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Part VIII

**Department of
Housing and Urban
Development**

24 CFR Part 5, et al.

**Uniform Financial Reporting Standards
for HUD Housing Programs; Final Rule**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 5, 200, 236, 266, 880, 886, and 982**

[Docket No. FR-4321-F-03]

RIN 2501-AC49

Uniform Financial Reporting Standards for HUD Housing Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule makes final a June 30, 1998 proposed rule that proposed to establish for HUD's Public Housing, Section 8 housing, and multifamily insured housing programs uniform annual financial reporting standards. The rule requires public housing agencies and project owners of HUD-assisted housing, which already, under longstanding regulatory and contractual requirements, submit financial information on annual basis to HUD to submit this information electronically to HUD. The rule also requires that the annual financial information to be submitted to HUD must be prepared in accordance with generally accepted accounting principles (GAAP). Electronic submission is important in reducing the administrative burden that manual submission presents to housing authorities, project owners, mortgagees and HUD. It is also important in bringing HUD and its program partners up-to-date with modern technology. Reporting in GAAP is important because GAAP accounting is more widely accepted and allows for financial consistency among various entities.

The objective of this rule is to standardize the annual financial information submission process and, through standardization, bring consistency and increased fairness to the evaluation of the financial condition of housing assisted under various HUD programs. This final rule takes into consideration public comments received on the June 30, 1998 proposed rule.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: For further information contact the Real Estate Assessment Center, Attention Paul Maxwell, Department of Housing and Urban Development, 490 L'Enfant Plaza East, SW, Room 8204, Washington, DC 20410; telephone (202) 755-7540, ext. 132 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877-8399.

SUPPLEMENTARY INFORMATION:**I. The Proposed Rule**

On June 30, 1998 (63 FR 35662), HUD published a proposed rule that would establish for HUD's public housing, Section 8 housing, other assisted housing, and multifamily insured housing programs annual financial reporting standards. The rule proposed to require public housing agencies and project owners of HUD-assisted housing, which already, under longstanding regulatory and contractual requirements, submit financial information on annual basis to HUD to submit this information electronically to HUD in accordance with a standardized format to be established by HUD. The rule also proposed that the annual financial information to be submitted to HUD must be prepared in accordance with generally accepted accounting principles (GAAP).

Electronic Submission

Electronic submission was determined important in reducing the administrative burden that manual submission presents to housing authorities, project owners, mortgagees and HUD. It is also important in bringing HUD and its program partners up-to-date with modern technology. With the dramatic growth of personal computer ownership, reports are compiled electronically and electronic reporting will allow for the rapid submission of the reports and enhances HUD's ability to analyze these reports quickly, which is of benefit to the reporting entities (or individuals).

GAAP Accounting

The rule also proposed to require that the annual financial information to be reported to HUD must be prepared in accordance with generally accepted accounting principles (GAAP). "Generally accepted accounting principles" has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA). Under GAAP, the accounting principles and financial reporting standards are established by the Governmental Accounting Standards Board (GASB) for governmental entities, and by the Financial Accounting Standards Board (FASB) for nongovernmental entities. Reporting in GAAP was determined important because GAAP accounting is more widely accepted and allows for financial consistency among various entities. HUD's FHA multifamily program participants are already reporting in GAAP (and have been for sometime). The requirement for all financial reports to be prepared in

accordance with GAAP would bring public housing agencies (PHAs) under similar accounting standards as FHA multifamily program participants, thereby increasing consistency and fairness in the reporting process, including the evaluation of these reports.

Report Submission Date

The rule proposed that the annual submission date for the report would be sixty (60) days after the end of the covered entity's fiscal year. The proposed report due date was consistent with the reporting deadline established for multifamily program participants, and would have added an additional 15 days to the established annual reporting deadline for PHAs.

Standardized Format

In the proposed rule, HUD explained that the format of the financial report would be substantially the same for all covered programs, although the format may vary in certain respects to reflect different types of reporting entities (e.g., owners of multifamily/FHA-related housing vs. PHAs). However, the content of the annual financial report to be submitted to HUD would not have been materially altered by the proposed rule; the proposed rule would have continued to require much of the financial information that is now submitted to HUD. The manner in which the financial information is prepared and the format in which it is submitted would be altered by the requirements to comply with GAAP and to submit the report electronically and in a standardized format. A standardized format is anticipated to bring uniformity and consistency to the evaluation of the financial data. Electronic submission is anticipated to bring efficiency to the process and reduce administrative burden.

Covered Programs

HUD proposed to apply the uniform financial reporting standards to owners and/or administrators of housing under the following HUD programs:

1. Public Housing

The reporting requirements would apply to PHAs receiving assistance under sections 5, 9, or 14 of the U.S. Housing Act of 1937 (42 U.S.C. 1437c, 1437g, and 1437j) (the 1937 Act).

2. PHAs Administering Section 8 Housing Assistance Payments Programs

The reporting requirements would apply to PHAs as contract administrators for any Section 8 project-based or tenant-based housing

assistance payments program, which includes assistance under the following programs:

- (i) Section 8 project-based housing assistance payments programs, including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, Property Disposition, and Moderate Rehabilitation (including the Single Room Occupancy program for homeless individuals);
- (ii) Section 8 Project-Based Certificate programs;
- (iii) Any program providing Section 8 project-based renewal contracts; and
- (iv) Section 8 tenant-based assistance under the Section 8 Certificate and Voucher program.

3. Owners of Housing Receiving Section 8 Project-Based Housing Assistance

The reporting requirements would apply to owners of housing assisted under any Section 8 project-based housing assistance payments program:

- (i) Including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, and Property Disposition programs;
- (ii) Excluding the Section 8 Moderate Rehabilitation Program (which includes the Single Room Occupancy program for homeless individuals) and the Section 8 Project-Based Certificate Program.

4. Multifamily Housing

The reporting requirements would apply to owners of housing receiving assistance or loans under the following HUD programs:

- (i) Section 202 Program of Supportive Housing for the Elderly;
 - (ii) Section 811 Program of Supportive Housing for Persons with Disabilities; and
 - (iii) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects).
- The reporting requirements would also apply to owners of all housing with mortgages insured, coinsured, or held by HUD, or housing that is receiving assistance from HUD. Such housing would include, but may not be limited to, housing under the following authorities:
- (iv) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 et seq.) (Rental Housing Insurance);
 - (v) Section 213 of the NHA (Cooperative Housing Insurance);
 - (vi) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);
 - (vii) Section 221(d)(3) and (5) of the NHA (Housing for Moderate Income and Displaced Families);

(viii) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(ix) Section 231 of the NHA (Housing for Elderly Persons);

(x) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Board and Care Homes);

(xi) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(xii) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(xiii) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(xiv) Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

Proposed Implementation Schedule. As described in the June 30, 1998 proposed rule, for PHAs (as recipients of assistance under sections 5, 9, or 14, or as contract administrators of the various Section 8 assisted housing programs listed above), HUD proposed that the requirement of electronic submission of GAAP-based financial reports, in the manner and in the format prescribed by HUD, would begin with those PHAs with fiscal years ending September 30, 1999 and later. Unaudited financial statements would be required 60 days after the PHA's fiscal year end (i.e., November 30, 1999), and audited financial statements would then be required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Amendments Act of 1996 and revised OMB Circular A-133. For all other entities to which this rule would apply ("other covered entities"), HUD proposed that the requirement of electronic submission of GAAP-based audited financial reports, as provided in this rule, would begin with those other covered entities with fiscal years ending December 31, 1998 and later.

