

prevent piracy of software constitutes a substantial transformation); and, HQ 734518, dated June 28, 1993 (motherboards are not substantially transformed by the implanting of the central processing unit on the board because, whereas in *Data General* use was being assigned to the PROM, the use of the motherboard had already been determined when the importer imported it).

CBP has examined the effect of downloading U.S.-developed software in previous decisions. For example, in HQ H258960, dated May 19, 2016, CBP considered the country of origin of network transceivers in two different scenarios. In Scenario One, the importer purchased “blank” transceivers from Asia. The transceivers were then loaded with U.S.-developed software in the United States, which made the transceivers functional. In Scenario Two, the importer purchased the transceivers with a generic program preinstalled, which was then removed so that the U.S.-developed software could be installed. CBP held that, in Scenario One, because the transceivers could not function as network devices without the U.S.-developed software, the transceivers were substantially transformed as a result of the downloading of the U.S.-developed software performed in the United States. However, in Scenario Two, because the transceivers were already functional when imported, the identity of the transceivers was not changed by the downloading performed in the United States, and no substantial transformation occurred.

Similarly, in HQ H175415 dated October 4, 2011, CBP held that imported Ethernet switches underwent a substantial transformation after U.S.-origin software was downloaded onto the devices’ flash memory in the United States, which allowed the devices to function. In China, the printed circuit board assemblies, chassis, top cover, power supply, and fan were assembled. Then, in the United States, U.S.-origin software, which gave the hardware the capability of functioning as local area network devices, was loaded onto the hardware. CBP noted that the U.S.-origin software “enables the imported switches to interact with other network switches” and that “[w]ithout this software, the imported devices could not function as Ethernet switches.” Under these circumstances, CBP held that the country of origin of the local area network devices was the United States. See also HQ H052325, dated March 31, 2009 (holding that imported network devices underwent a substantial transformation in the United States after U.S.-origin software was downloaded onto the devices in the United States, which gave the devices their functionality); and HQ H034843, dated May 5, 2009 (holding that Chinese USB flash drives underwent a substantial transformation in Israel when Israeli-origin software was loaded onto the devices, which made the devices functional).

In this case, the hardware is imported from China in a fully assembled state. However, at the time of importation the devices are not functional because they lack the software needed to run. Here, unlike Scenario Two in HQ H258960, the programming that occurs in

China is to perform diagnostic testing to assure the circuit paths on the printed circuit board are made and function properly. Furthermore, contrary to Scenario Two in HQ H258960, the identity of the switches changes after the U.S.-origin software is downloaded onto the switches. Moreover, as in HQ H175415, HQ H052325, and HQ H258960, it is only after the installation of U.S.-origin software that the devices obtain their essence and functionality as switches and routers. Without the U.S. proprietary software, the devices cannot function as a network device in any capacity. Here, the AOS is developed and downloaded in the United States. The development, configuration, and downloading of the AOS helps transform the essence of the products at issue from merchant silicon into fully functional network devices that are capable of performing the intended switching and routing functions. The devices at issue here derive their core functionality as switches and routers from the installation of the U.S.-developed software. The U.S.-developed software enables the system to interact with other network switches or routers through network switching and routing protocols, and allows for the management of functions such as network performance monitoring and security and access control.

Under these circumstances, and consistent with previous CBP rulings, we find that the country of origin of the final product is the United States, where the non-functional devices are substantially transformed as a result of downloading performed in the United States, with software developed in the United States. Furthermore, in the present case, the essence of the articles depends on the information technology found in the software, which allows the devices to communicate with other network switches or routers for their ultimate purpose. For country of origin determinations, it should be noted that the final determination differs based on each article’s specific purpose, makeup, and applicable technology.

#### **HOLDING:**

The country of origin of the Ethernet switches, routers and network cards for purposes of U.S. Government procurement is the United States.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination.

Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Alice A. Kipel,

*Executive Director, Regulations and Rulings,  
Office of Trade.*

[FR Doc. 2019-01115 Filed 2-4-19; 8:45 am]

**BILLING CODE 9111-14-P**

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-6101-N-03]

### **Notice of Regulatory Waiver Requests Granted for the Third Quarter of Calendar Year 2018**

**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 July 1, 2018 and ending on September 30, 2018.

**FOR FURTHER INFORMATION CONTACT:** For general information about this notice, contact Ariel Pereira, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10282, Washington, DC 20410-0500, telephone 202-708-3055 (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 third quarter of calendar year 2018.

