January 1, 2010, and held for more than five years.

2. *Renewal community employment credit.* A 15-percent wage credit is available to employers for the first \$10,000 of qualified wages paid to each employee who is a resident of the renewal community and also performs substantially all employment services within the renewal community in a trade or business for the employer.

3. *Commercial revitalization deduction.* Each State is permitted to allocate up to \$12 million of "commercial revitalization expenditures" to each renewal community located within the State. A "commercial revitalization expenditure" means the cost of a new building or the cost of substantially rehabilitating an existing building. A

taxpayer can elect either to deduct one-half of the commercial revitalization expenditures for the taxable year the building is placed in service or amortize all the expenditures ratably over the 120-month period beginning with the month the building is placed in service.

4. *Additional section 179 expensing.* A Renewal Community business is allowed an additional \$35,000 of section 179 expensing for "qualified renewal property." The term "qualified renewal property" is similar to the definition of "qualified zone property" used in connection with Empowerment Zones.

5. *Extension of work opportunity tax credit (WOTC).* The high-risk youth and qualified summer youth categories in the WOTC are expanded to include qualified individuals who live in a Renewal Community.

Designation of Renewal Communities—General Overview. The process for designating RCs differs from the EZ selection process in that the RC process is more streamlined and objective. Section 1400E establishes a two step process in which basic eligibility for designation is based upon meeting a number of threshold qualifications, and selection for designation is based upon rating and ranking using objective data. The rule at 24 CFR part 599 that implements this process is divided into subparts that address general provisions, eligibility, rating, and selection of applications. An additional subpart addresses post-designation requirements, which are broadly designed to promote the intergovernmental efforts necessary to ensure the success of RCs. Each of these subparts is discussed below.

Subpart A—General Provisions. This subpart lays the groundwork for part 599 by defining basic terms and data sources used in the RC program. Many of these definitions and sources are familiar from the EZ program requirements; however, HUD calls attention to the definitions of "rural area" and "urban area" in subpart A. At least 12 of the 40 available RC designations will be made for rural areas. "Rural area" is specifically defined, with an "urban area" being any area that is not a rural area. In addition to the statutory parameters given to the definition of "rural area," including allowing determinations to be made on a case-by-case basis, the definition adds a specific example of an area that would otherwise qualify as a rural area "after consultation with the Secretary of Commerce" as permitted by 1400E(a)(2)(B)(iii). The intent is to expand the definition of "rural area" and ensure a sufficient number of rural applications by permitting a nominated

area which crosses jurisdictional lines to qualify as a rural area even though the area taken as a whole would not satisfy the statutory requirements of being in jurisdictions with less than 50,000 population or being located entirely outside of a metropolitan area (MA). As long as the nominated area is within the overall RC population cap of 200,000, and each portion of the nominated area that is located within a separate jurisdiction meets the population or MA requirements, the area as a whole can qualify as a rural area. HUD has determined, in accordance with the flexibility provided by the statute, that at least in such circumstances, the essential rural characteristics of the nominated area should be recognized.

Subpart B—Eligibility Requirements for Nomination of Renewal Communities. Subpart B contains the requirements of the eligibility thresholds to nominate an area for RC designation. The more significant aspects of these threshold requirements are discussed below according to the sections of part 599 in which they appear.

Who must nominate (§ 599.101). This section includes the requirements of secs. 1400E(a)(1)(A) and (a)(5). A nomination must be submitted by one or more local governments and the State or States in which the nominated area is located. The governing body of an Indian reservation is treated as being both the State and local governments for RC purposes.

Geographic and population requirements (§ 599.103). Sections 1400E(c)(2)(B) and (C) form the basis for the eligibility requirements of this section. Section 599.103(a)(2)(ii) clarifies that although the outer boundary of a nominated area must be continuous, the nominated area may enclose areas that are not included in the nomination. The resulting map in such an instance would have a "swiss cheese" appearance.

A nominated area that is entirely within an Indian reservation is not subject to the population eligibility requirements.

Economic condition requirements (§ 599.105). Section 1400E(c)(3) contains the four economic condition threshold requirements of (1) pervasive poverty, unemployment, and general distress; (2) unemployment rate; (3) poverty rate; and (4) income levels. The first three requirements apply to all nominated areas, rural and urban. The fourth threshold requirement only applies to urban areas. A nominated area must meet each of the applicable economic condition threshold requirements before

it can be rated and ranked for RC designation. For purposes of the RC application process, sec. 1400E(c)(3) only requires the State and local governments in which the nominated area is located to certify that the nominated area meets the threshold requirements, and HUD's acceptance of the certification is subject to "such review of supporting data" as HUD deems appropriate. These threshold requirements appropriately limit the pool of areas eligible for RC designation to areas with significant negative economic conditions.

The statute lays out specific percentages that must be present to meet the thresholds of requirements (2) through (4): The unemployment rate in the nominated area taken as a whole must be at least one and one-half times (150% of) the national unemployment rate; the poverty rate for each population census tract within the nominated area must be at least 20 percent; and in the case of a nominated urban area, at least 70 percent of the households living in the nominated area must have incomes below 80 percent of the median income of households within the jurisdiction of the local government or governments in which the nominated area is located.

In addition to serving as thresholds, the second and third requirements, unemployment and poverty rate, are used to rate and rank rural and urban area applications, and the fourth requirement, income levels, is also used to rate and rank urban areas. A description of the rating and ranking process appears below in this preamble in the discussion of subpart D of the rule.

HUD has deemed 1990 census data as the appropriate data to review in determining whether to accept a certification as to unemployment, poverty, and income. Section 1400E(f)(4) specifically requires the use of 1990 census data for determining population and poverty rate. Although sec. 1400E(c)(3)(B) requires that the unemployment rate in the nominated area be determined using "the most recent available data," the 1990 census data is still the most recent available data at a census tract level. More recent unemployment rate data for local areas are available, but the more recent data are not usable for the RC designations because they give the rates for larger areas, namely counties and incorporated jurisdictions of 25,000 or more, that would not generally correspond to the tract-based RC areas. Accordingly, the nominating State and local governments should make their certification for unemployment, poverty and income, as

applicable, on the basis of 1990 census data for HUD to find it acceptable.

