

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5639-N-04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2012

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2012, and ending on December 31, 2012.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW., Room 10282, Washington, DC 20410-0500, telephone 202-708-1793 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2012.

SUPPLEMENTARY INFORMATION:

Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;
2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;
3. Not less than quarterly, the Secretary must notify the public of all

waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

- a. Identify the project, activity, or undertaking involved;
- b. Describe the nature of the provision waived and the designation of the provision;
- c. Indicate the name and title of the person who granted the waiver request;
- d. Describe briefly the grounds for approval of the request; and
- e. State how additional information about a particular waiver may be obtained.

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

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

This notice covers waivers of regulations granted by HUD from October 1, 2012 through December 31, 2012. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

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

Waiver of regulations that involve the same initial regulatory citation are in

time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the fourth quarter of calendar year 2012) before the next report is published (the first quarter of calendar year 2013), HUD will include any additional waivers granted for the fourth quarter in the next report.

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

Dated: March 4, 2013.

Helen R. Kanovsky,
General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development October 1, 2012 Through December 31, 2012

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

The regulatory waivers granted appear in the following order:

- I. Regulatory waivers granted by the Office of Community Planning and Development.
- II. Regulatory waivers granted by the Office of Housing.
- III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

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

- *Regulation:* 24 CFR 58.22(a).

Project/Activity: The City of Grafton, IL requested a waiver of 24 CFR 58.22(a), entitled "Limitations on Activities Pending Clearance," to permit the purchase of equipment and facility upgrades for a fish processing plant. A waiver was requested because American Heartland Fish Products, LLC, committed non-HUD funds to the project prior to the approval of the environmental review as well as prior to the submission and HUD approval of the Request for Release of Funds (RROF).

Nature of Requirement: The HUD environmental regulation at 24 CFR 58.22(a) requires: "Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 24 CFR 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the

development process may commit non-HUD funds on or undertake an activity or project under a program listed in 24 CFR 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.”

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: October 19, 2012.

Reason Waived: HUD determined that granting the waiver for the project would further the HUD mission and advance HUD program goals to develop viable, quality communities. American Heartland Fish Products, LLC., did not have prior experience administering HUD grants and the City of Grafton states that it did not intend to violate HUD’s environmental requirements. HUD further determined that no HUD funds were committed and, based on the environmental assessments and the HUD field inspection, granting the waiver would not result in any unmitigated, adverse environmental impact.

Contact: Nelson Rivera, Office of Environment and Energy, Office of Community Planning Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7248, Washington, DC 20410, telephone (202) 708–4225.

• *Regulation:* 24 CFR 58.22 (a).

Project/Activity: Suffolk County, NY requested a waiver of 24 CFR 58.22(a), entitled “Limitations on Activities Pending Clearance,” for renovations to Sag Harbor Hall in order to the bathrooms in order to make them handicap accessible. A waiver was requested because the grantee committed non-HUD funds to the project prior to the approval of the environmental review as well as prior to the submission and HUD approval of the Request for Release of Funds (RROF).

Nature of Requirement: The HUD environmental regulation at 24 CFR 58.22(a) requires: “Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 24 CFR 58.1(b) on an activity or project until HUD or the state has approved the recipient’s RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in 24 CFR 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.”

Granted By: Mark Johnston, Assistant Secretary for Community Planning and Development.

Date Granted: October 31, 2012.

Reason Waived: HUD determined that granting the waiver for the project would further the HUD mission and would advance HUD program goals to develop viable, quality communities. The grantee unknowingly violated the regulation. HUD determined that no HUD funds were committed and, based on the environmental assessments and the HUD field inspection, granting the waiver would

not result in any unmitigated, adverse environmental impact.

Contact: Kathryn Au, Office of Environment and Energy, Office of Community Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7248, Washington, DC 20410, telephone (202) 708–4225.

• *Regulation:* 24 CFR 91.105(c)(2).

Project/Activity: Numerous communities throughout the Mid-Atlantic and New England experienced substantial property damage resulting from Superstorm Sandy in late October 2012. Starting in later October, 2012, the Federal Emergency Management Agency (FEMA) issued disaster declarations covering multiple cities and counties in New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maryland, Virginia, West Virginia and Ohio, plus the District of Columbia and the entire state of New Jersey. Grantees affected by Superstorm Sandy requested the ability to shorten their citizen comment periods to seven days so that they may quickly reallocate Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) funds for activities to assist their residents and businesses affected by the storm.

Nature of Requirement: HUD’s regulation at 24 CFR 91.105(c)(2) requires that citizens be provided with reasonable notice and an opportunity to comment on substantial amendments to its consolidated plan. The citizen participation plan regulations require that citizens be given no less than 30 days to comment on substantial amendments before they are implemented. Changes in the use of CDBG funds from one activity to another constitute a substantial amendment.

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: November 5–6, 2012.