II. Changes at the Final Rule Stage

The initial due date for the receipt of public comments on the proposed uniform financial reporting standards was July 30, 1998. HUD published a notice extending the deadline for public comments until August 13, 1998 (63 FR 41754). HUD received 73 comments on the proposed rule.

As a result of the public comments, the following two changes were made to the rule at the final rule stage.

1. Report Submission Deadline for Multifamily Housing Properties Is April 30, 1999 for First Year of Compliance

The final rule provides that for the first year of implementation of the uniform financial reporting requirements, the annual report submission deadline for entities (or individuals) with fiscal years ending December 31, 1998 reporting on multifamily housing properties is April 30, 1998 for the first year of compliance only.

2. Clarification of Owner Responsibility for Submission of Financial Report

The final rule clarifies that the owner is responsible for the submission of the financial report.

III. Discussion of Public Comments

The majority of the public commenters on this rule supported the proposed changes in annual financial reporting announced in the June 30, 1998 proposed rule. The commenters stated that accounting in accordance with GAAP and electronic submission reporting were steps in the right direction. They commented that: reporting in accordance with GAAP will bring more standardization and thus more comprehensive understanding of financial reports produced by housing authorities; a significant byproduct of the conversion to GAAP will be to make agencies much more conversant with the private industry; and use of electronic submission of annual statements via the internet would result in significant benefits to both HUD and program participants. The majority of the commenters supporting these changes, however, expressed reservations about certain components of the proposed rule, and particularly expressed reservations about the following three areas. First, the commenters expressed concern that the implementation date for financial reporting changes was too early, and would not allow sufficient time to make the conversion to GAAP and electronic submission. Second, the commenters expressed concern that there would be increased costs as a result of conversion to GAAP and electronic submission. Third, the commenters expressed concern about the annual report submission due date. The commenters thought a report due date of 60 days after the end of the fiscal year was not reasonable, particularly during the first year of compliance with the reporting requirements.

As already noted in section II of this preamble, the final rule provides for an extended report due date for the first

year of compliance for entities (or individuals) with fiscal years ending December 31, 1998 and reporting on multifamily housing properties. For PHAs, the final rule provides, as did the proposed rule, for compliance with the reporting requirements beginning with fiscal years ending September 30, 1999 and later. The longer implementation period for PHAs, and the changes made by this final rule with respect to multifamily housing properties, should address to a significant degree concerns about the implementation date, and should minimize costs concerns raised by the commenters as will be discussed further below. The following provides a more detailed discussion of these concerns as well as other issues raised by the public commenters on the June 30, 1998 proposed rule.

A. General Comments on the Proposed Rule

The Public Comment Period for the Rule Was Not Sufficient

Several commenters responded that a 30-day comment period for the proposed rule was inadequate. The commenters stated that 30 days is not sufficient time for a rule that addresses such critically important responsibilities of housing providers.

HUD notes that the public comment period for this rule was extended through August 13, 1998 in response to commenters' request. Additionally, HUD notes that although the financial reporting changes proposed in the June 30, 1998 rule address important responsibilities, the changes themselves are not dramatic. First, the rule does not impose a new annual financial reporting requirement. The statutes, regulations and contracts governing HUD housing programs currently provide for the annual submission of financial information to HUD, as well as such other information that HUD may require to monitor compliance with program statutory, regulatory, and contractual requirements.

Second, the financial information to be submitted is not changed significantly by this rule. As the proposed rule stated, much of the financial information that is now submitted to HUD would continue to be submitted to HUD. The changes in financial information that HUD has targeted for revision are those that result in a needed update to reflect existing requirements, the elimination of redundant information, or greater standardization. These changes are designed to reduce the administrative burden of preparing the annual financial information.

Third, FHA multifamily program participants have been reporting in accordance with GAAP for a substantial period of time. There are some changes in GAAP reporting for the annual financial report to be submitted by multifamily program participants but these changes are those that primarily result from the issuance of an updated chart of accounts that captures accounting information that is already separately recorded by project owners. PHAs that have not yet converted to GAAP (and a number of PHAs already have) will not be disadvantaged by the new reporting requirements because again the final rule provides, as did the proposed rule, that reporting in accordance with the uniform financial reporting requirements will begin with PHAs with fiscal years ending September 30, 1999 and later.

Fourth, electronic reporting should not create an undue administrative burden for entities covered by this rule. With the dramatic growth of personal computer ownership and the even more dramatic growth of internet access through personal computers, most entities, including small entities, have internet access. As discussed later in this rule, PHAs and FHA multifamily program participants are already submitting electronically to HUD data necessitated under other program requirements.

Fifth, as the June 30, 1998 proposed rule discussed, in the development of the uniform financial reporting requirements, HUD created working groups involving HUD's program participants and others familiar with both FHA properties and public housing properties, GAAP reporting and electronic submission, to examine the annual financial information that is now submitted to HUD and how preparation and evaluation of that information could be made less burdensome while preserving the enforcement integrity of the information. HUD also posted this rule on HUD's web page to provide greater dissemination of notice of this proposed rulemaking, and the **Federal Register** also provides electronic posting of published rules. Given the pre-publication discussions with program participants, the limitation on changes to financial reporting requirements proposed by the June 30, 1998, and the benefits to be reaped through implementation of uniform financial reporting requirements, HUD believes that the comment period provided was adequate.

The Rule Needs to Provide Additional Information About the Financial Reporting Requirements

Several commenters stated that the proposed rule failed to provide the specifics on the implementation of the reporting requirements and on the financial information to be provided. One commenter stated that the proposed rule failed to describe what information is to be submitted and by whom. Another commenter asked who will provide the necessary software and training that will be needed in complying with these requirements.

HUD believes that the proposed rule was clear on the implementation schedule of the uniform financial reporting requirements, both in the preamble to the rule and the text of the rule. That schedule is also found later in Section IV of this preamble under the heading "Compliance Schedule for Uniform Financial Reporting Requirements." With respect to the details of the financial information to be reported, HUD's current regulations, and indeed other agency regulations, have not provided in regulatory text the details of the financial information to be submitted. This information can be lengthy and technical and not suitable for an authority (the Code of Federal Regulations) which is updated only once a year. The regulation provides the broad reporting requirements, but the specifics of the financial information is left to supplemental documents such as handbooks and guidebooks, which allow for a more detailed discussion of the financial information to be submitted (and therefore more helpful), allows for examples and model reports to be included, and can be corrected and updated easily, as a result of users' suggestions and recommendations, and as a result of experience in using the model reports and forms provided.