Whether HUD accepts the certification that the nominated area is one of pervasive poverty, unemployment and general distress, will follow § 598.110 of the EZ Round II and III rule, which addresses an identical demonstration required by the EZ authorizing statute. Accordingly, the provisions of § 598.110 appear at § 599.105(e)(2) of this rule.

State and local commitments (§ 599.107). Two very significant thresholds that must be met by the nominating State and local governments are (1) the submission of a "course of action," a plan showing how the governments and local organizations will reduce regulatory, infrastructure and service burdens on employers and employees in the nominated area, and (2) the submission of a certification from the nominating governments that they have repealed or reduced, will not enforce, or will reduce within the nominated area at least four of five governmental restrictions listed in the statute. These threshold requirements are included in sec. 1400E(d) of the statute.

It is important that the nominees involve all appropriate State and local government agencies when preparing the application because programs managed by various different agencies may be among those that could be made more efficient as part of the Renewal Community project. Similarly, the combined effect of requirements from multiple agencies sometimes produce negative burdens for businesses and residents. HUD does not require nominees to involve a defined list of State and local government agencies, but it does encourage nominees to seek the active participation of many such agencies including, but not limited to, ones responsible for: Community and economic development and business assistance; human services and human development such as the State and/or county agency that administers the Federal Temporary Assistance for Needy Families program and other agencies that administer job support programs including child care, employment training, welfare-to-work and school-to-work efforts.

Subpart C—Procedures for Nomination of Renewal Communities. This subpart provides that the application process for RCs is initiated by the publication of a notice inviting applications in the **Federal Register**, and that the notice will include specific information as to due dates and submission requirements. An application must include information

demonstrating that all of the threshold eligibility requirements are met. An application must also include a certification, signed by a responsible official or employee of each State and local government in which the nominated area is located, that the public was provided notice of, and an opportunity to participate in, the application development process. Even though the threshold requirements and rating and ranking factors for Renewal Community designation are narrowly drawn by the authorizing statute, public support and involvement from the earliest stages of the development of a Renewal Community are necessary if the effort is to be successful. Notice and opportunity to participate may include procedures such as placing announcements in newspapers or other media, holding public meetings and soliciting comments.

An applicant may continue to submit information to meet the threshold requirements until the application due date that will be specified in the notice inviting applications. Once an application meets the threshold requirements, it is rated and ranked in accordance with the procedures in subpart D.

Subpart D—Evaluation of Applications Nominating Renewal Communities. Section 1400E(a)(3)(A) provides that, "the nominated areas designated as renewal communities under this subsection shall be those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (B), (C), and (D) of subsection (c)(3)." These criteria are the three economic condition threshold requirements described at § 599.105(b) through (d) of this rule. The following paragraph describes how HUD will implement the ranking process.

Each nominated area meeting the minimum thresholds will be ranked from highest to lowest according to the area poverty rate, area unemployment rate, and for urban areas, the percentage of families below 80 percent of area median income (the low-mod rate). Urban nominated areas will be ranked separately from rural nominated areas. The percentile rank will be determined by dividing these rankings by the total number of nominated areas ranked and multiplying the result by 100. The average ranking will be determined by computing the simple average of the percentile ranks for each nominated area. To create a 100 point scale, the average rankings will be subtracted from 100. The following table illustrates this process for urban nominated areas

under the assumption that there are 150 nominated areas being ranked.

ILLUSTRATIVE EXAMPLE OF RANKING PROCESS, 150 NOMINATED AREAS

App. No	Absolute Rankings			Percentile Rankings (100 × Absolute Rank ÷ Number of Areas)			Average ranking	Score
	Poverty rate	Unem- ployment rate	Low-Mod rate	Poverty rate	Unem- ployment rate	Low-Mod rate		
1	6	3	1	4.0	2.0	0.7	2.2	97.8
2	1	8	3	0.7	5.3	2.0	2.7	97.3
3	2	6	6	1.3	4.0	4.0	3.1	96.9
4	3	5	7	2.0	3.3	4.7	3.3	96.7
5	4	12	5	2.7	8.0	3.3	4.7	95.3
6	9	1	14	6.0	0.7	9.3	5.3	94.7
* * *								
150	140	150	145	93.3	100	96.7	96.7	3.3

Once a nominated area receives a score using the process described above, preference points are awarded based on two additional factors: The incidence of crime in the area, and whether census tracts in the area have been identified as distressed by the U.S. General Accounting Office.

First, section 1400E(c)(4)(A)(i) requires HUD to take into account the extent to which an area has a high incidence of crime. HUD has determined that, because of the nature of the RC program, the most appropriate way of taking the incidence of crime into account is to reward jurisdictions that have managed to control crime levels, even in their most distressed areas. The RC program is not a crime reduction program, but a business development program. The success of a Renewal Community will ultimately be measured by the extent to which it develops and expands business activities within its boundaries. A Renewal Community in an area that has already begun to address successfully the high incidence of crime starts out with a more inviting business environment, and is better poised to achieve success. There will be less concern on the part of business investors that their employees may be the victims of crime or that their facilities and property may be vandalized or subject to theft. Insurance rates for businesses in such areas are likely to be lower, further making such areas more attractive for investment and development.

A nominated area will receive 1 additional point if its 1999 Local Crime Index rate per 100,000 inhabitants (LCI), as determined on the basis of data from each State and local law enforcement authority with jurisdiction in the nominated area, does not exceed by

more than 25% the 1999 Crime Index rate per 100,000 inhabitants (CI) prepared as part of the FBI's Uniform Crime Reporting (UCR) Program. The Crime Index is composed of selected offenses used to gauge fluctuations in the overall volume and rate of crime reported to law enforcement. The offenses included are the violent crimes of murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault, and the property crimes of burglary, larceny-theft, motor vehicle theft, and arson. A preference of 2 points will be added to the score of a nominated area with an LCI that does not exceed the CI by more than 10 percent. A nominated area that has an LCI that is less than the CI will receive 4 preference points. To qualify for the preference points, the nominating governments must determine and then certify to the LCI determined for the nominated area.