Reason Waived: HUD granted the requested waivers. Communities located in areas which received major disaster declarations by FEMA as a result of Superstorm Sandy were allowed to shorten their citizen comment periods from 30 days to 7 days so that they may quickly reallocate CDBG funds for activities to provide assistance to residents and businesses and facilitate recovery efforts from extensive damage caused by Superstorm Sandy.

Contact: Steve Johnson, Director Entitlement Communities Division, Office of Block Grant Assistance, Office of Community Planning Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7282, Washington, DC 20410, telephone (202) 708–1577.

• *Regulation:* 24 CFR 92.503(b)(3).

Project/Activity: The following state and cities requested a waiver of 24 CFR 92.503(b)(3), which requires funds to be repaid to the account from which they were disbursed: State of Colorado, City of Augusta, GA, the City of Atlanta, GA, the City of Knoxville, TN, the City of San Mateo, CA, and the City of Rochester, NY.

Nature of Requirement: HUD’s regulation at 24 CFR 92.503(b)(3) provides as follows: “If the HOME funds were disbursed from the participating jurisdiction’s HOME Investment Trust Fund Treasury account, they must be

repaid to the Treasury account. If the HOME funds were disbursed from the participating jurisdiction’s HOME Investment Trust Fund local account, they must be repaid to the local account. If the jurisdiction is not a participating jurisdiction when the repayment is made, the funds must be remitted to HUD and reallocated in accordance with § 92.454.”

Granted By: Mark Johnston, Acting Assistant Secretary for Community Planning and Development.

Date Granted: October–December, 2012.

Reasons Waived: HUD granted the waivers to permit the state and cities to repay their HOME Investment Trust Fund local account in order to make the funds available for eligible affordable housing activities. The state and cities were obligated to repay HOME funds for projects that were terminated before completion to the HOME grant from which they were expended. If all or a portion of the total repayment was repaid to an expired account, the repayment would have been received by HUD but retained by the US Treasury. As a result, the repaid funds would have no longer been available for the state and cities to use in eligible affordable housing activities. The waivers permitted the state and cities to repay their HOME Investment Trust Fund accounts instead of their HOME Investment Trust Treasury accounts and make the repaid funds available for investment in additional HOME-eligible activities.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2684.

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

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

• *Regulation:* 24 CFR part 5, subparts G and H, and 24 CFR part 200, subpart A and subpart P.

Project/Activity: Co-op City is a large cooperative housing community in the Bronx, NY, which is home to more than 57,000 residents. The cooperative sought to refinance its \$621 million mortgage with an FHA-insured mortgage. FHA has statutory authority to refinance cooperatives and FHA has commenced but not yet completed promulgation of regulations that will provide the generally applicable requirements by which cooperatives will be refinanced. The FHA refinanced mortgage has a 35-year term.

Nature of Requirement: To achieve the refinancing, several regulations needed to be waived. HUD’s regulations in 24 CFR part 5, subpart G establishes uniform physical condition standards for housing that includes housing with mortgages insured or held by HUD. These requirements include an annual inspection requirement. HUD’s regulations in 24 CFR part 5, subpart H set out uniform financial reporting requirements. These requirements include the submission of

project financial statements within 90-days of the end of the borrower's fiscal year. As noted earlier, although FHA has statutory authority under section 207 of the National Housing Act (NHA) to refinance the existing debt of cooperatives, HUD's regulation at 24 CFR 200.24 in part 200, subpart A, currently limits FHA refinancing of existing debt under section 207 of the National Housing Act to the existing debt of multifamily rental projects, nursing homes, immediate care facilities, assisted living facilities and board and care homes. HUD's regulations at 24 CFR part 200, subpart P also impose annual inspection requirements for FHA-insured multifamily housing. HUD's regulation at 24 CFR 200.855 provides that the responsible entity for conducting the physical inspection is HUD, the lender, or the owner.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 3, 2012, November 7, 2012.

Reason Waived: On November 28, 2012, the transaction for completing the refinancing of Co-op City's mortgage was completed. The described regulations were waived based on the determination that refinancing the existing debt of the project on more favorable terms would preserve needed affordable housing that is strongly supported by both the State of New York, and New York City. As noted above, although HUD has statutory authority to refinance the debt of existing cooperatives, HUD waived the regulatory limitation at 24 CFR 200.24 so that HUD could proceed to refinance the existing debt of Co-Op city. With respect to waiver, of the Uniform Physical Condition Standard (UPCS) inspections requirements at 24 CFR part 5, subpart G, and 24 CFR part 200, subpart P, the waiver provides for the physical inspections on the residential and commercial components of the project to be conducted by the borrower rather than the responsible entity pursuant to 24 CFR Part 200, subpart P. With respect to the financial reporting requirements of 24 CFR part 5, subpart H, given the size of the project, HUD recognized that it is unlikely that the borrower would be able to submit the financial report within the regulatory 90-day timeframe, and allowed the borrower additional time, 120 days after fiscal year end to submit the financial statement.