HUD's approach to the uniform reporting requirements will follow this traditional practice. As changes have come about in reporting requirements, HUD developed the necessary guidance for its program participants. For example, when revisions were made to OMB Circular A-133 (Audits of States, Local Governments, and Nonprofit Organizations) as a result of changes made by the Single Audit Amendments Act of 1996 (Pub. L. 104-156, approved July 5, 1996), HUD developed and issued the necessary guidance to assist program participants in understanding and complying with the changes made by this statute and the revised circular. HUD revised and issued Handbook 2000.04 REV-2 on Consolidated Audit Guide for Audits of HUD Programs.

HUD also issued a notice to all multifamily project mortgagors on the new audit requirements resulting from the statute and legislation (Notice H-98-25, issued April 24, 1998). Another example of detailed assistance is the guidance that HUD prepared and issued on the Annual Financial Data Submission Requirements. This guidance, issued December 9, 1997, details the requirements for electronic submission of annual financial data to HUD by multifamily housing project owners, or their authorized employees or agents. For PHAs, HUD has developed and made available a HUD-GAAP Conversion Guide for PHAs. This guidance document is in the final development stage.

As has been the case in the past, HUD will provide the necessary additional details and documentation, and guidance and technical assistance that entities covered by this rule will need to comply with the uniform financial reporting requirements.

Implementation of the Uniform Financial Reporting Requirements Should Be Delayed for One Year

Several commenters stated that compliance with the uniform financial reporting requirements, which will entail conversion to GAAP and electronic submission, constitute major changes and the start-up dates in the rule are not reasonable. Other commenters suggested that these requirements first be instituted as a pilot or test program before national implementation.

HUD has carefully considered the comments and suggestions regarding the rule's implementation dates and has concluded that, except for the changes made by this final rule, the dates provided in the June 30, 1998 proposed rule should remain applicable. Again, HUD's multifamily housing program participants already report in accordance with GAAP and have been reporting in GAAP for a considerable period of time. HUD acknowledges that the implementation schedule for entities (or individuals) reporting on multifamily housing properties and that have fiscal years ending December 31, 1998, will require conversion to HUD's uniform financial reporting requirements in the middle of an accounting cycle. This conversion, however, is not anticipated to be a difficult transition to make because the changes to be addressed for multifamily property annual financial reports (that are already prepared in accordance with GAAP) are those that primarily result from the issuance of an updated chart of accounts that captures accounting

information that is already separately recorded by multifamily housing project owners. Although the conversion changes for entities and individuals are not anticipated to be difficult, HUD has provided in the final rule, as already discussed in this preamble, an extended report submission date for the first year of compliance for those entities (or individuals) that have fiscal years ending December 31, 1998 and are reporting on multifamily housing properties.

With respect to electronic submission, many FHA multifamily program participants already submit reports electronically to HUD. For example, 24 CFR part 208 provides for the electronic transmission of certain required data pertaining to certification and recertification of tenant's eligibility for multifamily subsidized projects. This rule was promulgated in 1993. More recently, HUD published a proposed rule that would require mortgagees that hold or service multifamily mortgages insured by HUD to submit to HUD electronically data on mortgage delinquencies, defaults, and defaults, among other things. This rule published on May 13, 1998 (63 FR 26702) provided a 60-day public comment period, and no public comments were received on the rule.

In the case of PHAs, the rule allows a full fiscal year to convert accounting systems and records to provide the few new or changed accounts and entries necessary to convert to GASB/GAAP and HUD's revised annual reporting requirements. While the lead time is not long for affected PHAs with fiscal years beginning October 1, 1998, HUD's guidelines show that the nature of the changes will not require an extensive break-out or reconstruction of transaction detail, even if the changes are made in the middle of an annual accounting cycle. With respect to electronic submission, PHAs also already submit various reports electronically to HUD. For example, 24 CFR part 908 provides for the electronic transmission of certain required family data for PHAs operating public housing, Indian housing or Section 8 Rental Certificate or Voucher programs.

HUD also reminds entities subject to compliance with the uniform financial reporting requirements that the final rule provides, as did the proposed rule, that HUD may approve transmission of the financial data by tape or diskette if HUD determines that the cost of electronic transmission via the internet would be excessive.

HUD wants the uniform financial reporting requirements to succeed, to assist and benefit HUD's program

participants, as well as HUD. HUD will provide the necessary guidance and technical assistance, and as the process gets underway, HUD will carefully consider any circumstances that may arise and may make compliance with these reporting requirements difficult or necessitate additional time in a given situation.

The Content and Format of the Financial Report Should Be Published for Comment

Five commenters requested that the content and format of the financial report be published for advance notice and comment.

HUD will make the content and format of the report available. Again, however, as HUD noted in the proposed rule, the uniform financial reporting requirements do not substantively change the existing annual financial reporting requirements of HUD's housing program participants, or the format in which the information is to be submitted. The rule will result in some changes to the chart of accounts used in financial reporting to HUD, including changes to: streamline or eliminate unnecessary account detail; add some additional accounts required to comply with new GASB/GAAP requirements for PHAs; and update the multifamily housing chart of accounts to more fully capture existing program requirements.

Currently, HUD guidelines on the specific nature of these changes is available from the HUD/REAC web site (<http://www.hud.gov/reac/reafin.html>). As the HUD/REAC system development effort nears completion, further guidance on specific procedures for reporting formats and electronic submission will be provided.

Uniform Financial Reporting Will Not Assure Comparative Analysis of Performance.

A few commenters stated that HUD's assumption that uniform financial reporting of financial data will facilitate more effective analysis of project operating data is not necessarily correct. The commenters stated that the financial conditions of the projects under review (public housing and multifamily properties) are so different and so any variations are involved in each of these categories, that uniform financial reporting will not achieve the comparative analysis HUD desires.

The rule's primary purpose is to provide for greater uniformity in the accounting principles, account structure, and financial and compliance reporting formats applicable to HUD's housing programs. HUD acknowledges the basic differences between its PHA

and FHA multifamily housing, but believes that the uniform financial report procedures, coupled with new electronic submission requirements, the rule's uniform standards will greatly enhance HUD's ability to perform timely, meaningful comparative analyses of the financial performance and compliance of its housing program participants and portfolio.

The Rule Adversely Impacts Small Entities

Several commenters stated that the changes in reporting requirements proposed by the June 30, 1998 rule would adversely impact small entities.