Second, one preference point is awarded if any census tract in the nominated area is identified in GAO Report RCED-98-158R, dated May 12, 1998, cited in section 1400E(c)(4)(A)(ii).

Subpart E—Selection of Nominated Areas To Be Renewal Communities. Section 1400E(a)(3)(C) provides a selection preference for the first 20 of the 40 permitted RC designations to nominated areas that are EZs or ECs. Section 1400E(a)(2)(B) requires that at least 12 RC designations be made in rural nominated areas. To implement these statutory requirements, Subpart E establishes a selection process in which applications are separated into two categories after rating and initial ranking, and in which the priority of selection is given to EZs, ECs, and rural areas. Category 1 consists of applications for designation of nominated areas that are EZs or ECs.

Applications for designation of nominated areas that are not placed into or selected from Category 1 will be placed into Category 2.

All or 20, whichever number is lower, of the Category 1 nominated areas will be designated RCs. HUD will select the six highest ranked rural areas in Category 1 for designation as Renewal Communities. The remaining number of Category 1 selections will be made in rank order from the combined rural and urban nominated areas. If there are fewer than six rural areas and additional urban Category 1 areas, urban areas will be selected until not more than 20 Category 1 designations are made.

Once the Category 1 nominated areas are selected, remaining urban and rural areas will be ranked in Category 2. The six highest ranked, or the number of highest ranked rural applications necessary to designate at least 12 if fewer than six rural areas were selected in Category 1, rural applications will be selected from Category 2. If HUD does not receive at least 12 eligible rural area applications for Renewal Community designation, the number of rural area designations will be the number of eligible rural area applications received by HUD. The remaining designations will be made from both rural and urban areas in rank order until a combined Category 1 and Category 2 total of not more than 40 designations is made.

The rule also provides, at § 599.405(c), that the effective date of designation as a Renewal Community is the date a nominated area is selected in accordance with this selection procedure.

HUD will make every effort to see that at least 12 rural areas are designated as Renewal Communities. For example, HUD in consultation with the Department of Commerce has

established, at § 599.3, a broader definition of areas that will qualify as rural areas, including allowing determinations to be made on a case-by-case basis as permitted by sec. 1400E(a)(2)(B)(iii). In addition, HUD intends to leave the application period for RC designations open for the longest feasible period to allow the most time for the preparation of applications. It will only be in the unlikely event that HUD does not receive at least 12 eligible RC applications from rural areas, including Indian reservations, that HUD will designate additional urban area applications so that the full number of 40 RC designations can be made.

Subpart F—Post-Designation Requirements. As noted above, Federal tax benefits are a part of the Federal commitment to the success of RCs. The rest of the Federal commitment consists of assisting State and local governments in their planning and outreach to the business community and residents to develop and expand activities in RCs. Subpart F requires the nominating State and local governments to identify, within 30 days of RC designation, a coordinating responsible authority (CoRA). The CoRA will be the entity, organization or persons with the responsibility and authority to achieve the State and local commitments made at the time of application. The CoRA will also undertake the development and administration of policies, procedures and activities to implement and maximize the Federal, State and local benefits made available in the Renewal Community. The CoRA will function as the central point of contact for the RC.

HUD will work with each CoRA to develop a tax incentives utilization plan to develop and expand businesses in the RCs through the Federal, State and local incentives made available. A preliminary plan must be developed within 6 months, and a final plan must be completed within one year of the designation. Because the RC designations have a 10-year term, it is important to undertake development activities as early as possible. Businesses should also note that they will garner the most benefit the earlier they take advantage of the available incentives, and HUD will assist in getting the word out to the business community.

HUD will also encourage other Federal agencies, in particular the Department of Health and Human Services, to provide technical assistance

as appropriate to the CoRAs. The technical assistance would be designed to help CoRAs and the appropriate State and/or local agencies to develop and implement effective and innovative strategies, services and/or activities that assist residents and their families move successfully to work on to self-sufficiency.

The Renewal Communities program presents a great challenge and opportunity to HUD and it State and local government partners, and one that HUD looks forward to addressing with them.

IV. Findings and Certifications

Justification for Interim Rule. In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide in § 10.1 for exceptions from that general rule where the Department finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is “impracticable, unnecessary, or contrary to the public interest”. The Department finds that good cause exists to publish this interim rule for effect without first soliciting public comment. Prior public procedure is contrary to the public interest because of the practical necessity of preparing an application for designation as a Renewal Community within the timeframe set by the authorizing statute. The designations are required by the statute (section 1400E(a)(4)(B)) to be made before January 1, 2002. The governmental entities and other entities that may work with them in partnership to develop an application for designation need to know the requirements of the program in time to develop their plans and apply for designation. Delay in prescribing the criteria for designating new Renewal Communities would delay the development of these cooperative efforts and make it extremely difficult for applicants to develop their applications in a timely fashion.

Paperwork Reduction Act. The information collections contained in 24 CFR part 598 and implementing documents were approved for Round II EZs by the Office of Management and Budget (OMB) and assigned OMB control number 2506–0148. Since there are no additional Round II designations and the Round III requirements are the same as those for Round II, the same

OMB control number continues to be applicable. HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The information collection requirements contained in 24 part 599 of this rule, as described in subparts C and F, and the implementing application forms, have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2506–0173. This approval has been granted on an emergency basis through July 31, 2001. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

In addition, HUD is seeking regular, non-emergency approval for these information collections. Therefore, HUD asks for comments regarding the information collections contained in the subparts of part 599 of this rule stated above. Comments regarding the information collections contained must be submitted by September 7, 2001. Comments on these information collections should refer to the proposal by name and/or OMB control number and must be sent to: Reports Liaison Officer, Shelia E. Jones, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7230, Washington, DC 20410.

Specifically, comments are solicited from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The following table identifies the components of the information collection.