Contact: Mark B. Van Kirk, Director, Office of Multifamily Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6160, Washington, DC 20410, telephone (202) 708–3730.

- *Regulation:* 24 CFR 200.24.

Project/Activity: Coronado Gardens Cooperative of Lansing, MI, seeking refinancing of its existing debt under section 207 pursuant to provisions of section 223(f) of the National Housing Act.

Nature of Requirement: FHA has statutory authority under section 207 of the National Housing Act (NHA) to refinance the existing debt of cooperatives. However, HUD's regulation at 24 CFR 200.24 in part 200, subpart A, currently limits FHA refinancing of existing debt under section 207 of the National Housing Act to the existing debt of

multifamily rental projects, nursing homes, immediate care facilities, assisted living facilities and board and care homes. The regulation does not include the refinancing of existing debts of cooperatives. Although FHA commenced rulemaking to include cooperatives, FHA has not yet completed promulgation of regulations that will provide the generally applicable requirements by which cooperatives will be refinanced.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 23, 2012.

Reason Waived: The regulation was waived based on the determination that refinancing the debt at more favorable terms would preserve needed affordable housing.

Contact: Barbara Chiappella, Director, Detroit Multifamily HUB, Office of Housing, Department of Housing and Urban Development, 477 Michigan Avenue, Room 1620 Detroit, MI 48226, telephone (313) 226–7900, extension 8207.

- *Regulation:* 24 CFR 203.37a(b)(2).

Project/Activity: The waiver applies to individuals nationwide seeking FHA-insured single family forward mortgage financing (unless specifically exempt) to purchase properties within 90 days after acquisition by the seller.

Nature of Requirement: The eligibility of a property for an FHA-insured mortgage depends on the time that has elapsed between the date the seller acquired the property and the date of execution of the sales contract that will result in the FHA mortgage insurance (the re-sale date). If the re-sale date is 90 days or less following the date of acquisition by the seller, the property is not eligible for an FHA-insured mortgage.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 26, 2012.

Reason Waived: The waiver, which was published in the **Federal Register** on November 29, 2012, at 77 FR 71099, is an extension of a waiver first granted in January 2010. Through the waiver, FHA encourages investors who specialize in acquiring and renovating properties to renovate foreclosed and abandoned homes, with the objective of increasing the availability of affordable homes for first-time and other purchasers, helping to stabilize real estate prices as well as neighborhoods and communities where foreclosure activity has been high. The waiver is applicable to all single family properties being resold within the 90-day period after prior acquisition, and is not limited to foreclosed properties. Additionally, the waiver is subject to certain conditions, and mortgages must meet these conditions to be eligible for the waiver.

Contact: Karin B. Hill, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9278, Washington, DC 20410, telephone (202) 708–2121.

- *Regulation:* 24 CFR 232.3.

Project/Activity: Cambria Care Center of Cambria Township, PA, will convert 40 beds to assisted living facility that will be in 29 units. The converted units will serve memory

care residents. Currently, the facility is a skilled nursing facility.

Nature of Requirement: HUD's regulation at 24 CFR 232.3 mandates that in a board and care home or assisted living facility not less than one full bathroom must be provided for every four residents. The regulation also requires that the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 31, 2012.

Reason Waived: The Center requested and was granted a waiver of the requirement to have one full bathroom for every four residents. The Center advised that the memory care residents of Cambria Care Center will be assisted and supervised, while bathing, and that the bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents. Cambria Care Center advised that this arrangement will be safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 2337, Washington, DC 20410, telephone (202) 402–2419.

- *Regulation:* 24 CFR 232.3.

Project/Activity: Chandler House of Yakima, WA, has a license for 36 dementia care beds operating in two separate buildings.

Nature of Requirement: HUD's regulation at 24 CFR 232.3 mandates that in a board and care home or assisted living facility the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 21, 2012.

Reason Waived: Chandler House requested and was granted a waiver of the requirement to have one full bathroom for every four residents. Chandler House advised that the residents of Chandler House need assistance and supervision while bathing, and that the bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents. Chandler House advised that this arrangement is safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 2337, Washington, DC 20410, telephone (202) 402–2419.

- *Regulation:* 24 CFR 232.3.

Project/Activity: The Marquis at Autumn Hills (Autumn Hills) of Portland, OR, has a license for 22 beds in 15 units. Currently, Autumn Hills serves 22 residents affected by Alzheimer/memory care.

Nature of Requirement: HUD's regulation at 24 CFR 232.3 mandates that in a board and care home or assisted living facility, not less than one full bathroom must be provided for every four residents. The regulation also requires that the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 21, 2012.