**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 July 1, 2018 through September 30, 2018. 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 third quarter of calendar year 2018) before the next report is published (the fourth quarter of calendar year 2018), HUD will include any additional waivers granted for the third 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: January 30, 2019.

**J. Paul Compton, Jr.,**  
General Counsel.

## Appendix

### Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development July 1, 2018 Through September 30, 2018

*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 576.106(d)(1).

*Project/Activity:* HUD granted a waiver of 24 CFR 576.106(d)(1) to the Washington State Department of Commerce to allow its subrecipient, the Whatcom County Health Department (WCHD), to use Fiscal Year (FY) 2016 and 2017 Emergency Solutions Grants (ESG) Program Rapid Re-housing (RRH) and Homelessness Prevention (HP) funds in Whatcom County for housing units with rents up to 118 percent of the HUD-established Fair Market Rent (FMR). The waiver of 24 CFR 576.106(d)(1) is provided for individuals and families who begin receiving ESG rental assistance during the 1-year period beginning on the date of the waiver memorandum (August 7, 2018). WCHD must still comply with the rent reasonableness requirements in 24 CFR 576.106(d)(1).

*Nature of Requirement:* Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent

reasonableness, as established under 24 CFR 982.507.

*Granted By:* Neal Rackleff, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 7, 2018.

*Reason Waived:* HUD granted the waiver because the recipient sufficiently documented its subrecipient's inability to provide adequate ESG program rental assistance under the current rental market conditions in Whatcom County. Specifically, HUD determined that the 1.8 percent rental vacancy rate in Whatcom County, higher-than-average poverty rate, high demand for low cost rental units, and lack of available units at or below FMR have resulted in prolonged, costly and often futile housing search efforts, participating households remaining homeless for increased periods of time, and inability of the subrecipient to expend all of its ESG funds.

*Contact:* Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300.

- *Regulation:* 24 CFR 576.106(d)(1).

*Project/Activity:* HUD granted a waiver of 24 CFR 576.106(d)(1) to the State of California Department of Housing and Community Development (DHCD) to allow its subrecipient, Families in Transition (FIT) of Santa Cruz County, to use Fiscal Year (FY) 2016 Emergency Solutions Grants (ESG) Program Rapid Re-housing (RRH) funds in Santa Cruz County for housing units with rents up to the payment standard adopted by the Santa Cruz housing authority. The waiver of 24 CFR 576.106(d)(1) is provided for individuals and families who begin receiving ESG RRH rental assistance during the 1-year period beginning on the date of the waiver memorandum (August 7, 2018). DHCD and its subrecipients must still comply with the rent reasonableness requirements in 24 CFR 576.106(d)(1).

*Nature of Requirement:* Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

*Granted By:* Neal Rackleff, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 7, 2018.

*Reason Waived:* HUD granted the waiver because the recipient sufficiently documented its subrecipient's inability to provide adequate ESG rental assistance under the current rental market conditions in Santa Cruz County. Specifically, HUD determined that the 2.4 percent rental vacancy rate in Santa Cruz County, extremely high demand for rental units at or below FMR, lack of available units at or below FMR, and stringent tenant screening criteria by many landlords (such as requiring monthly incomes at least 3 times FMR) have resulted in participating households remaining homeless for average periods of 9 to 12

months before being housed, and participants securing only units with rents above FMR (for which ESG rental assistance could not be used).

*Contact:* Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708-4300.

## 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 200.73 (c).

*Project/Activity:* Heritage Crossing II, Baltimore, Maryland, Project No. 052-35810

*Nature of Requirement:* HUD's regulation at 24 CFR 200.73 (c) requiring that "not less than five rental dwelling units [of an FHA insured multifamily housing project] shall be on one site. The property is a large, scattered-site portfolio of 75 apartment properties on 72 separate parcels of which some are contiguous, but most are not: 4 of the 72 parcels contain 5 or more single units that are contiguously situated (totaling 24 units) and therefore comply with HUD "Scattered Sites" requirements; however, the remaining 68 parcels contain less than 5 units each (totaling 51 units), and are therefore non-contiguous separate sites.