Type of Collection *First year **Subsequent years	Section of 24 CFR affected	Number of re- spondents	Frequency of response	Est. Ave. re- sponse time (Hrs.)	Annual burden hrs.
*Application	599.203	200	1	35	7,000
*Identification of Coordinating Responsible Authority	599.505	40	1	5	200
*Tax Incentives Utilization Plan	599.507	40	1	35	1,400
** Modifications	599.509	40	2	5	200
** Periodic Reporting	599.511	40	2	10	400
** Response to Warning Letter	599.513	40	2	4	160
Total Burden	9,360

Environmental Impact. A Finding of No Significant Impact with respect to the environment for this rule 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 Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

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 will not have a significant economic impact on a substantial number of small entities as distinguished from large entities. The rule does not place any mandates on small entities. It merely authorizes them to seek designation as Renewal Communities as authorized by statute and the burdens placed on applicants derive from the statute.

HUD is sensitive to the fact, however, that the uniform application of requirements on entities of differing sizes may place a disproportionate burden on small entities. Therefore, HUD is soliciting recommendations for how these small entities might fulfill the purposes of the rule in a way less burdensome to them.

Executive Order 13132, Federalism. This rule does not impose substantial direct compliance costs on States or local governments or preempt State law within the meaning of the Executive Order. As a result, the rule is not subject to review under the order. The purpose of the rule is to provide a cooperative atmosphere between the Federal government and States, local, and Tribal governments, and to reduce any regulatory burden imposed by the Federal government that impedes the ability of States and local governments

to solve pressing economic, social, and physical problems in their communities.

Unfunded Mandates. Executive Order 12875 calls for Federal agencies to refrain, to the extent feasible and permitted by law, from promulgating any regulation that is not required by statute that would create a mandate on a State, local, or Tribal government, unless the agency provides funds for complying with the mandate or the agency first consults with affected State, local, and Tribal governments. Title II of the Unfunded Mandates Reform Act of 1995 (12 U.S.C. 1501) established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector.

This rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995, because it does not mandate any particular action. The rule only authorizes States, localities, and tribes to apply for designation of areas within their jurisdiction as Empowerment Zones or Renewal Communities, which permits special tax treatment of business activities within the areas.

Regulatory Review. The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the interim rule after its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division of the Office of General Counsel, Room 10276, 451 Seventh Street, SW, Washington, DC 20410-0500.

Catalog of Federal Domestic Assistance. The Catalog of Federal Domestic Assistance Program number assigned to these programs is 14.244.

List of Subjects

24 CFR Part 598

Community development, Economic development, Empowerment zones, Housing, Indians, Intergovernmental relations, Reporting and recordkeeping requirements, Urban areas.

24 CFR Part 599

Community development, Economic development, Housing, Indians, Intergovernmental relations, Renewal communities, Reporting and recordkeeping requirements, Urban areas.

Accordingly, for the reasons set forth in the preamble, in title 24 of the Code of Federal Regulations, chapter V is amended as follows:

PART 598—URBAN EMPOWERMENT ZONES: ROUND TWO AND THREE DESIGNATIONS

1. The heading for part 598 is revised to read as set forth above.

2. The authority citation for 24 CFR part 598 continues to read as follows:

Authority: 26 U.S.C. 1391; 42 U.S.C. 3535(d).

3. In § 598.1, paragraph (a) is revised to read as follows:

§ 598.1 Applicability and scope.

(a) This part establishes policies and procedures applicable to the second and third rounds of designations of urban Empowerment Zones, authorized under Subchapter U of the Internal Revenue Code of 1986 (26 U.S.C. 1391, et seq.), as amended. Any reference to, or requirement of, Round II in this part is also a reference to, or requirement of, Round III.

* * * * *

4. A new part 599 is added to read as follows:

PART 599—RENEWAL COMMUNITIES

Subpart A—General Provisions

Sec.

599.1 Applicability and scope.

599.3 Definitions.

599.5 Data used for eligibility determinations.

Subpart B—Eligibility Requirements for Nomination of Renewal Communities
599.101 Eligibility to submit nominations.

599.103 Geographic and population requirements for a nominated area.
 599.105 Economic condition requirements for a nominated area.
 599.107 Required State and local commitments.

Subpart C—Procedures for Nomination of Renewal Communities
599.201 Initiation of application process.

599.203 Basic application submission requirements.

Subpart D—Evaluation of Applications Nominating Renewal Communities
599.301 Initial determination of threshold requirements.

599.303 Rating of applications.

Subpart E—Selection of Nominated Areas To Be Renewal Communities

599.401 Ranking of applications.
 599.403 Number of Renewal Communities to be designated.
 599.405 Selection of Renewal Communities.
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599.501 Period for which Renewal Community designation is in effect.
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 599.507 Tax incentives utilization plan.
 599.509 Modification of commitments and plans.
 599.511 Reports and other information.
 599.513 Revocation of designation.

Authority: 26 U.S.C. 1400E; 42 U.S.C. 3535(d).

Subpart A—General Provisions

§ 599.1 Applicability and scope.

(a) This part establishes requirements and procedures applicable to the designation of Renewal Communities (RCs) through December 31, 2001, authorized under Subchapter X of the Internal Revenue Code of 1986 (26 U.S.C. 1400E, et seq.). HUD may choose to use these requirements and procedures in whole or in part for any future Renewal Community designations that may be authorized.

(b) This part contains provisions relating to area requirements, the nomination process for Renewal Communities, and the evaluation and designation of nominated areas by HUD.

§ 599.3 Definitions.

In addition to the definitions of “HUD” and “Secretary” found in 24 CFR 5.100, the following definitions apply to this part:

Census tract means a census tract, as the term is used by the Bureau of the Census, or, if census tracts are not defined for the area, a block numbering area.

Designation means the process by which the Secretary designates areas as Renewal Communities eligible for tax incentives and credits established by Subchapter X of the Internal Revenue Code of 1986, as amended (26 U.S.C. 1400E, et seq.) and for any additional assistance that may be made available.

Empowerment Zone (EZ) means an area so designated by the Secretary in accordance with 24 CFR part 597 or 24 CFR part 598.