Reason Waived: Autumn Hills requested and was granted a waiver of the requirement to have one full bathroom for every four residents. HUD granted the waiver on the basis that the facility advised the Alzheimer/memory care residents of Autumn Hills are fully assisted and supervised while bathing, and that this allows for staff to provide assistance to the residents. Autumn Hills advised that this arrangement is safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 2337, Washington, DC 20410, telephone (202) 402-2419.

- *Regulation:* 24 CFR 232.3.

Project/Activity: Countryside Living of Canby (Canby) of Canby, OR, is an assisted living facility and has a license for 35 beds in 21 units. Currently, Canby serves Alzheimer care residents.

Nature of Requirement: HUD's regulation at 24 CFR 232.3 mandates that in a board and care home or assisted living facility, not less than one full bathroom must be provided for every four residents.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 21, 2012.

Reason Waived: The assisted living facility requested and was granted a waiver of the requirement to have one full bathroom for every four residents. HUD granted the waiver on the basis that the facility advised that the Alzheimer care residents of Canby all need assistance with bathing, and that the bathing/shower rooms provide enough space for staff to safely assist the residents. Canby advised that this arrangement is safer for the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 2337, Washington, DC 20410, telephone number (202) 402-2419.

- *Regulation:* 24 CFR part 234, as revised and implemented by Mortgage Letters (ML) 2009-46a and 2009 46b, as authorized by the Housing and Economic Recovery Act of 2008 (HERA), and more recently M L 2011-22, Condominium Project Approval and Processing Guide, Insurance Requirements issued June 30, 2011 (the requirements of this Guide serve as the current condominium regulations until the rule has been promulgated).

Project/Activity: Anchorage Borough, State of Alaska.

Nature of Requirement: Condominium projects not meeting FHA's definition of site condominiums require full project review and approval. The homeowners' association is required to maintain adequate "master or blanket" property insurance in an amount equal to 100 percent of current replacement costs of the condominium exclusive of land, foundation, excavation and other items normally exclude from coverage and other insurances.

Granted By: Carol Galante, Assistant Secretary of Housing—Federal Housing Commissioner.

Date Granted: December 14, 2012.

Reason Waived: It was determined that the granting of the waiver would serve to retain the availability of over 1,100 affordable housing units in the Alaska housing market. The waiver would allow for the individual unit owners to obtain and maintain individual hazard, flood, liability and other insurance required by state or local condominium laws while the individual homeownership association takes the necessary time to amend their legal documents and transition their project's property insurance coverage and other insurances to a blanket/master policy while continuing to provide an affordable housing opportunity to FHA-qualified buyers.

Contact: Joanne B. Kuczma, Housing Program Officer, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9278, Washington, DC 20410, telephone (202) 708-2121.

- *Regulation:* 24 CFR part 234, as revised and implemented by Mortgage Letters (ML) 2009-46a and 2009 46b, as authorized by the Housing and Economic Recovery Act of 2008 (HERA), and more recently M L 2011-22, Condominium Project Approval and Processing Guide, Insurance Requirements issued June 30, 2011 (the requirements of this Guide serve as the current condominium regulations until the rule has been promulgated).

Project/Activity: Anchorage Borough, State of Alaska.

Nature of Requirement: HUD's insurance requirements are cited in Section 2.1.9 of the Guide, which require the homeowner association (HOA) to carry master/blanket hazard, flood, liability and any other insurance required by state or local condominiums laws.

Granted By: Carol J. Galante, Assistant Secretary of Housing-Federal Housing Commissioner.

Date Granted: December 14, 2012.

Reason Waived: Certain condominium projects in Alaska were developed as common interest developments and classified as Site Condominiums as defined by Alaska zoning and building codes. These buildings are typically constructed as attached duplex structures within the project boundaries. The Covenants, Conditions and Restrictions (CC&R's) of the project, define specific responsibilities of the HOA and the unit owners. Pursuant to provisions contained in the CC&R's of these projects, the structure, unit, and any personal property within the unit, must be insured by the individual unit owner, these are not considered as common area, and it is not the responsibility of the HOA to maintain the insurance.

Although these developments are classified as Site Condominiums by Alaska zoning and building codes, these improvements conflict with HUD's definition of a site condominium cited in Section 1.8.1 of the Guide. Therefore, these projects require full project approval and compliance with all HUD's requirements cited in the Guide including the requirement that the HOA maintains a master/blanket hazard, flood, liability and any other

insurance required by state or local condominium laws.

Granting of a one year waiver does not violate any statutory requirements and will serve to retain the availability of over 1,100 affordable housing units in the Anchorage housing market. The granting of the waiver also provides the individual HOA time to amend their legal documents and transition their project's property insurance coverage to a blanket/master policy, while continuing to provide an affordable housing opportunity to FHA qualified buyers.

Contact: Bill Schuler, Chief, Technical Branch 2, Department of Housing and Urban Development, Santa Ana Homeownership Center, 34 Civic Center Plaza, Santa Ana, CA. 92701, telephone (714) 796-1200, extension 3449.

