



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200, 280, and 570

[Docket No. FR-5878-F-01]

RIN 2502-AJ31

**Federal Housing Administration (FHA):
Removal of 24 CFR 280—Nehemiah Housing Opportunity Grants Program**

AGENCY: Office of the Deputy Secretary, HUD.

ACTION: Final rule.

SUMMARY: Through this rule, HUD removes the regulations for its Nehemiah Housing Opportunity Grants Program (NHOP). Under NHOP, HUD was authorized to make grants to nonprofit organizations to be used to provide loans to families purchasing homes constructed or substantially renovated in accordance with a HUD-approved program. In 1990, authority for NHOP was repealed by the National Affordable Housing Act. HUD removed obsolete NHOP regulations in 1996 but maintained regulatory provisions deemed necessary for the administration of existing NHOP grants. Currently, HUD administers only one NHOP grant agreement. As a result, HUD has determined that the remaining NHOP regulations are unnecessary. The existing grant and loans made under NHOP will continue to be governed by the regulations that existed immediately before the effective date of this final rule.

DATES: *Effective:* **[Insert date that is 30 days from the date of publication in the Federal Register].**

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410; 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 Federal Relay Service at 800-877-8389 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Established under title VI of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) (12 U.S.C 1715l), NHOP authorized HUD to make grants to nonprofit organizations to enable them to provide loans to families purchasing homes constructed or substantially rehabilitated in accordance with a HUD-approved program. Loans provided under NHOP were required to be secured by a second mortgage on the property involved that was held by HUD but that did not bear interest. On July 13, 1989 (54 FR 22248), HUD published regulations implementing NHOP and codified these regulations in part 280 of title 24 of the Code of Federal Regulations (CFR).

Section 289(a) of the National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990) (42 U.S.C. 12839), however, repealed authority for NHOP. On August 19, 1996 (61 FR 42952), HUD published a final rule removing obsolete sections of 24 CFR part 280, but maintained those provisions deemed necessary to the administration of existing NHOP grants. As of the date of this publication, however, HUD maintains one NHOP grant agreement and has 1,028 active Nehemiah loans. Based on this, HUD has determined that there is no longer a need to maintain 24 CFR part 280. As a result, and consistent with Executive Order 13563, dated January 18, 2011, entitled “Improving Regulations and Regulatory Review,”¹ HUD is

¹ Executive Order 13563 was published in the Federal Register on January 21, 2011, at 76 FR 3821 and directs that heads of Federal departments and agencies review existing regulations to remove those that are obsolete or no longer necessary.

removing 24 CFR part 280. The existing grant and loans made under NHOP will continue to be governed by the regulations that existed immediately before the effective date of this final rule.

This final rule also removes a cross-reference to 24 CFR part 280 that is codified in HUD's Community Development Block Grant regulations, 24 CFR part 570.

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a final rule for effect, in accordance with HUD's own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is impracticable, unnecessary, or contrary to the public interest. (See 24 CFR 10.1.)

HUD finds that public notice and comment are not necessary for this rulemaking because the authority to provide assistance under NHOP has been repealed and assistance is no longer being provided under the program. Therefore, the regulations being removed by this final rule are no longer operative. For these reasons, HUD has determined that it is unnecessary to delay the effectiveness of this rule in order to solicit prior public comment.

III. Findings and Certification

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the

requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Unfunded Mandates Reform

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA)² requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any 1 year. If a budgetary impact statement is required, section 205 of UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.³ However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the Administrative Procedure Act (APA).⁴ As discussed above, HUD has determined for good cause that the APA does not require general notice and public comment on this rule and, therefore, the UMRA does not apply to this final rule.

Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule will not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Environmental Review

² 2 U.S.C. 1532.

³ 2 U.S.C. 1534.

⁴ 2 U.S.C. 1532(a).

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

List of Subjects

24 CFR Part 200

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

24 CFR Part 280

Community development, Grant programs – housing and community development, Loan programs – housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs-education, Grant programs-housing and community development, Guam, Indians, Loan programs-housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Student aid, Virgin Islands.

For the reasons set forth in the preamble, and under the authority of 42 U.S.C 3535(d), HUD amends 24 CFR parts 200, 280 and 570 as follows:

PART 200- INTRODUCTION TO FHA PROGRAMS

1. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1702-1715z-21; 42 U.S.C. 3535(d).

2. Add § 200.1301(h) to read as follows:

§ 200.1301 Expiring programs—Savings clause.

* * * * *

(h) Any existing loan assistance (including recapture of loan assistance), ongoing participation, or insured loans under the program listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before **[Insert date that is 30 days from the date of publication in the Federal Register]** (24 CFR part 280, 2015 Edition):

(1) Part 280, Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation (12 U.S.C. 1715l).

(2) [Reserved]

Subchapter E [Removed and Reserved]

3. Remove and reserve subchapter E, consisting of part 280.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

4. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301-5320.

5. In § 570.703, revise paragraph (j) to read as follows:

§ 570.703 Eligible activities.

* * * * *

(j) Construction of housing by non-profit organizations for homeownership under section 17(d) of the United States Housing Act of 1937 (Housing Development Grants Program, 24 CFR part 850).

* * * * *

Date: December 22, 2015

Nani A. Coloretti
Deputy Secretary

[FR-5878-F-01]

[FR Doc. 2016-327 Filed: 1/8/2016 8:45 am; Publication Date: 1/11/2016]