*Granted by:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* August 28, 2018.

*Reason Waived:* The waiver will meet HUD's goal of preserving and maintaining affordable rental housing for low income families. The proposed FHA-insured loan/RAD conversion will preserve and rehabilitate necessary affordable housing and will contribute to the revitalization of this Baltimore community.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202)402-5693.

*Regulation:* 24 CFR 266.200(b)(2).

*Project/Activity:* Federal Financing Bank (FFB) Risk Sharing Program regulations for thirteen (13) additional projects for a total of 53 projects, Risk Sharing Initiative through Calendar Year 2019, Substantial Rehabilitation, Massachusetts Housing Finance Agency (Mass Housing), Boston, Massachusetts, no project names listed.

*Nature of Requirement:* The Waiver of 24 CFR 266.200(b)(2), Substantial Rehabilitation. The Department will permit the revised definition of substantial rehabilitation (S/R) as described in the revised MAP Guide published on January 29, 2016, such that S/R is: Any scope of work that either (a) Exceeds in aggregate cost a sum equal to the 'base per dwelling unit limit' times the applicable High Cost Factor, or (b) Replacement of two or more building systems. 'Replacement' is when the cost of

replacement work exceeds 50 percent of the cost of replacing the entire system.

The High Cost Factors for 2018 were recently published through a Housing Notice (HN) on May 23, 2018 and the revised statutory limits were published in the **Federal Register** on November 7, 2017. The 2018 base dwelling unit amount to determine substantial rehabilitation for FHA insured loan programs has been increased from \$15,000 (changed from \$6,500 per unit in the 2016 MAP guide) to \$15,636. This amount will change annually based upon the change in the annual Consumer Price Index (CPI), along with the statutory limits or other inflation cost index published by HUD.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* September 21, 2018.

*Reason Waived:* Granted waivers of certain provisions of the Federal Financing Bank (FFB) Risk-Sharing Program regulations for thirteen (13) projects utilizing the Federal Financing Bank (FFB) Risk-Sharing Initiative through the end of Calendar Year 2019. Under this initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the Multifamily Risk Sharing Program.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

*Regulation:* 24 CFR 266.200(b)(2).

*Project/Activity:* Federal Financing Bank (FFB) Risk-Sharing Program regulations for an additional five (5) projects for a total of 25 projects utilizing the Federal Financing Bank (FFB) Risk-Sharing Initiative through the end of Calendar Year 2019, Substantial Rehabilitation, the Massachusetts Housing Partnership (MHP), Boston, Massachusetts, no project names listed.

*Nature of Requirement:* The Waiver of 24 CFR 266.200(b)(2), Substantial Rehabilitation. The Department will permit the revised definition of substantial rehabilitation (S/R) as described in the revised MAP Guide published on January 29, 2016, such that S/R is: Any scope of work that either (a) Exceeds in aggregate cost a sum equal to the 'base per dwelling unit limit' times the applicable High Cost Factor, or (b) Replacement of two or more building systems. 'Replacement' is when the cost of replacement work exceeds 50 percent of the cost of replacing the entire system.

The High Cost Factors for 2018 were recently published through a Housing Notice (HN) on May 23, 2018 and the revised statutory limits were published in the **Federal Register** on November 7, 2017. The 2018 base dwelling unit amount to determine substantial rehabilitation for FHA insured loan programs has been increased from \$15,000 (changed from \$6,500 per unit in the 2016 MAP guide) to \$15,636. This amount will change annually based upon the change in the annual Consumer Price Index (CPI), along with the statutory limits or other inflation cost index published by HUD.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* September 21, 2018.

*Reason Granted:* Under this initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program. Granted waivers of certain provisions of the Federal Financing Bank (FFB) Risk-Sharing Program regulations for five (5) projects utilizing the Federal Financing Bank (FFB) Risk-Sharing Initiative through the end of Calendar Year 2019.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- *Regulation:* 24 CFR 266.200(c)(2).