- *Regulation:* 24 CFR 266.410(d) and 266.505(b)(9).

Project/Activity: Risk Sharing program administered by the California Housing Finance Agency (CalHFA).

Nature of Requirement: The applicable regulations for the Risk Sharing program are 24 CFR 266.410(d) and 266.505 (b)(9), and the regulations require that the mortgagor must be a single asset mortgagor and operate as a single asset mortgagor.

Granted By: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 29, 2012.

Reason Waived: The waiver will facilitate the acquisition/rehabilitation of the subject projects as affordable housing. These two properties have been awarded funding under the State of California Department of Treasury's New Issue Bond Program (NIBP). The NIBP application was submitted as a single scattered site development and as such received a single bond allocation. The time constraints of the bond program do not allow for formation of a separate single asset mortgagor entity for each property.

Contact: Robert Arbios, Director of Policy Division, Office of Multifamily Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000, telephone (202) 402-2913.

- *Regulation:* 24 CFR 401.460(b).

Project/Activity: New Horizon Village, Kalamazoo, MI.

Nature of Requirement: The regulation prohibits a difference between the amortization and the term of the loan. The project has a Fannie Mae first mortgage loan that would have a 30 year amortization, but a 16 year term.

Granted By: Carol J. Galante, Acting Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 21, 2012.

Reason Waived: The waiver was granted for the following reasons. The Fannie Mae first mortgage would not be FHA insured and the second (MRN) and third (CRN) mortgages would be assigned to a Qualified Non Profit (QNP). As a result the discrepancy between the amortization period and the term of the loan would present no risk to the FHA Insurance Fund. Secondly, real estate loans are often refinanced well in advance of the long-term maturity date of the loan due to

changing capital needs, so the 16 year term was not considered a significant risk factor by the Office of Affordable Housing Preservation (OAHP).

Contact: Claude Dickson, Bonds and Appeals Manager, Office of Affordable Housing Preservation, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000, telephone (202) 402-8372.

- *Regulation:* 24 CFR 891.100(d).

Project/Activity: Thomas Patrick Maroney Unity Apartments, Inc., Charleston, WV.

Project Number: 045-HD046/WV15-Q101-001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 21, 2012.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Newbury Senior Housing, Newbury, NH, Project Number: 024-EE120/NH36-S081-006.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 21, 2012.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. Also, additional time was needed for HUD to issue the firm commitment and for the project to achieve an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Walnut Housing, West Seneca, NY, Project Number: 014-EE269/NY06-S081-001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with

limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 28, 2012.

Reason Waived: Additional time was needed because of significant delays due to local opposition and a new site had to be secured twice.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: The Woods of Crooked Creek Apartments, Indianapolis, IN, Project Number: 073-HD087/IN36-Q091-001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 28, 2012.

Reason Waived: Additional time was needed for the project to get to an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Kenyon Terrace Apartments, South Kingstown, RI, Project Number: 016-HD063/RI43-Q091-006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 28, 2012.

Reason Waived: Additional time was needed to submit the firm commitment application and achieve an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Westcliff Heights Senior Apartments, Las Vegas, NV, Project Number: 125-EE131/NV25-S081-001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 5, 2012.

Reason Waived: Additional time was needed for the firm commitment application to be processed and for the project to get to an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Villa Davis, Phoenix, AZ, Project Number: 123-HD044/AZ20-Q081-001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 5, 2012.

Reason Waived: Additional time was needed for the firm commitment application to be processed and for the project to get to an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Acorn Walk (Franklin Foundation), Kettering, OH, Project Number: 046-EE101/OH10-S091-003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 19, 2012.

Reason Waived: Additional time was needed for the sponsor/owner to resolve budget issues as a result of the flood insurance requirement and increases by the contractor.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Bella Vista Apartments, Tucson, AZ, Project Number: 123-HD045/AZ20-Q091-001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 31, 2012.

Reason Waived: Additional time was needed for the project to reach initial closing and start of construction.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: CPNJ Livingston Residence, Livingston, NJ, Project Number: 031-HD157/NJ39-Q081-003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 31, 2012.

Reason Waived: Additional time was needed for the project to reach an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Teaneck Senior Housing, Teaneck, NJ, Project Number: 031-EE077/NJ39-S091-004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 8, 2012.

Reason Waived: Additional time was needed for the firm commitment application to be completed, submitted and reviewed and for the project to reach an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Barringer Gardens, Charlotte, NC, Project Number: 053-EE199/NC19-S091-012.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 21, 2012.

Reason Waived: Additional time was needed for the sponsor/owner to redesign the proposed development based on a reduction in the number of mixed-finance units and for the North Carolina Housing Finance Agency's review redesign.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Spencer House II, Boston, MA, Project Number: 023-EE235/MA06-S091-001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 21, 2012.