HUD disagrees with the commenters that the uniform financial reporting requirements will have a significant economic impact on a substantial number of small entities for several reasons. First, for small entities reporting on multifamily properties, these entities are already familiar and reporting in accordance with GAAP accounting. Multifamily chart of account changes primarily pertain to needed updates to better reflect existing rather than new requirements. For small PHAs, HUD has provided a year before reporting in GAAP is required. Second, HUD notes that the Single Audit Act Amendments of 1996 raised significantly the monetary threshold for when an entity that receives Federal assistance is required to have an audit. The threshold was raised from \$25,000 to \$300,000. This change significantly reduces reporting costs for small entities. Therefore, although small entities must continue to submit an annual financial report to HUD, an audited report is not required. Third, the June 30, 1998 proposed rule although clearly expressing a preference for internet submission of financial reports provides that HUD will approve transmission of financial data by tape or diskette if HUD determined that the cost of electronic internet transmission would be excessive. Fourth, the change made at this final rule stage (the extended report due date for certain entities reporting on multifamily housing properties) also will contribute to reducing any possible disproportionate administrative burden that this rule may have had on small entities. Additionally, to further ease any administrative burden on small entities, and all entities subject to these requirements, HUD will provide submission software, supplemental guidance, training and other technical assistance.

B. Comments on Reporting in Accordance with GAAP

Conversion to GAAP Will Take Longer and Be More Costly than HUD Estimates and Will Not Bring Consistency

Several PHA commenters stated that the conversion to GAAP will take longer and be more costly than HUD estimates. These commenters stated that the conversion of PHA financial statements from the current HUD reporting to a GAAP basis may not be as simplistic as HUD staff foresees; could require significant effort for the auditor and the organizations; and could result in major differences in the financial statement amounts if PHAs are treated as business-type activities rather than governmental entities.

HUD understands PHA concerns about the conversion to GAAP, but believes that these concerns are based on misunderstanding or misconceptions about GAAP. First GAAP standards take into account governmental entities. As noted in the proposed rule, there is "governmental GAAP"—that is, financial reporting standards established by the Governmental Accounting Standards Board (GASB). These standards are sometimes referred to as GASB GAAP. Second, GAAP standards are not as rigid as some of the commenters may believe. GAAP permits choices among acceptable options for certain accounting transactions. For PHAs, GAAP permits two types of reporting mechanisms, the governmental method and the enterprise methods. The use of either method is acceptable to HUD. Each PHA has the discretion to determine its own method. The guiding criteria should be the type of activities performed by the PHA.

Because the purpose of converting to GAAP is to achieve uniform and consistent financial data from all reporting entities, HUD has selected preferred options for those transactions within the two types of methods (governmental and enterprise) where GAAP allows an entity to choose from more than one method. HUD's PHA GAAP Conversion Guide identifies HUD's preference on the allowable treatment of select accounting issues to provide desired standardization across the HUD-supported portfolio. For example, HUD will prefer that PHA's: accrue all expenses, expense inventory as consumed, report depreciation on fixed assets, and report the accrual of compensated absences. These preferences are all allowable under GASB/GAAP, and under both a governmental or enterprise fund model. Additionally, HUD points out that

conversion to GAAP does not require change of recordkeeping.

HUD notes that for PHAs the GAAP conversion process entails only year-end adjustments to convert a PHA's recordkeeping so that information may be reported under GAAP. Compliance with GAAP does not require the wholesale conversion of PHA accounting software in order to meet the rule's implementation date for PHAs, nor does it require PHAs to change their current accounting and recordkeeping systems. PHAs are only required to report this information using GAAP as the accounting basis. Reporting financial information in accordance with GAAP allows for financial consistency among PHAs. It also provides a common mechanism for HUD to fairly and accurately assess the financial condition of each PHA as compared to its peers. Additionally, GAAP reporting presents a more accurate picture of PHA financial condition by accounting and accruing for all liabilities that may exist.

Another commenter stated that the proposed rule mentioned two different standard setting bodies in the proposed rule—FASB and GASB. The commenter noted that FASB exercises jurisdiction over private enterprises and nonprofits while GASB exercises jurisdiction over government. The commenter asked how HUD proposes to maintain consistency in accounting and financial reporting when there is no consistency in the underlying accounting standards.

HUD acknowledges the distinctions between housing entities covered by FASB/GAAP versus GASB/GAAP, but notes that FASB and GASB have been established to be as consistent with each other as feasible given the types of entities each covers. To maintain that consistency, HUD will not be advocating any deviation from the appropriate standards applicable to each housing entity. As noted earlier in this preamble, there are various fund types and reporting options available to entities governed under GASB/GAAP. There are options within those variable bases of accounting which can realize consistency of treatment of the many specific types of transactions or accounting issues.

GAAP Requires the Calculation of Depreciation, Which Is Not Currently Done by PHAs and Benefit of This Information Unclear

Several PHA commenters expressed concern about the introduction of depreciation (a GAAP requirement) into the public housing financial system. The commenters stated that depreciation calculations will increase expenses, and therefore, have an impact

on the balance sheet and income statement.

HUD believes that the reporting of the accumulated depreciation of PHAs assets will better enable HUD to assess a PHA's performance and funding needs. The availability of such information will enable the PHA to operate in a more business-like manner. Recording of depreciation provides each PHA with a systematic allocation method showing the cost of an asset over its useful life. The recording of depreciation permits each PHA to show the directly related consumption of the asset over the periods in which the asset is used. The HUD-GAAP Conversion Guide for PHAs provides guidance and training on a straightforward, simplistic approach to establishing the current depreciated value of fixed assets during the conversion process.

HUD Circular Letter LM-85 Provides an Exception to GAAP Filings

Three commenters stated that under HUD Circular Letter LM-85, accrual based financial statements prepared on the same basis of accounting as a project's tax return are acceptable to HUD provided that the only two differences are the write off (rather than capitalization) of certain interest and taxes incurred during the construction period and the methods and lives of depreciating fixed assets. The commenters stated that this, therefore, provides an exception to the GAAP rule in that it avoids the need for owners and property managers to duplicate certain GAAP and income tax basis records for many projects.

HUD Circular Letter LM-85 was superseded by HUD Handbook changes requiring GAAP-based financial reporting by all multifamily housing program participants. While individual HUD field offices may have inconsistently enforced the existing requirement for GAAP-based financial reporting, one of the objectives of this rule is to ensure compliance with the uniform financial reporting requirements.

Changes to Existing Chart of Accounts Will Create Problems

A few commenters expressed concerns about change to the chart of accounts. The commenters stated that the existing chart of accounts includes surplus accounts that are unique to HUD, and these should not be changed. The commenters also stated that the existing chart of accounts provides for tracking subsidies on a cash basis, and confusion would result if HUD grants and cumulative grants were no longer tracked on a cash basis. One commenter

stated that the chart of account will not accommodate recording of transactions under both FASB and GASB. Some commenters expressed concern that the changes to the chart of accounts will be occurring after 1998 transactions already have been recorded. These commenters stated that to meet the implementation deadlines of the proposed rule, they would have to reclassify transactions already recorded. The commenters also stated that there would have to be changes in the computer programs now administered by the private management companies but also in other forms and procedures established by HUD.