*Project/Activity:* Federal Financing Bank (FFB) Risk Sharing Initiative, Equity Take Outs, Massachusetts Housing Finance Agency (Mass Housing), Boston, Massachusetts

*Nature of Requirements:* The Waiver of 24 CFR 266.200(c)(2), Existing Projects "Equity Take-outs". The Department will permit the insured mortgage to exceed the sum of the total cost of acquisition, cost of financing, cost of repairs, and reasonable transaction costs, or "equity take-outs" in refinances of Mass Housing-financed projects and those outside Mass Housing's portfolio if the result is preservation with the following conditions:

1. Occupancy is no less than 93 percent for previous 12 months;
2. No defaults in the last 12 months of the HFA loan to be refinanced;
3. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;
4. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and
5. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

a. Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and

b. In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012-14—Use of "New Regulation" Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time Mass Housing determines that a project's excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, Mass Housing must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned to HUD.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* September 21, 2018.

*Reason Waived:* Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202)402-5693.

- *Regulation:* 24 CFR 266.200(c)(2).

*Project/Activity:* Federal Financing Bank (FFB) Risk Sharing Initiative, Equity Take Outs. Massachusetts Housing Partnership (MHP), Boston, Massachusetts.

*Nature of Requirement:* The Waiver of 24 CFR 266.200(c)(2), Existing Projects "Equity Take-outs". The Department will permit the insured mortgage to exceed the sum of the total cost of acquisition, cost of financing, cost of repairs, and reasonable transaction costs, or "equity take-outs" in refinances of MHP-financed projects and those outside MHP's portfolio if the result is preservation with the following conditions:

1. Occupancy is no less than 93 percent for previous 12 months;
2. No defaults in the last 12 months of the HFA loan to be refinanced;
3. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;
4. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and
5. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

- a. Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and
- b. In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012-14—Use of "New Regulation" Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time MHP determines that a project's excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, MHP must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned to HUD.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* September 21, 2018.

*Reason Waived:* Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street

SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- *Regulation:* 24 CFR 266.200(d).

*Project/Activity:* Federal Financing Bank (FFB) Risk Sharing Initiative, Underwriting of Projects with Section 8 HAP Contracts. Massachusetts Housing Finance Agency (Mass Housing), Boston, Massachusetts

*Nature of Requirement:* The Waivers of 24 CFR 266.200(d), Projects receiving Section 8 rental subsidies or other rental subsidies. For refinancing of Section 202 projects, and for Public Housing Authority (PHA) projects converting to Section 8 through the Rental Assistance Demonstration (RAD) Initiative, the Department will permit Mass Housing to underwrite the financing using current or to be adjusted project-based Section 8 assisted rents, even though they exceed the market rates. This is consistent with HUD Housing Notice 04-21, "Amendments to Notice 02-16: Underwriting Guidelines for Refinancing of Section 202, and Section 202/8 Direct Loan Repayments", which grants authority only to those lenders refinancing with mortgage programs under the National Housing Act.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* September 21, 2018.

*Reason Waived:* Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- *Regulation:* 24 CFR 266.200(d).

*Project/Activity:* Federal Financing Bank (FFB) Risk Sharing Initiative, Underwriting of Projects with Section 8 HAP Contracts. Massachusetts Housing Partnership (MHP), Boston, Massachusetts.

*Nature of Requirement:* The Waivers of 24 CFR 266.200(d), Projects receiving Section 8 rental subsidies or other rental subsidies. For refinancing of Section 202 projects, and for Public Housing Authority (PHA) projects converting to Section 8 through the Rental Assistance Demonstration (RAD) Initiative, the Department will permit MHP to underwrite the financing using current or to be adjusted project-based Section 8 assisted rents, even though they exceed the market rates. This is consistent with HUD Housing Notice 04-21, "Amendments to Notice 02-16: Underwriting Guidelines for Refinancing of Section 202, and Section 202/8 Direct Loan Repayments", which grants authority only to those lenders refinancing with mortgage programs under the National Housing Act.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* September 21, 2018.

*Reason Waived:* Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- *Regulation:* 24 CFR 266.410(e).

*Project/Activity:* District of Columbia Housing Finance Agency (DCHFA), Washington, DC no project name or number.

*Nature of Requirement:* The 24 CFR 266.410(e), which requires mortgages insured under the 542(c) Housing Finance Agency Risk Sharing Program to be fully amortized over the term of the mortgage. The waiver would permit DCHFA to use balloon loans that would have a minimum term of 17 years and a maximum amortization period of 40 years for the projects identified in the "Multifamily Pipeline Projects".