Enterprise Community (EC) means an area so designated by the Secretary in accordance with 24 CFR part 597.

Local government means any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and any combination of these political subdivisions that is recognized by the Secretary.

Metropolitan Area (MA) means an area as defined to be a Metropolitan Statistical Area or Primary Metropolitan Statistical Area by the Office of Management and Budget on June 30, 1999.

Nominated area means an area with a population of not more than 200,000 that is nominated by one or more local governments and the State or States in which it is located, or the governing body of the Indian reservation in which it is located, for designation in accordance with this part.

Renewal Community (RC) means an area so designated by HUD in accordance with this part.

Rural area means a nominated area:

- (1) Which is within a local government jurisdiction or jurisdictions with a population of less than 50,000; or
- (2) Which is outside of an MA; or
- (3) Which is determined by HUD, after consultation with the Secretary of Commerce, to be a rural area. An area may qualify as a rural area under this paragraph (3) of this definition if:

(i) It is a nominated area that crosses jurisdictional boundaries;

(ii) The total population of the nominated area does not exceed 200,000;

(iii) The nominated area as a whole would not satisfy the requirements of either paragraph (1) or (2) of this definition;

(iv) Each portion of the nominated area that is located within a separate jurisdiction meets the requirements of either paragraph (1) or (2) of this definition; and

(v) The area is specifically nominated as a rural area; or

(4) Which does not meet the requirements of either paragraph (1), (2), or (3) of this definition but which is determined by HUD on a case-by-case basis, after consultation with the Secretary of Commerce, to be a rural area based on information submitted to demonstrate that the nominated area should be considered as a rural area.

State means any State of the United States.

Urban area means a nominated area that is not a rural area.

§ 599.5 Data used for eligibility determinations.

(a) *Source of data.* The data to be used in determining the population, poverty rate, unemployment rate and household income distribution information of an area is from the 1990 Decennial Census.

(b) *Geographic boundaries.* The boundary of an area that is nominated for designation as an Renewal Community must coincide with the boundaries of census tracts, as defined in § 599.3 except in the case of Indian reservation areas where the use of census tracts would tend to include areas outside the jurisdiction of the reservation governing body and such body is not making the nomination in concert with another jurisdiction.

Subpart B—Eligibility Requirements for Nomination of Renewal Communities

§ 599.101 Eligibility to submit nominations.

(a) *In general.* Except as provided in paragraph (b) of this section, a nomination for the designation of an area as a Renewal Community must be submitted by one or more local governments and the State or States in which the nominated area is located.

(b) *Nominated areas on Indian reservations.* In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) must submit the nomination and shall be treated as being both the State and local governments with respect to the area for purposes of this part.

(c) *Responsible official.* The submission of an application, and any other action required of a nominating government under this part, such as the submission of a certification, must be performed by an official or employee authorized to act on behalf of the government for that purpose.

§ 599.103 Geographic and population requirements for a nominated area.

(a) *Geographic requirements.* A nominated area must meet the following

geographic requirements to be eligible for designation as a Renewal Community:

(1) The area must be within the jurisdiction of one or more local governments.

(2) The boundary of the area must be continuous.

(i) The boundary line of the nominated area may be interrupted by jurisdictional boundaries, such as State or county lines, or natural boundaries, such as rivers, as long as the resulting area is entirely within the boundary line except for the interruptions.

(ii) The nominated area may enclose an area or areas that are excluded from the nominated area, as long as each enclosed area to be excluded is within a continuous boundary line.

(3) The nominated area may be any size, as long as it meets all of the requirements of this part.

(b) *Population requirements.*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, a nominated area must have a population of not more than 200,000 and at least:

(i) 4,000 if any portion of the area (other than a nominated rural area) is located within an MA which has a population of 50,000 or greater; or

(ii) 1,000 in any other case.

(2) *Nominated areas on Indian reservations.* A nominated area that is entirely within an Indian reservation (as determined by the Secretary of the Interior) is not subject to the population requirements of paragraph (b)(1) of this section.

§ 599.105 Economic condition requirements for a nominated area.

(a) *Certification for economic requirements.* An official or officials authorized to do so by the nominating State and local governments must certify in writing for HUD's acceptance that the nominated area is an area of pervasive poverty, unemployment, and general distress, and that the nominated area meets the requirements of paragraphs (b), (c) and, in the case of urban areas, paragraph (d) of this section. HUD's acceptance of the certification is subject to a review of data supporting the certification, as provided in paragraph (e) of this section.

(b) *Unemployment requirement.* A nominated area meets the unemployment requirement if the unemployment rate in the nominated area taken as a whole was at least one and one-half times (150% of) the national unemployment rate for the period to which such data relate.

(c) *Poverty requirement.* A nominated area meets the poverty requirement if

the poverty rate for each population census tract within the nominated area is at least 20 percent. In the case of a nominated area that is within an Indian reservation, and cannot equivalently be described with census tracts, the poverty rate of the nominated area taken as a whole is considered for purposes of making this determination.

(d) *Income requirement for urban areas.* In the case of a nominated urban area, at least 70 percent of the households living in the nominated area must have incomes below 80 percent of the median income of households within the jurisdiction of the local government or governments in which the nominated area is located. The number of households below 80 percent of the median income in each census tract shall be the number of households with incomes below 80 percent of the Household Adjusted Median Family Income (HAMFI) in each census tract as determined by HUD.

(e) *HUD review of supporting data.*—(1) *Unemployment, poverty and income.* HUD will review 1990 census data to determine whether to accept a certification that a nominated area meets the requirements of paragraphs (b), (c) and (d) of this section.

(2) *Pervasive poverty, unemployment and general distress.*—(i) *Pervasive poverty.* Pervasive poverty is demonstrated by evidence that:

(A) Poverty, as indicated by the number of persons listed as being in poverty in the 1990 Decennial Census, is widespread throughout the nominated area; or

(B) Poverty, as described in paragraph (e)(2)(i)(A) of this section, has become entrenched or intractable over time (through comparison of 1980 and 1990 census data or other relevant evidence).