HUD does not intend to eliminate the HUD surplus accounts that are currently within the chart of accounts. Additional accounts required to permit conformity with GAAP are being added to the chart of accounts. With respect to subsidies, these can be tracked under GAAP. In fact, reporting of subsidies under GAAP will provide a clearer picture of cumulative HUD grants and will not compromise the integrity of the operating reserve and cash analysis system. HUD also has expanded the chart of accounts for both public and multifamily housing programs, and the respective charts for these programs now contain the accounts needed to fulfill HUD's needs in accordance with the appropriate FASB or GASB requirements. The new accounts needed for PHAs to convert to GASB/GAAP are described in HUD's "PHA GAAP Conversion Guide." With respect to concerns about changes to the chart of accounts after the 1998 reporting year is underway, HUD notes that the revisions to the old chart of accounts for multifamily housing projects were only those necessary to update the chart to reflect already existing requirements. Some of the new accounts capture data previously reported on supplemental compliance data schedules that are being eliminated under HUD's new financial assessment process. Therefore, the changes to the chart of accounts are not anticipated to require any extensive reconstruction or break-out of accounting transactions to implement. HUD has recently developed guidance that describes the specific nature of the new chart of accounts and the basis and preferred treatment of any additions, deletions or other changes. This guidance is available through the HUD REAC web site. On the matter of changes to existing handbooks and forms, HUD Handbook 4370.2 is being revised to introduce the new chart of accounts and new HUD budget

worksheets. Other handbooks and forms will be updated as necessary.

Conversion to GAAP Will Be Burdensome to Small Entities

With respect to concerns about the administrative burden of conversion to GAAP, and particularly that such burden that may fall on small entities, these concerns addressed earlier in the preamble under Section III.A. As noted earlier, HUD is allowing a full year before reporting in GAAP will be required (again FHA multifamily program participants are already reporting in accordance with GAAP). Also, given that GAAP takes into account the financial distinctions of governmental entities, and given that GAAP is not as rigid as some commenters may believe, HUD does not believe that the conversion process will be as burdensome as the commenters believe. HUD already has developed, and provided to PHAs as well as posted on the HUD website at www://hud.gov the HUD-GAAP Conversion Guide for PHAs.

C. Comments on Electronic Submission

Electronic Submission Is Administratively Burdensome and Costly

Several commenters, including those who already have converted to GAAP, expressed concern about electronic submission of the financial report via the internet. The commenters stated that although they realize that electronic submission results in significant administrative efficiencies, electronic submission via the internet creates administrative burdens that they believe exceed the burdens of manual submission requirements. A few commenters stated that electronic submission adversely impacts small entities since systems of many small property owners are not electronic and their ability to complete electronic submissions is limited and in some instances non-existent. Other commenters stated that electronic submission will not replace a hard copy report and therefore the benefits for the reporting entities are not that significant. Several commenters also raised concerns that audit costs would increase as a result of electronic submissions because housing authorities and agencies would ask their accountants to handle the electronic submission.

With respect to internet transmission, HUD acknowledges that until recently on-line transmission and on-line use of information was generally limited to large entities. The dramatic growth in

personal computer ownership, however, has enabled smaller entities to access on-line information just as readily as large entities. For those entities without internet capability at their place of business, access is readily available at other business or public locations for reasonable usage fees. Many Federal, State, and local government agencies are a possible source of internet access for those in need of internet capability, including local HUD offices.

There are significant benefits to internet capability for information delivery. Internet capability by allowing for rapid transmission of the data from the reporting entity to HUD, increasing the ability of HUD to analyze the information, and facilitating HUD's response to the reporting entity about the financial information provided. Additionally, use of the internet eliminates the time-consuming paperwork required to manually transmit the financial reports to HUD.

HUD is aware that for some entities, perhaps small entities, there may be an initial administrative burden and cost associated with the new requirement for electronic submission of financial statements. However, as discussed above, the widespread use of personal computers and internet services, should make the administrative burden and cost minimal, and this burden and cost will be offset by the increased efficiency that electronic submission provides for the reporting entity for HUD's overall financial oversight process.

To simplify the electronic submission process, HUD will provide submission software to reporting entities, at no cost, that can be downloaded from the internet. The software provides a template to more easily enable reporting entities to submit their financial report information, and better assures the quality of the data. This user friendly software reduces the electronic submission process to more of a clerical process, as opposed to the time consuming professional accounting services effort envisioned in many of the comments. HUD will provide training with this software and the REAC Customer Service Center will further assist entities in understanding and fulfilling these new requirements. Additionally, the extended report due date for multifamily project owners with fiscal years ending December 31, 1998 should significantly ease the initial administrative burden that occurs in the first year of compliance with the new requirements. The software, the training, the extended report due date are steps that HUD is taking to alleviate concerns over the degree of difficulty and cost associated with the required

electronic submission process. While it is true that the electronic submission to HUD may not replace the need to provide a hard copy report to other agencies or organizations for other purposes, more and more organizations are requiring electronic submissions of reporting. As noted earlier, HUD's program participants are already submitting reports electronically to HUD in several areas.

With respect to the impact on small entities, in addition to the reasons just discussed that will minimize any burden or cost associated with internet transmission, HUD reminds the commenters that the rule provides that HUD may consider electronic submission other than through the internet if the cost of electronic submission via the internet would be significant.

How Will Electronically Submitted Information Be Verified and Be Made Secure

A few commenters asked how independent auditors would verify the electronic information.

HUD's Financial Assessment Subsystem will contain internal edit checks to preclude the submission of incomplete or mathematically inaccurate information. Auditors will be able to access the financial audit information submitted to HUD by their clients. Auditors should check the validity of last year's report submissions as part of the current year audit. Furthermore, HUD's REAC will have a quality assurance program to validate audit quality and PHA and multifamily owner data submissions. Suspected occurrences of false submissions will be referred to HUD's Enforcement Center for the pursuit of possible criminal, civil and/or administrative sanctions.

D. Comments on the Financial Report Due Date

Several commenters requested that the report submission date be extended to 90 days or longer. The commenters stated that the report due date that provides for 60-days after the end of the entity's fiscal year is not sufficient. Other commenters stated that the report due date is burdensome for entities who must file under OMB Circular A-133 standards.

HUD believes that the submission due date of 60 days from the end of an entity's fiscal year is a reasonable amount of time. For entities and individuals reporting on multifamily housing properties, this is the standard annual financial report due date found in existing regulatory and contractual agreements governing multifamily

housing programs. Since HUD is not substantially changing the multifamily report requirements, additional time is not believed to be warranted, beyond the initial compliance year, as discussed earlier in this preamble. In the case of PHAs, the 60-day submission date gives PHAs an additional 15 days beyond the previous 45-day submission requirement. Additionally, for PHAs, the first year of compliance begins for fiscal years ending September 1999. In all cases, HUD will consider extensions of the report due date for entities submitting their first reports under the uniform financial reporting requirements. Apart from the first reporting year under the uniform financial reporting requirements, requests for extensions of time can be submitted to REAC, but these extensions only will be approved for unusual circumstances beyond an entity's control.