Reason Waived: Additional time was needed for the project to achieve an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Villa Davis, Phoenix, AZ, Project Number: 123-HD044/AZ20-Q081-001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 5, 2012.

Reason Waived: Additional time was needed for the project to achieve an initial closing.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

- *Regulation:* 24 CFR 891.165, 891.830(b), 891.830(c)(4), and 891.830(c)(5).

Project/Activity: Kellgren Senior Apartments, Petaluma, CA, Project Number: 121-EE232/CA39-S101-009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis. Section 891.830(b) requires that capital advance funds be drawn down only in an approved ratio to other funds, in accordance

with a drawdown schedule approved by HUD. Section 891.830(c)(4) prohibits the capital advance funds from paying off bridge or construction financing, or repaying or collateralizing bonds. Section 891.830(c)(5) requires the capital advance drawdown to be consistent with the ratio of the 202 supportive housing units to other units.

Granted by: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: November 1, 2012.

Reason Waived: Additional time was needed for the firm commitment to be issued and the start of construction to occur. Also, HUD in its response to the public comments in the final rule published September 23, 2005, stated "while HUD generally expects the capital advance funds to be drawn down in a one-to-one ratio for eligible costs actually incurred, HUD may permit on a case-by-case basis, some variance from the drawdown requirements as needed for the success of the project." Therefore, waivers were granted to permit capital advance funds to be drawn down in one requisition, to pay off that portion of construction financing that strictly relate to capital advance eligible costs after completion of construction at initial/final closing. Also, a waiver was granted to permit capital advance funds to be used to collateralize the tax exempt bonds issued to finance the construction of the project and to pay off a portion of the tax-exempt bonds that strictly relate to capital advance eligible costs.

Contact: Catherine M. Brennan, Director, Office of Housing Assistance and

Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-3000.

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

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

- *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Omaha Housing Authority (NE001), Omaha, NE.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) Fiscal Year End (FYE), in accordance with the Single Audit Act and OMB Circular A-133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 12, 2012.

Reason Waived: On March 22, 2012, a contract to perform the Omaha Housing Authority (OHA) audit was awarded to the Reznick Group. However, on May 15, 2012, the Reznick Group withdrew from the project. OHA worked quickly and on June 1, 2012, awarded a new contract to Hayes and Associates. On June 20, 2012, HUD began a forensic audit and review of OHA's operations dating back to 2006. As a result of these two issues, additional time was

granted to complete the audit and submit the data to REAC.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475-8583.

• **Regulation:** 24 CFR 85.6(c), 24 CFR 85.31.

Project/Activity: Alaska Housing Finance Corporation, Anchorage, Alaska (Agency).

Nature of Requirement: HUD's regulations at 24 85.6(c) and 85.31 provide that real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests. When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee is to request disposition instructions from the awarding agency affected. The instructions will provide for one of the following alternatives: (1) Retain the title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property. (2) Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures are to be followed that provide for competition to the extent practicable and result in the highest possible return. (3) Transfer title to the awarding agency or to a third party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public & Indian Housing.

Date Granted: December 11, 2012.

Reason Waived: The Agency requested to release the Declaration of Trust (DOT) and reassign the property to its Central Office Cost Center (COCC) pursuant to 24 CFR 85.31 and PIH Notice 2008-17, Guidance on Disposition of Excess Equipment and Non-Dwelling Real Property Under Asset Management. The agency found that the non-dwelling property, used to support public housing functions, to be excess to the needs of its public housing projects as a result of the conversion to asset management. Due to

various physical limitations the agency constructed a new facility, which now houses all the functions that had been located at the property. Additionally, the agency requested an exemption in accordance with 24 CFR 85.6(c) to reimburse the federal government for its equity in the project. HUD found that the agency presented good cause and approved a conditional release of the DOT and reassignment of the property to the agency's COCC. HUD further found that the Agency presented good cause for an exemption under 24 CFR 85.31 and therefore agreed to waive the requirements to reimburse HUD for its participation in the property, with the following conditions: (1) The action is approved by the Board of the Agency; (2) the reassignment is included in the Agency's PHA plan; and (3) in the event that the property is sold within ten years from the date of the approval, proceeds from the sale must be used for low income housing purposes as defined in the United States Housing Act of 1937.

Contact: Claudia J. Yarus, Department of Housing and Urban Development, Office of Public and Indian Housing, Real Estate Assessment Center (REAC), 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475-8830.

• **Regulation:** 24 CFR 902.20.

Project/Activity: Hackleburg Housing Authority (AL076), Guin, AL.

Nature of Requirement: The purpose of HUD's regulation at 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 04, 2012.