(ii) *Unemployment.* Unemployment is demonstrated by:

(A) The most recent data available indicating that the annual rate of unemployment for the nominated area is not less than the national annual average rate of unemployment; or

(B) Evidence of especially severe economic conditions, such as military base or plant closings or other conditions that have brought about significant job dislocation within the nominated area.

(iii) *General distress.* General distress is evidenced by describing adverse conditions within the nominated urban area other than those of pervasive poverty and unemployment. Below average or decline in per capita income, earnings per worker, number of persons on welfare, per capita property tax base, average years of school completed, substantial population decline, and a

high or rising incidence of crime, narcotics use, homelessness, high incidence of AIDS, abandoned housing, deteriorated infrastructure, school dropouts, teen pregnancy, incidence of domestic violence, incidence of certain health conditions and illiteracy are examples of appropriate indicators of general distress.

§ 599.107 Required State and local commitments.

(a) *Commitment to a course of action.*—(1) *Agreement of State and local governments.* The nominating State and local governments must agree in writing that, for any period during which the area is a Renewal Community, the governments will follow a specified course of action which meets the requirements of paragraph (a)(2) of this section. If each nominating State and local government is a signatory to a course of action under paragraph (a)(2) of this section, a separate written agreement is not necessary to meet the requirements of this paragraph.

(2) *Course of action requirements.*—(i) *In general.* A course of action is a written document, signed by the nominated area's State and/or local governments and community-based organizations which commits each signatory to undertake and achieve measurable goals and actions within the nominated area upon its designation as a Renewal Community.

(ii) *Community-based organizations.* For purposes of the course of action, "community-based organizations" includes for-profit and non-profit private entities, businesses and business organizations, neighborhood organizations, and community groups. Community-based organizations are not required to be located in the nominated area as long as they commit to achieving the goals of the course of action in the Renewal Community.

(iii) *Timetable.* The course of action must include a timetable that identifies the significant steps and target dates for implementing the goals and actions.

(iv) *Performance measures.* The course of action must include a description of how the performance of the course of action will be measured and evaluated.

(v) *Required goals and actions.* The course of action must include at least four of the following:

(A) A reduction of tax rates or fees applying within the Renewal Community;

(B) An increase in the level of efficiency of local services within the Renewal Community, such as services for residents funded through the Federal

Temporary Assistance for Needy Families program and related Federal programs including, for example, job support services, child care and after school care for children of working residents, employment training, transportation services and other services that help residents become economically self-sufficient;

(C) Crime reduction strategies, such as crime prevention, including the provision of crime prevention services by nongovernmental entities;

(D) Actions to reduce, remove, simplify, or streamline governmental requirements applying within the Renewal Community, such as:

(1) *Density bonus*. Permission to develop or redevelop real property at a higher density level than otherwise permitted under the zoning ordinance, e.g., increased height or increased number of residential or business units;

(2) *Incentive zoning*. Providing a density bonus or other real property-related incentive for the development, redevelopment, or preservation of a parcel in the designated area;

(3) *Comprehensive or one-stop permit*. Streamlining construction or other development permitting processes, rather than requiring multiple applications for multiple permits, e.g., for demolition, site preparation, and construction, the developer or redeveloper submits a single application that is circulated for the necessary reviews by the various planning, engineering, and other departments in the county or municipality;

(4) *Variance and exception policies*. Counties or municipalities may pass ordinances that permit variances to or exceptions from certain zoning or other land use limitations. Examples include a reduced building set-back requirement or a reduced requirement for the provision of parking. The policy may be limited to a particular geographic area;

(5) *Voluntary environmental compliance program*. A shared or limited environmental liability program, with limited liability from certain legal or administrative action in exchange for undertaking an approved program of environmental investigation, hazard control, and on-going risk reduction activities. Typically, the liability limitation is for future environmental cleanup (and not against lawsuit for damages). Risk of cleanup may be shared by the developer or property owner and the government;

(E) Involvement in economic development activities by private entities, organizations, neighborhood organizations, and community groups, particularly those in the Renewal Community, including a commitment

from such private entities to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents from the Renewal Community;

(F) The gift or sale at below fair market value of surplus real property held by State or local governments, such as land, homes, and commercial or industrial structures in the Renewal Community to neighborhood organizations, community development corporations, or private companies.

(3) *Certification requirement for crime incidence*. If preference points are being sought for the nominated area because it qualifies for preference points in accordance with § 599.303(c)(1), the course of action must contain a certification by each nominating State and local government of the 1999 Local Crime Index rate per 100,000 inhabitants (LCI) determined for the nominated area. The offenses used in determining the LCI are the violent crimes of murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault, and the property crimes of burglary, larceny-theft, motor vehicle theft, and arson.

(b) *Economic growth promotion requirements*.—(1) *Required certification*. The State and local governments in which a nominated area is located must certify in writing that they have repealed or reduced, will not enforce, or will reduce within the nominated area at least four of the following:

(i) Licensing requirements for occupations that do not ordinarily require a professional degree;

(ii) Zoning restrictions on home-based businesses which do not create a public nuisance;

(iii) Permit requirements for street vendors who do not create a public nuisance;

(iv) Zoning or other restrictions that impede the formation of schools or child care centers; and

(v) Franchises or other restrictions on competition for businesses providing public services, including taxicabs, jitneys, cable television, or trash hauling.

(2) *Exception*. The requirements of paragraph (b)(1) of this section do not apply to the extent that a regulation of businesses and occupations is necessary for and well-tailored to the protection of health and safety. The certifications required under paragraph (b)(1) of this section may be limited to exclude or include specific businesses and occupations.

(c) *Recognition of past efforts*. The course of action and economic growth requirements under paragraphs (a) and

(b), respectively, of this section are not limited to future goals and actions. Past efforts within the previous eight years, either completed or on-going, of the nominating State or local governments to undertake any of the goals or actions listed in paragraph (a)(2)(v) or (b)(1) of this section qualify to meet these requirements. If past efforts are used, the nominating governments must identify which of the required goals and actions listed in paragraph (a)(2)(v) or (b)(1) of this section they address; the timetable for their continued implementation, if on-going; and the community-based organizations involved, if any.