With respect to entities who must file reports under A-133 standards, HUD is not requiring non-profit entities who must comply with A-133 standards to provide all the schedules which are normally prepared and forwarded as a part of these entities' audited financial statements to HUD within 60 days. In accordance with A-133 standards, the audited financial statement itself is not due to HUD until 9 months after the end of an entity's fiscal year. In those cases, owners would still have to submit the required unaudited financial reports within the 60-day period, in accordance with the existing requirements of their HUD regulatory agreement or contract.

E. Other Comments on the Proposed Rule

Compensation for the Costs of Conversion Is Necessary

Several commenters especially non-public housing agencies were concerned that they would not be compensated for the increased costs of conversion to GAAP and in submitting reports electronically.

As discussed earlier in this preamble, the costs of implementing the accounting and electronic submission changes resulting from this rule are not expected to be significant. HUD believes that any additional cost incurred will be offset by corresponding decreases in program participant burdens through greater efficiencies in HUD's overall assessment of the financial condition of HUD public housing and other HUD assisted properties. Costs associated with implementing the new requirements are eligible project expenses under existing program requirements.

The Uniform Financial Reporting Requirements Constitute an Unfunded Mandate

Several commenters stated that the electronic submission requirements constitute an unfunded mandate under the Unfunded Mandates Reform Act (UMRA).

Section 201 of the UMRA requires agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector. HUD has assessed the effects of this rule on housing authorities and other owners and managers of HUD housing. While this rule provides uniform financial reporting requirements for HUD housing, these requirements are not dramatically different from the reporting requirements with which HUD program participants already comply. HUD has determined that the uniform financial reporting requirements will reduce burden after the initial transition year, and this preamble discusses the many ways in which HUD reduced the potential for administrative burden during the first year of compliance. Additionally, the UMRA provides an exemption for entities participating in voluntary Federal programs. Since HUD has assessed the effects of this rule on State, local, and tribal governments, and on the private sector, and since this rule does not include a Federal mandate, HUD has complied with the Unfunded Mandates Reform Act of 1995.

Education and Training by HUD of the New Requirements Are Critical

Several commenters stressed that they wanted HUD to ensure that it would take responsibility in providing education and training of the uniform financial reporting requirements.

HUD acknowledges that it has this responsibility, and already has begun providing guidance on the uniform financial reporting requirements. Initial guidance is already available through the HUD REAC web site or Customer Service Center, and plans are being made by REAC for additional guidance and training of PHAs, project owners, mortgagees, housing industry groups and CPAs.

Information Collection Burden is Understated in Rule

Four commenters stated that they thought that the information collection burden of .75 hours reported in the Paperwork Reduction Act Statement section of the rule was understated.

HUD appreciates the comments in this area, and is reexamining whether the burden is greater than the .75

reported at the proposed rule stage. HUD's decision to develop electronic submission software, which will provide an easy to use submission template, at no cost to housing entities, will have an impact on reducing the reporting burden of electronic submission.

HUD Handbook 4370.2 REV Restricts Business Relationships Between Independent Accountants and Mortgagor

One commenter stated that existing HUD policy in HUD Handbook 4370.2 REV restricts business relationships between the independent accountants and mortgagor, except for the performance of audit, accounting systems work and tax preparation. The commenter stated that HUD should therefore issue a formal interpretation relative to the definition of "fee accountant" which is currently defined by HUD or an individual who performs manual or automated bookkeeping services and/or maintains the official accounting records. HUD currently prohibits accountants from performing the audit of the mortgage.

The term "fee accountant" is defined in HUD's Consolidated Audit Guide for Audits of HUD Programs (IG 2000.04, REV-2). It is also important to note that an accountant who keeps the books for a specific project is prohibited from performing the audit of a project.

Why Is Reporting Responsibility Imposed on Auditor and Not Owner

One commenter asked why the responsibility is being placed on the auditor to submit the report to HUD.

Since only one commenter asked this question, HUD believes that the proposed rule was clear that the responsibility for the submission of the report is with the owner. Nevertheless, the final rule clarifies that the owner has responsibility for submission of the report to HUD.

HUD Should Reexamine the Applicability of the Uniform Financial Reporting Requirements to Certain Programs

There were several comments suggesting that certain HUD programs should be excluded from the applicability of the uniform financial reporting requirements. One commenter stated that pre-1980 Section 8 projects are outside of the financial reporting requirements. Another commenter stated that audited financial report requirements should not be applied to Section 8 and other HUD housing subsidy programs. One commenter stated that FHA-Insured Properties

should be exempt from audited financial report requirements, and another commenter stated that these reporting requirements should not be applied to non-profit sponsored projects.

HUD firmly believes that the uniform financial reporting requirements should apply to as many HUD programs as legal authority provides. As has been stated throughout this preamble, the uniform financial reporting requirements established by this rule do not present a dramatic change from the reporting requirements to which HUD's program participants have been subject to date. Where changes require some time for implementation (conversion to GAAP, electronic submission), HUD is providing the necessary time and technical guidance to assist these entities in making the conversion to GAAP and electronic reporting.

HUD believes that the uniform financial reporting requirements will improve the efficiency and effectiveness of financial reporting by HUD program participants, improve the efficiency and fairness of HUD's evaluation of these reports, and reduce the administrative burden for HUD and covered entities that manual reporting presents.

IV. Regulatory Amendments

New Subpart for Uniform Financial Reporting Standards

This rule creates a new subpart H in 24 CFR part 5. The regulations in part 5 represent HUD's general program requirements, as well as requirements that cut across one or more HUD programs. This new subpart H consists of one section. Section 5.801(a) describes the entities to which the uniform financial reporting standards will apply. Paragraph (b) of § 5.801 provides that entities covered by subpart H must submit electronically to HUD certain annual financial information, prepared in accordance with generally accepted accounting principles, and in the format prescribed by HUD. In accordance with paragraph (c) of § 5.801, the information must be submitted to HUD annually, no later than 60 days after the end of the fiscal year of the reporting entity.

Conforming Amendments in Program Regulations

In accordance with the uniform financial reporting standards, this rule also makes several conforming amendments to HUD's program regulations to reference compliance with the uniform financial reporting standards in 24 CFR part 5, subpart H. HUD is issuing a separate rule regarding

the overall assessment of public housing, in which HUD further addresses the applicability of the uniform financial reporting standards in 24 CFR part 5, subpart H, to the public housing programs.