*Granted by:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* August 17, 2018.

*Reason Waived:* The waiver was granted to allow DCHFA's clients additional financing options to their customers and to align DCHFA business practices with industry standards. This waiver is effective through December 31, 2019. The regulatory waiver is subject to the following conditions:

1. This waiver expires on December 31, 2019.
2. DCHFA must elect to take 50 percent or more of the risk of loss on all transactions.
3. Loans made under this waiver may have amortization periods of up to 40 years, but terms as short as 17 years.
4. All other requirements of 24 CFR 266.410 remain applicable. The waiver is applicable only to loans made under DCHFA's Risk Sharing Agreement.
5. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents.
6. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225.
7. DCHFA must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions.
8. An Affordable Housing Deed restriction for at least 20 years must be recorded.
9. The loans exceeding \$50 million require a separate waiver request

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- *Regulation:* 24 CFR 266.620(e).

*Project/Activity:* Federal Financing Bank (FFB) Risk Sharing Initiative, Termination of Mortgage Insurance. Massachusetts Housing Finance Agency (Mass Housing), Boston, Massachusetts

*Nature of Requirement:* The waiver of 24 CFR 266.620(e) Termination of Mortgage Insurance. As required by the Initiative, Mass Housing agrees to indemnify HUD for all amount paid to FFB if "the HFA or its successors commit fraud or make a material misrepresentation to the Commissioner with

respect to information culminating in the Contract of Insurance on the mortgage, or while the Contract of Insurance is in existence”.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* September 21, 2018.

*Reason Waived:* Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- *Regulation:* 24 CFR 266.620(e).

*Project/Activity:* Federal Financing Bank (FFB) Risk Sharing Initiative, Termination of Mortgage Insurance. Massachusetts Housing Partnership (MHP).

*Nature of Requirement:* The Waiver of 24 CFR 266.620(e) Termination of Mortgage Insurance. As required by the Initiative, MHP agrees to indemnify HUD for all amount paid to FFB if “the HFA or its successors commit fraud or make a material misrepresentation to the Commissioner with respect to information culminating in the Contract of Insurance on the mortgage, or while the Contract of Insurance is in existence”.

*Granted By:* Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* September 21, 2018.

*Reason Waived:* Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

*Contact:* Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- *Regulation:* 24 CFR part 891.520.

*Project/Activity:* Broadway Arms, FHA Contract Number IN36-T801-033, Lewistown, Illinois. Lewistown Broadway, LLC (Owner) seeks approval to rent to all eligible families 18 and over on the subject project.

*Nature of Requirement:* The regulation at 24 CFR 891.520 defines terms applicable to Section 202 loans, and under this section “eligible family” means an *elderly* or *handicapped* family that meets the project occupancy requirements approved by HUD. 24 CFR 891.575(a)(1) states that “during the term of the HAP contract, a Borrower shall make available for occupancy by eligible families the total number of units for which assistance is committed under the HAP contract.”

*Granted by:* Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

*Date Granted:* September 24, 2018.

*Reason Waived:* The owner requested and was granted waiver of the requirement to lease units to other than elderly or handicap eligible families 18 and over, and waiver of

the regulatory provision 24 CFR part 891.520 “definition of eligible family”. The waiver enabled the project to better service the housing needs in Lewistown, IL.

*Contact:* Crystal Martinez, Account Executive, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6174, Washington, DC 20410, telephone (202) 402-3718.

#### IV. 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:* 1006.410(a)(2).

*Project:* Department of Hawaiian Home Lands (DHHL) request a 60-day extension of the regulatory deadline to submit the Annual Performance Report (APR) on the use of the Native Hawaiian Housing Block Grant.

*Nature of Requirement:* Pursuant to 24 CFR 1006.410(a)(2), each FY, DHHL must submit a performance report to HUD within 60 days of the end of DHHL’s FY. DHHL’s FY ended on June 30, 2018. DHHL requests that the APR submission deadline be extended from August 30, 2018 to October 31, 2018.

*Granted By:* Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 30, 2018.