Subpart C—Procedures for Nomination of Renewal Communities

§ 599.201 Initiation of application process.

(a) *Federal Register notice*. To initiate the nomination process for Renewal Communities, HUD will publish a notice inviting applications for the designation of Renewal Communities in the **Federal Register**.

(b) *Contents*. The notice inviting applications will include specific information as to due dates and submission requirements.

§ 599.203 Basic application submission requirements.

The basic application submission requirements for nominating an area as a Renewal Community are:

(a) *Identification of the nominated area*. An application must identify the census tracts that constitute the nominated area. The nominated area must meet all of the eligibility requirements of subpart B of this part.

(b) *State and local commitments*. An application must include the documents evidencing compliance with State and local commitments required by § 599.107.

(c) *Public notice certification*. An application must include a certification, signed by a responsible official or employee of each nominating State and local government, that the public was provided notice of, and an opportunity to participate in, the application development process. Notice and opportunity to participate may include procedures such as placing announcements in newspapers or other media, holding public meetings, and soliciting comments.

Subpart D—Evaluation of Applications Nominating Renewal Communities

§ 599.301 Initial determination of threshold requirements.

(a) *Two threshold requirements*. Before rating and ranking an

application, HUD will review it to determine if the application meets both of the following thresholds:

(1) *Eligibility of the nominated area.* This threshold is met if HUD determines that the nominated area as identified in the application meets all of the area eligibility requirements of subpart B of this part.

(2) *Adequacy of State and local commitments.* This threshold is met if HUD determines that the documents in the application evidencing compliance with the required State and local commitments meet all of the course of action and economic growth promotion requirements of § 599.107.

(b) *Failure to meet threshold requirements.*—(1) *No rating or ranking.* An application that does not meet both of the threshold requirements by the application due date specified in the published notice inviting applications will not be rated or ranked for further Renewal Community consideration.

(2) *Opportunity to correct failure.* HUD will notify an applicant of the threshold deficiencies in its application. An applicant may submit additional information and take any other action required to correct the deficiencies and meet the threshold requirements until the due date for applications specified in the published notice inviting applications.

§ 599.303 Rating of applications.

(a) *In general.* Each application that qualifies by meeting the threshold requirements will receive a score based on its ranking, as described in paragraph (b) of this section, plus any preference points, as described in paragraph (c) of this section.

(b) *Ranking score.* Each nominated area meeting the minimum thresholds will be ranked from highest to lowest according to the area poverty rate, area unemployment rate, and for urban areas, the percentage of families below 80 percent of area median income. Urban nominated areas will be ranked separately from rural nominated areas. The percentile rank will be determined by dividing these rankings by the total number of nominated areas ranked and multiplying the result by 100. The average ranking will be determined by computing the simple average of the percentile ranks for each nominated area. To create a 100 point scale, the average rankings will be subtracted from 100.

(c) *Preference points.*—(1) *Incidence of crime.* A nominated area may receive a maximum of 1, 2, or 4 crime incidence preference points as follows:

(i) *Number of points awarded.* A nominated area will receive 1 additional

point if its 1999 Local Crime Index (LCI), as determined on the basis of data from each State and local law enforcement authority with jurisdiction in the nominated area, does not exceed by more than 25% the nation-wide 1999 Crime Index rate per 100,000 inhabitants (CI) prepared as part of the FBI's Uniform Crime Reporting (UCR) Program. A preference of 2 points will be added to the score of a nominated area with an LCI that does not exceed the CI by more than 10 percent. A nominated area that has an LCI that is less than the CI will receive 4 preference points.

(ii) *Qualifying for preference points.* To qualify for preference points based on the incidence of crime, the nominating governments must determine and then certify to the LCI determined for the nominated area, in accordance with § 599.107(a)(3)

(2) *Preference points for certain census tracts.* A nominated area will receive one preference point if any of its census tracts is a census tract identified in GAO Report RCED-98-158R, dated May 12, 1998. (The GAO Report is available from U.S. General Accounting Office, P.O. Box 37050, Washington, DC 20013 or <http://www.gao.gov>.)

Subpart E—Selection of Nominated Areas To Be Renewal Communities

§ 599.401 Ranking of applications.

(a) *Ranking order.* Rural and urban applications will be ranked according to their final scores as determined in accordance with § 599.303, with the highest scoring applications ranked first.

(b) *Separate ranking categories.* After initial ranking, both rural and urban applications will be separated into two ranking categories:

(1) *Category 1.* Applications for designation of nominated areas that are Enterprise Communities or Empowerment Zones will be placed into Category 1 in rank order.

(2) *Category 2.* Applications for designation of nominated areas that are not placed into or selected from Category 1 will be placed into Category 2 in rank order.

§ 599.403 Number of Renewal Communities to be designated.

(a) *In general.* Except as provided in paragraph (b) of this section, the total number of Renewal Communities to be designated and the distribution of designations between urban and rural areas are as follows:

(1) *Total number.* The total number of nominated areas to be selected for designation as Renewal Communities is 40.

(2) *Rural areas.* HUD will select at least 12 rural areas for designation as Renewal Communities. If HUD does not receive at least 12 eligible rural area applications for Renewal Community designation, the number of rural area designations will be the number of eligible rural area applications received by HUD.

(3) *Urban areas.* The number of urban areas selected for designation as Renewal Communities will be the number remaining after subtracting the number of rural areas selected from 40.

(b) *Less than 40 eligible applications.* If HUD receives fewer than 40 eligible applications nominating areas, the total number of nominated areas to be selected for designation as Renewal Communities will be the total number of eligible applications.

§ 599.405 Selection of Renewal Communities.

(a) *Selection of Category 1 applications.* (1) *Six or less rural nominations.* If there are six or fewer Category 1 rural area nominations, HUD will select all of the nominated rural areas in Category 1 for designation as Renewal Communities. HUD will then select the highest ranking Category 1 urban area nominations, but will not exceed a total of 20 Category 1 designations.