One of the conforming amendments in this rule is to add a new § 200.36, which refers to the uniform financial reporting requirements in subpart H of part 5. Section 200.36 applies the new financial reporting requirements to all HUD's multifamily mortgage insurance programs, since many of the various program regulations (e.g., 24 CFR parts 207, 213, 220, 221, 231, 232, 234, 241) refer to the cross-cutting requirements in part 200. This rule amends the heading for subpart A of part 200 to clarify that the financial reporting requirement is a continuing eligibility requirement.

Compliance Schedule for Uniform Financial Reporting Requirements

For PHAs, as recipients of assistance under sections 5, 9, or 14, or as contract administrators of the various Section 8 assisted housing programs listed in § 5.801(a) (1) and (2) of the rule, the requirement of electronic submission of GAAP-based financial reports will begin with those PHAs with fiscal years ending September 30, 1999 and later. Again, HUD believes that this compliance schedule will allow sufficient conversion time for PHAs that are not currently using GAAP. Unaudited financial statements will be required 60 days after the PHA's fiscal year end (i.e., November 30, 1999), and audited financial statements will then be required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133. A PHA with a fiscal year ending September 30, 1999 that elects to submit its unaudited financial report earlier than the due date of November 30, 1999 must submit its report electronically and prepared in accordance with GAAP, in the manner and in the format prescribed by HUD, as provided by this rule. On or after September 30, 1998 but prior to November 30, 1999 (except for a PHA with its fiscal year ending September 30, 1999), PHAs may submit their financial reports in accordance with the financial reporting requirements of this rule, but would not be required to do so.

For all other entities to which this rule would apply ("other covered entities"), the requirement of electronic submission of GAAP-based audited financial reports will begin with those other covered entities with fiscal years ending December 31, 1998 and later. The earlier starting date reflects the

widespread use of GAAP by other covered entities. Beginning on January 1, 1999 and thereafter, all financial reports submitted to HUD by other covered entities would be required to be submitted in accordance with the requirements of this rule. For the first year of compliance with the uniform reporting requirements, other covered entities with fiscal years ending December 31, 1998 are required to submit electronic, GAAP-based, audited financial reports by no later than April 30, 1999 (120 days after the close of the fiscal year). This extended due date is only for the first year of compliance, and only for those other covered entities with fiscal years ending December 31, 1998. Covered entities with fiscal years ending December 31, 1998 that elect to submit their audited reports earlier than the April 30, 1999 must submit their audited financial reports electronically and prepared in accordance with GAAP, in the manner and format prescribed by HUD. On or after September 30, 1998 but prior to January 1, 1999, other covered entities may submit their financial reports in accordance with this rule, but they would not be required to do so.

The reporting requirements in this rule are not intended to alter the applicability or timing of the audit requirements in the Single Audit Act (as discussed below). HUD intends to issue notices and other guidance on the details relating to the implementation of this rule.

Additionally, to allow for a period of consistent assessment of the financial reports submitted to HUD under this rule for the purpose of making any refinements or necessary adjustments, PHAs covered by this rule will not be allowed to change their fiscal years for their first three full fiscal years following the effective date of this rule.

V. Findings and Certifications

Paperwork Reduction Act

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB approval number by 2535-0107. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory*

Planning and Review, issued by the President on September 30, 1993. 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 this rule subsequent to its submission to OMB are identified in the docket file, which 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 General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Environmental Impact

This rule involves external administrative requirements and does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6) and (where this rule would amend existing provisions) 50.19(c)(2), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

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 is not anticipated to have a significant economic impact on a substantial number of small entities. As discussed in detail in the preamble to the final rule, there are several factors present that reduce the possibility of any significant economic impact on a substantial number of small entities.

As noted in the preamble, this rule does not create a new reporting requirement. The annual reporting of certain financial information is a preexisting HUD program requirement. This rule standardizes, to the extent possible, the content of the information and the preparation of the information (in accordance with GAAP), and requires electronic submission. HUD anticipates that these changes will bring consistency, simplicity, and reduced administrative burden to the reporting process. For those entities unfamiliar with GAAP, and particularly for any small entities that may be unfamiliar with GAAP, HUD intends to conduct training seminars in order to assist them in their conversion to GAAP. With respect to costs, the audit costs assumed by PHAs and multifamily project owners are a recognized part of operating and administrative expenses, and accordingly, HUD anticipates that

there will be no (or very little) monetary costs incurred. As noted in the preamble, the Federal Housing Commissioner has required GAAP-based accounting for a number of years, and the vast majority of owners already adhere to its tenets. Therefore, any burden involved in conversion to GAAP in FHA programs is anticipated to be minimal. For PHAs, the rule provides a year for before compliance with these reporting requirements must begin.

With respect to electronic submission, although electronic submission via the internet is preferred, the rule provides that HUD will consider submission through tape, diskette or paper if HUD determines that the costs of electronic submission via the internet would be excessive.

In addition to the issues of training and costs, many entities will have up to 9 months to submit audited financial statements in accordance with GAAP (the period of time allowed under the Single Audit Act).

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, this rule is not subject to review under the Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) (UMBRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. As was discussed earlier in the preamble to this final rule, this rule would not impose a Federal mandate within the definitions provide in section 101 of the UMRA because this rule merely provides for uniform financial reporting requirements that arise from participation in a voluntary Federal program, for which funds are provided through budget authority that is not entitlement authority.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs that would be affected by this rule are:

- 14.126—Mortgage Insurance—Cooperative Projects (Section 213)
- 14.129—Mortgage Insurance—Nursing Homes, Intermediate Care Facilities, Board and Care Homes and Assisted Living Facilities (Section 232)
- 14.134—Mortgage Insurance—Rental Housing (Section 207)
- 14.135—Mortgage Insurance—Rental and Cooperative Housing for Moderate Income Families and Elderly, Market Rate Interest (Sections 221(d)(3) and (4))
- 14.138—Mortgage Insurance—Rental Housing for Elderly (Section 231)
- 14.139—Mortgage Insurance—Rental Housing in Urban Areas (Section 220 Multifamily)
- 14.157—Supportive Housing for the Elderly (Section 202)
- 14.181—Supportive Housing for Persons with Disabilities (Section 811)
- 14.188—Housing Finance Agency (HFA) Risk Sharing Pilot Program (Section 542(c))
- 14.850—Public Housing
- 14.851—Low Income Housing—Homeownership Opportunities for Low Income Families (Turnkey III)
- 14.852—Public Housing—Comprehensive Improvement Assistance Program
- 14.855—Section 8 Rental Voucher Program
- 14.856—Lower Income Housing Assistance Program—Section 8 Moderate Rehabilitation
- 14.857—Section 8 Rental Certificate Program
- 14.859—Public Housing—Comprehensive Grant Program

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low- and moderate-income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 200

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

24 CFR Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 266

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

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 886

Grant programs—housing and community development, Lead poisoning, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, title 24 of the CFR is amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for 24 CFR part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

2. A new subpart H, consisting of § 5.801, is added to part 5 to read as follows:

Subpart H—Uniform Financial Reporting Standards

§ 5.801 Uniform financial reporting standards.