*Reason Waived:* DHHL requested an extension of the deadline because unexpected staff shortages required DHHL to procure an external self-monitor to conduct the the required self-monitoring that was needed to complete the APR. Pursuant to 24 CFR 1006.30, ONAP determined there was good cause to waive the regulatory deadline and provide DHHL an additional 60 days to submit their APR.

*Contact:* Claudine Allen, Native Hawaiian Program Specialist, HUD Honolulu Field Office, Office of Public and Indian Housing, 1132 Bishop Street, Suite 1400, Honolulu, HI 96813, telephone (808) 457-4674.

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

*Project/Activity:* Municipality of San German (RQ030).

*Nature of Requirement:* The regulation 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:* Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 13, 2018.

*Reason Waived:* The HA requested relief from compliance for additional to submit its financial reporting requirements for the fiscal year end (FYE) of June 30, 2017. The HA is still recovering from damages resulting from Hurricane Irma and is in Category C of the applicable Major Disaster Declaration for Hurricane Maria. The circumstances preventing the HA from submitting its FYE 2017 audited financial data by the due date was acceptable. Accordingly, the HA has until September 30, 2018, to submit its

audited financial information to the Department. The approval of the Financial Assessment Subsystem (FASS) audited financial submission only permits the extension for filing. The HA is required to contact the HUDOIG Single Audit Coordinator at

*HUDOIGSingleAuditCoordinator@hudoig.gov* for Single Audit extensions applicable to the Federal Audit Clearinghouse.

*Contact:* Dee Ann R. Walker, 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) 475-7908.

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

*Project/Activity:* Municipality of Aguas Buenas (RQ082).

*Nature of Requirement:* The regulation 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:* Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 30, 2018.

*Reason Waived:* The HA requested relief from compliance for an additional 240-days to submit its financial reporting requirements for the fiscal year end (FYE) of June 30, 2017. The HA is still recovering from damages resulting from Hurricane Irma and is in Category C of the applicable Major Disaster Declaration for Hurricane Maria. The circumstances preventing the HA from submitting its FYE 2017 audited financial data by the due date was acceptable.

Accordingly, the HA has until March 31, 2019, to submit its audited financial information to the Department. The approval of the Financial Assessment Subsystem (FASS) audited financial submission only permits the extension for filing. The HA is required to contact the HUDOIG Single Audit Coordinator at *HUDOIGSingleAuditCoordinator@hudoig.gov* for Single Audit extensions applicable to the Federal Audit Clearinghouse.

*Contact:* Dee Ann R. Walker, 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) 475-7908.

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

*Project/Activity:* Municipality of Yaco (RQ083).

*Nature of Requirement:* The regulation 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:* Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 30, 2018.

*Reason Waived:* The HA requested relief from compliance for an additional 91-days to submit its financial reporting requirements for the fiscal year end (FYE) of June 30, 2017. The HA is still recovering from damages resulting from Hurricane Irma and is in Category C of the applicable Major Disaster Declaration for Hurricane Maria. The circumstances preventing the HA from submitting its FYE 2017 audited financial data by the due date was acceptable. Accordingly, the HA has until October 31, 2018, to submit its audited financial information to the Department. The approval of the Financial Assessment Subsystem (FASS) audited financial submission only permits the extension for filing. The HA is required to contact the HUDOIG Single Audit Coordinator at [HUDOIGSingleAuditCoordinator@hudoig.gov](mailto:HUDOIGSingleAuditCoordinator@hudoig.gov) for Single Audit extensions applicable to the Federal Audit Clearinghouse.

*Contact:* Dee Ann R. Walker, 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) 475-7908.

- *Regulation:* 24 CFR 960.206(b)(3).

*Project/Activity:* Alexandria Redevelopment and Housing Authority (ARHA), Virginia.

*Nature of Requirement:* This requirement provides that a PHA may not adopt a preference for admission of persons with a specific disability.

*Granted By:* General Deputy Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 27, 2018.

*Reason Waived:* Based upon the information provided, the Department determined that good cause existed to allow ARHA to implement a tenant selection preference for persons with specific disabilities under the public housing program to assist the State of Virginia with complying with the requirements set forth in the State of Virginia's Olmstead Settlement Agreement.

*Contact:* Monica Shepherd, Public Housing Management and Occupancy Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4208, Washington, DC 20410, telephone (202) 402-5687 or at [Monica.C.Shepherd@hud.gov](mailto:Monica.C.Shepherd@hud.gov).