Reason Waived: Due to severe property damage as a result of a tornado on April 27, 2011, the Housing Authority (HA) lost a total of 24 units, saw extensive damage to another 16 units, and suffered damage to the main office and maintenance buildings. The HA anticipated restoration of 20 units and the buildings by the end of year. The HA was previously granted a waiver from the PASS physical inspections for the FYE March 31, 2011. The waiver was granted because circumstances surrounding the waiver request were unusual and beyond the HA's control.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475-8583.

• **Regulation:** 24 CFR 982.201(e).

Project/Activity: Houston Housing Authority (HHA), Houston, TX.

Nature of Requirement: HUD's regulation at 982.201(e) states that the public housing agency (PHA) must receive information verifying that an applicant is eligible within the period of 60 days before the PHA issues a voucher to the applicant.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 21, 2012.

Reason Waived: This waiver was granted to allow the HHA to issue vouchers to HUD-Veterans Affairs Supportive Housing (VASH) families before verifying eligibility. However, eligibility must be verified before the effective date of the housing assistance payments (HAP) contract.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708-0477.

• **Regulation:** 24 CFR 982.505(c)(4).

Project/Activity: Fairfield Housing Authority (FHA), Fairfield, CT.

Nature of Requirement: HUD's regulation at 982.505(c)(4) states that, if the payment standard amount is increased during the term of the housing assistance payments (HAP) contract, the increased payment standard shall be used to calculate the monthly HAP for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 1, 2012.

Reason Waived: This waiver was granted to alleviate any rent burden that may have resulted through the implementation of a previous waiver that allowed FHA to lower payment standards before a family's second regular reexamination after the increase.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708-0477.

• **Regulation:** 24 CFR 982.505(d).

Project/Activity: San Diego Housing Commission (SDHC), San Diego, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 1, 2012.

Reason Waived: SDHC advised that the client is disabled and required an exception payment standard to move to a new unit that accommodates her needs. To provide this reasonable accommodation so the client could be assisted in this new unit and pay no more than 40 percent of her adjusted income toward the family share, the SDHC requested and was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and

Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708-0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Sioux Falls Housing and Redevelopment Commission (SFHRD), Sioux Falls, SD.

Nature of Requirement: HUD's regulation at 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 21, 2012.

Reason Waived: SFHRD advised that the client is disabled and required an exception payment standard to continue her occupancy in her current unit that meets her health needs. To provide this reasonable accommodation so the client could be assisted in this unit and pay no more than 40 percent of her adjusted income toward the family share, the SFHRD requested and was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708-0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Parma Public Housing Agency (PPHA), Parma, OH.

Nature of Requirement: HUD's 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 5, 2012.

Reason Waived: PPHA advised that the participant, who is disabled, required an exception payment standard to move to a new unit that met her needs. The PPHA requested and was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708-0477.

• *Regulation:* 24 CFR 983.6(a).

Project/Activity: San Francisco Housing Authority (SFHA), San Francisco, CA.

Nature of Requirement: HUD's regulation at 24 CFR 983.6(a) states that a public housing agency (PHA) may select owner proposals to provide project-based voucher

(PBV) assistance for up to 20 percent of the amount of budget authority allocated to the PHA by HUD in the PHA voucher program. Although this regulation reflects a statutory, statutory authority allows for statutory waivers to be granted for the HUD-Veterans Affairs Supportive Housing (VASH) program.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 6, 2012.

Reason Waived: The city's campaign, "San Francisco homes for Heroes," was unsuccessful and veterans were unable to access affordable housing. The waiver was therefore granted to allow SFHA to attach PBV to all of its HUD-VASH vouchers to meet the needs of chronically homeless veterans.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708-0477.

• *Regulation:* 24 CFR 983.55(b).

Project/Activity: Housing Authority of Baltimore City (HABC), Baltimore, MD.

Nature of Requirement: HUD's regulation at 24 CFR 983.55(b) states that a public housing agency may not enter into an Agreement to enter into a Housing Assistance Payments contract (AHAP) until HUD or an independent entity approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 24, 2012.

Reason Waived: This waiver was granted to meet a low-income housing tax credit deadline with assurances that no vertical construction will begin before the execution of the AHAP.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708-0477.

• *Regulation:* 24 CFR 983.55(b).

Project/Activity: Brownsville Housing Authority (BHA), Brownsville, TX.

Nature of Requirement: HUD's regulation at 24 CFR 983.55(b) states that a public housing agency may not enter into an Agreement to enter into a Housing Assistance Payments contract until HUD or an independent entity approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 4, 2012.

Reason Waived: This waiver was granted based on the critical role this affordable housing plays in Brownsville's community revitalization plan, the risk to the viability of the housing without the PBV investment as

well as the owner's commitment to affirmatively market the units to veterans.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708-0477.

Regulation: 24 CFR 983.152(b).

Project/Activity: Fayetteville Metropolitan Housing Authority (FMHA), Fayetteville, NC.