(a) *Applicability.* This subpart H implements uniform financial reporting standards for:

(1) Public housing agencies (PHAs) receiving assistance under sections 5, 9, or 14 of the 1937 Act (42 U.S.C. 1437c, 1437g, and 1437j) (Public Housing);

(2) PHAs as contract administrators for any Section 8 project-based or tenant-based housing assistance payments program, which includes assistance under the following programs:

(i) Section 8 project-based housing assistance payments programs, including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-

Aside, Property Disposition, and Moderate Rehabilitation (including the Single Room Occupancy program for homeless individuals);

(ii) Section 8 Project-Based Certificate programs;

(iii) Any program providing Section 8 project-based renewal contracts; and

(iv) Section 8 tenant-based assistance under the Section 8 Certificate and Voucher program.

(3) Owners of housing assisted under any Section 8 project-based housing assistance payments program:

(i) Including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, and Property Disposition programs;

(ii) Excluding the Section 8 Moderate Rehabilitation Program (which includes the Single Room Occupancy program for homeless individuals) and the Section 8 Project-Based Certificate Program;

(4) Owners of multifamily projects receiving direct or indirect assistance from HUD, or with mortgages insured, coinsured, or held by HUD, including but not limited to housing under the following HUD programs:

(i) Section 202 Program of Supportive Housing for the Elderly;

(ii) Section 811 Program of Supportive Housing for Persons with Disabilities;

(iii) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects);

(iv) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 et seq.) (Rental Housing Insurance);

(v) Section 213 of the NHA (Cooperative Housing Insurance);

(vi) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(vii) Section 221(d) (3) and (5) of the NHA (Housing for Moderate Income and Displaced Families);

(viii) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(ix) Section 231 of the NHA (Housing for Elderly Persons);

(x) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Board and Care Homes);

(xi) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(xii) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(xiii) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(xiv) Section 542(c) of the Housing and Community Development Act of

1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk-Sharing Program).

(b) *Submission of financial information.* Entities (or individuals) to which this subpart is applicable must provide to HUD, on an annual basis, such financial information as required by HUD. This financial information must be:

(1) Prepared in accordance with Generally Accepted Accounting Principles as further defined by HUD in supplementary guidance;

(2) Submitted electronically to HUD through the internet, or in such other electronic format designated by HUD, or in such non-electronic format as HUD may allow if the burden or cost of electronic reporting is determined by HUD to be excessive; and

(3) Submitted in such form and substance as prescribed by HUD.

(c) *Annual financial report filing dates.* The financial information to be submitted to HUD in accordance with paragraph (b) of this section, must be submitted to HUD annually, no later than 60 days after the end of the fiscal year of the reporting period, and as otherwise provided by law. For entities listed in paragraphs (a)(3) and (a)(4) of this section and that have fiscal years ending December 31, 1998, the report shall be due April 30, 1999. This extended report due date is only for entities listed in paragraphs (a)(3) and (a)(4) of this section, and only for the first report due under this section.

(d) *Reporting compliance dates.* Entities (or individuals) that are subject to the reporting requirements in this section must commence compliance with these requirements as follows:

(1) For PHAs listed in paragraphs (a)(1) and (a)(2) of this section, the requirements of this section will begin with those PHAs with fiscal years ending September 30, 1999 and later. Unaudited financial statements will be required 60 days after the PHA's fiscal year end, and audited financial statements will then be required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133 (See 24 CFR 84.26). A PHA with a fiscal year ending September 30, 1999 that elects to submit its unaudited financial report earlier than the due date of November 30, 1999 must submit its report as required in this section. On or after September 30, 1998, but prior to November 30, 1999 (except for a PHA with its fiscal year ending September 30, 1999), PHAs may submit their financial reports in accordance with this section.

(2) For entities listed in paragraphs (a)(3) and (a)(4) of this section, the

requirements of this section will begin with those entities with fiscal years ending December 31, 1998 and later. Entities listed in paragraphs (a)(3) and (a)(4) of this section with fiscal years ending December 31, 1998 that elect to submit their reports earlier than the due date must submit their financial reports as required in this section. On or after September 30, 1998 but prior to January 1, 1999, these entities may submit their financial reports in accordance with this section.

(e) *Limitation on changing fiscal years.* To allow for a period of consistent assessment of the financial reports submitted to HUD under this subpart part, PHAs listed in paragraphs (a)(1) and (a)(2) of this section will not be allowed to change their fiscal years for their first three full fiscal years following October 1, 1998.

(f) *Responsibility for submission of financial report.* The responsibility for submission of the financial report due to HUD under this section rests with the individuals and entities listed in paragraph (a) of this section.

PART 200—INTRODUCTION TO FHA PROGRAMS

3. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701-1715z-18; 42 U.S.C. 3535(d).

4. The heading of Subpart A is revised to read as follows:

Subpart A—Requirements for Application, Commitment, and Endorsement Generally Applicable to Multifamily and Health Care Facility Mortgage Insurance Programs; and Continuing Eligibility Requirements for Existing Projects

5. A new § 200.36 is added immediately after § 200.35 to read as follows:

§ 200.36 Financial reporting requirements.

The mortgagor must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

6. The authority citation for 24 CFR part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715z-1; 42 U.S.C. 3535(d).

7. Section 236.1 is amended by revising the heading, by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b), to read as follows:

§ 236.1 Applicability, cross-reference, and savings clause.

* * * * *

(b) The mortgagor must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

* * * * *

PART 266—HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS

8. The authority citation for 24 CFR part 266 continues to read as follows:

Authority: 12 U.S.C. 1707; 42 U.S.C. 3535(d).

9. In § 266.505, paragraph (b)(7) is revised to read as follows:

§ 266.505 Regulatory agreement requirements.

* * * * *

(b) * * *

(7) Maintain complete books and records established solely for the project and comply with the financial reporting requirements in 24 CFR part 5, subpart H.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

10. The authority citation for 24 CFR part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

11. In § 880.601, paragraph (d)(1) is revised to read as follows:

§ 880.601 Responsibilities of owner.

* * * * *

(d) * * *

(1) Financial information in accordance with 24 CFR part 5, subpart H; and

* * * * *

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

12. The authority citation for 24 CFR part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

13. In § 886.318, paragraph (d)(1) is revised to read as follows:

§ 886.318 Responsibilities of the owner.

* * * * *

(d) * * *

(1) Financial information in accordance with 24 CFR part 5, subpart H; and

* * * * *

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM

14. The authority citation for 24 CFR part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

15. In § 982.158, paragraph (a) is amended by adding a sentence at the end, to read as follows:

§ 982.158 Program accounts and records.

(a) * * * The HA must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

* * * * *

Dated: August 26, 1998.

Andrew Cuomo,
Secretary.

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