(2) *More than six rural nominations.* If there are more than six Category 1 rural area nominations, HUD will select the six highest ranked Category 1 rural applications, and will then select, in rank order, the highest ranking Category 1 area nominations, whether urban or rural, until not more than a total of 20 Category 1 designations is made.

(b) *Selection of Category 2 applications.* After not more than 20 Category 1 designations are made in accordance with paragraph (a) of this section, any remaining Category 1 applications will be placed back in rank order into Category 2, with selections for a combined Category 1 and Category 2 total of not more than 40 designations made as follows:

(1) *Less than six Category 1 rural applications.* If the number of rural area applications selected in Category 1 is less than six, HUD will select the highest ranking rural area applications in Category 2 until the total number of rural areas selected is 12. The remaining designations will be made from both rural and urban areas in rank order. If there are fewer than 12 eligible rural applications overall, counting both Category 1 and Category 2, all of the eligible rural applications will be selected.

(2) *Six or more Category 1 rural applications.* If the number of rural area applications selected in Category 1 is six or more, HUD will select the six highest Category 2 rural applications. The remaining designations will be made from both rural and urban areas in rank order.

(c) *Effective date of designation.* The effective date of designation as a Renewal Community is the date a nominated area is selected in accordance with this section.

§ 599.407 Notification of Renewal Community designations.

(a) *Notification of applicant.* HUD will notify each applicant of the designation of its nominated area as a Renewal Community.

(b) *Federal Register publication.* In addition to any other form of notification, HUD will publish a notice of the designation of Renewal Communities in the **Federal Register**.

Subpart F—Post-Designation Requirements

§ 599.501 Period for which Renewal Community designation is in effect.

Any designation of an area as a Renewal Community will remain in effect during the period beginning on January 1, 2002, and ending on the earliest of:

- (a) December 31, 2009;
- (b) The termination date designated by the State and local governments in their nomination application, if any; or
- (c) The date HUD revokes the designation.

§ 599.503 Effect of Renewal Community designation on an EZ/EC.

The designation of any area as an Empowerment Zone or Enterprise Community shall cease to be in effect as of the date that the designation of any portion of such area as a Renewal Community takes effect.

§ 599.505 Coordinating responsible authority (CoRA).

Within 30 days of the Renewal Community designation, the State and local governments in which the area is located must submit to HUD information identifying the coordinating responsible authority (CoRA), which is the entity, organization or persons with the responsibility and authority to achieve the State and local government commitments made at the time of application as required by § 599.107 and to undertake the development and administration of policies, procedures and activities to implement and maximize the Federal, State and local

benefits made available in the Renewal Community.

§ 599.507 Tax incentives utilization plan.

(a) *Preliminary plan.* Within six months of designation, the CoRA must prepare and submit to HUD a preliminary tax incentives utilization plan for achieving the State and local commitments made at the time of application as required by § 599.107 and implementing and maximizing the Federal, State and local benefits made available in the Renewal Community.

(b) *Final plan.* Within twelve months of designation, the CoRA must prepare and submit to HUD the final tax incentives utilization plan for achieving the State and local commitments made at the time of application as required by § 599.107 and implementing and maximizing the Federal, State and local benefits made available in the Renewal Community.

(c) *Community participation.* The CoRA must ensure that the preliminary and final tax incentives utilizations plans are developed with the participation of the residents and community organizations in the Renewal Community.

(d) *Coordination with Consolidated Plan and Indian Housing Plan.* The tax incentives utilization plan must include a certification that it is consistent with the Consolidated Plan prepared in accordance with 24 CFR part 91 or the Indian Housing Plan prepared in accordance with 24 CFR part 1000, as applicable.

(e) *HUD technical assistance.* HUD will provide technical assistance as authorized to assist the CoRA in preparing the required tax incentives utilization plans.

§ 599.509 Modification of commitments and plans.

The CoRA may submit requests to HUD to modify the State and local commitments made at the time of application as required by § 599.107 and the tax incentives utilization plans required by § 599.505. Requests must provide evidence to support the proposed modifications. HUD will review the proposed modification for consistency with regulatory and statutory requirements and approve, suggest additional or alternate modifications or deny the request within 30 days.

§ 599.511 Reports and other information.

The CoRA and the State or local governments in which the Renewal Community is located must submit such periodic reports and provide such additional information as HUD may require.

§ 599.513 Revocation of designation.

(a) *Basis for revocation.* HUD may revoke the Renewal Community designation of an area if HUD determines that the CoRA or the State or local governments in which the area is located:

(1) Have modified the boundaries of the area; or

(2) Are not complying substantially with, or fail to make progress in achieving the State and local commitments made at the time of application as required by § 599.107.

(b) *Letter of warning.* Before revoking the Renewal Community designation of an area, HUD will issue a letter of warning to the CoRA and the State and local governments in which the area is located, with a copy to all affected Federal agencies of which HUD is aware:

(1) Advising that HUD has determined that the CoRA and/or State and/or local governments in which the area is located have:

(i) Modified the boundaries of the area without written approval from HUD; or

(ii) Are not complying substantially with, or have failed to make progress in achieving the State and local commitments made at the time of application as required by § 599.107; and

(2) Requesting a reply from the CoRA and State and local governments in which the area is located within 90 days of the receipt of this letter of warning.

(c) *Notice of revocation.* To revoke the designation, HUD must issue a final notice of revocation of the designation of the area as a Renewal Community, after allowing 90 days from the date of receipt of the letter of warning for response, and after making a determination in accordance with paragraph (a) of this section.

(d) *Notice to affected Federal agencies.* HUD will notify all affected Federal agencies of which it is aware, of its determination to revoke any designation in accordance with this section.

(e) *Effect of revocation.* Upon revocation of a Renewal Community designation, the designation and applicable benefits cease to be available in the area.

(f) *Publication.* The final notice of revocation of designation will be published in the **Federal Register**, and the revocation will be effective on the date of publication.

Dated: June 14, 2001.

Mel Martinez,
Secretary.

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