Nature of Requirement: HUD's regulation at 24 CFR 983.152(b) states that a public housing agency (PHA) must enter into an Agreement to enter into a Housing Assistance Payments contract (AHAP). In the AHAP the owner agrees to develop the contract units to comply with housing quality standards and the PHA agrees that, upon timely completion of such development in accordance with the terms of the AHAP, the PHA will enter into a HAP contract with the owner for the contract units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 6, 2012.

Reason Waived: This waiver was granted because FMHA acted in accordance with previous guidance regarding the start of construction which may not begin before the AHAP is executed.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708-0477.

• *Regulation:* 24 CFR 983.206(b).

Project/Activity: Franklin County Regional Housing and Redevelopment Authority (FCRHRA), Franklin County, MA.

Nature of Requirement: HUD's regulation at 24 CFR 983.206(b) states that, at the discretion of the public housing agency (PHA) and provided that the total number of units in a project that will receive PBV assistance or other project-based assistance will not exceed 25 percent of the number of dwelling units (assisted or unassisted) in the project or the 20 percent of authorized budget authority, a housing assistance payments (HAP) contract may be amended during the three-year period immediately following the execution date of the HAP contract to add additional PBV contract units in the same project.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 29, 2012.

Reason Waived: This waiver was granted since the 14 added units could have been included as excepted units under the original PBV HAP contract and the action to add these units was delayed beyond three years due to processing.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708-0477.

- *Regulation:* 24 CFR 984.303(d).

Project/Activity: Ithica Housing Authority (IHA), Ithica, NY.

Nature of Requirement: HUD's regulation at 24 CFR 984.303(d) limits the extension of a family self-sufficiency (FSS) contract by a public housing agency to two years beyond the initial five-year term.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 1, 2012.

Reason Waived: This waiver was granted due to allow the FSS participant, a person with disabilities who had a series of physical injuries during the term of her FSS contract, to complete her education and employment goals. An additional year was granted.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708-0477.

- *Regulation:* 24 CFR 985.105(d).

Project/Activity: Mid-Iowa Regional Housing Authority (MIRHA), Fort Dodge, IA.

Nature of Requirement: HUD's regulation at 24 CFR 985.105(d) states that HUD must conduct an on-site confirmatory review of a public housing authority's performance before changing any annual overall performance rating from troubled to standard or high performer under the Section Eight Management Assessment Program.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 6, 2012.

Reason Waived: HUD granted the waiver because, pursuant to the on-site assessment, a corrective action plan was submitted and approved. Documentation regarding a quality control policy procedure and the use and provision of such logs verified to the HUD field office the correction of the failed indicators and, therefore, an additional review was not warranted.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708-0477.

[FR Doc. 2013-05329 Filed 3-6-13; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

**[FWS-R4-ES-2013-N056;
FXES11130400000EA-123-FF04EF1000]**

Endangered and Threatened Wildlife and Plants; Receipt of Application for Incidental Take Permit; Availability of Proposed Low-Effect Habitat Conservation Plan; Volusia County Council—Engineering, Volusia County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), have received an application from Volusia County Council—Engineering (applicant), for a 2-year incidental take permit (ITP; # TE98767A-0) under the Endangered Species Act of 1973, as amended (Act). We request public comment on the permit application and accompanying proposed habitat conservation plan (HCP), as well as on our preliminary determination that the plan qualifies as low-effect under the National Environmental Policy Act (NEPA). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

DATES: To ensure consideration, please send your written comments by April 8, 2013.

ADDRESSES: If you wish to review the application and HCP, you may request documents by email, U.S. mail, or phone (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

Email: northflorida@fws.gov. Use "Attn: Permit number TE98767A-0" as your message subject line.

Fax: Dawn Jennings, Acting Field Supervisor, (904) 731-3045, Attn.: Permit number TE98767A-0.

U.S. mail: Dawn Jennings, Acting Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number TE98767A-0, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Erin M. Gawera, telephone: (904) 731-3121; email: erin_gawera@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act (16 U.S.C. 1531 et seq.) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the "take" of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532). However, under limited circumstances, we issue permits to authorize incidental take—i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The Act's take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, an incidental take permit's proposed actions must not jeopardize the existence of federally listed fish, wildlife, or plants.

Applicant's Proposal

The applicant is requesting take of approximately 0.87 acres (ac) of Florida scrub-jay (*Aphelocoma coerulescens*)-occupied habitat incidental to construction of a pedestrian trail. The 1.96-ac project is located on the Blue Springs State Park property (parcel #08-18-30-00-00-0010), within Sections 4, 5, 8, 9, 16, and 17, Township 18 South, Range 30 East, Volusia County, Florida. The applicant's HCP describes the mitigation and minimization measures the applicant proposes to address the effects of the project to the Florida scrub-jay.

Our Preliminary Determination

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, we determined that the ITP is a low-effect project and qualifies for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). A low-effect HCP is one involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

Next Steps

We will evaluate the HCP and comments we receive to determine