- *Regulation:* 24 CFR 960.206(b)(3).

*Project/Activity:* Rockford Housing Authority, Illinois.

*Nature of Requirement:* This requirement provides that a PHA may not adopt a preference for admission of persons with a specific disability.

*Granted By:* General Deputy Assistant Secretary for Public and Indian Housing.

*Date Granted:* September 21, 2018.

*Reason Waived:* Based upon the information provided, the Department determined that good cause existed to extend the previously approved waiver to establish a limited tenant selection preference for persons with specific disabilities in its public housing and HCV programs in order to assist the State of Illinois with complying with the requirements set forth in the State of Illinois' Olmstead Coordinated Remedial Plan (the Plan). The Plan is pursuant to an agreement with the Department of Justice stemming from the *Olmstead v. L.C.* litigation under

Title II of the Americans with Disabilities Act (ADA) and three Olmstead-related Consent Decrees.

*Contact:* Monica Shepherd, Public Housing Management and Occupancy Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4208, Washington, DC 20410, telephone (202) 402-5687 or at [Monica.C.Shepherd@hud.gov](mailto:Monica.C.Shepherd@hud.gov).

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-HQ-ES-2018-N112; FXES1113010000C4-189-FF02ENEH00]

Endangered and Threatened Wildlife and Plants; 26 Draft Recovery Plan Amendments for 42 Species Across the United States

Correction

In notice document 2019-00436 appearing on pages 790-795 in the issue of Thursday, January 31, 2019, make the following correction:

Beginning on page 792, the table "Proposed Recovery Plan Amendments," is being republished to correct the URL addresses in the sixth column:

PROPOSED RECOVERY PLAN AMENDMENTS

Common name	Scientific name	Listing status <sup>1</sup>	Current range	Recovery plan name	Uniform resource locator to proposed recovery plan amendment	Contact person, phone, email	Contact person's U.S. mail address
<b>Pacific Region (Idaho, Oregon, Washington, Hawaii, and the Pacific Islands)</b>							
Snails, Oahu tree .....	<i>Achatinella</i> spp. ....	E	HI	Recovery Plan for the Oahu Tree Snails of the Genus <i>Achatinella</i> .	<a href="https://ecos.fws.gov/docs/recovery_plan/Achatinella_Draft%20Recovery%20Plan%20Amendment_20180801.pdf">https://ecos.fws.gov/docs/recovery_plan/Achatinella_Draft%20Recovery%20Plan%20Amendment_20180801.pdf</a> .	Gregory A. Koob, Assistant Field Supervisor, 808-792-9449, <a href="mailto:gregory_koob@fws.gov">gregory_koob@fws.gov</a> .	Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, HI 96850.
Silversword, Mauna Loa (=Ka'u).	<i>Argyroxiphium kauense</i> .	T	HI	Recovery Plan for the Ka'u Silversword ( <i>Argyroxiphium kauense</i> ).	<a href="https://ecos.fws.gov/docs/recovery_plan/ARGKAU_Draft%20Recovery%20Plan%20Amendment_20180801.pdf">https://ecos.fws.gov/docs/recovery_plan/ARGKAU_Draft%20Recovery%20Plan%20Amendment_20180801.pdf</a> .		
'Ahinahina .....	<i>Argyroxiphium sandwicense</i> ssp. <i>sandwicense</i> .	E	HI	Recovery Plan for the Mauna Kea Silversword ( <i>Argyroxiphium sandwicense</i> ssp. <i>sandwicense</i> ).	<a href="https://ecos.fws.gov/docs/recovery_plan/ARGSANSAN_Draft%20Recovery%20Plan%20Amendment_20180801.pdf">https://ecos.fws.gov/docs/recovery_plan/ARGSANSAN_Draft%20Recovery%20Plan%20Amendment_20180801.pdf</a> .		
Koki'o .....	<i>Kokia drynarioides</i> .....	E	HI	Recovery Plan for <i>Caesalpinia kawaiensis</i> and <i>Kokia drynarioides</i> .	<a href="https://ecos.fws.gov/docs/recovery_plan/KOKDRY_Draft%20Recovery%20Plan%20Amendment_20180801.pdf">https://ecos.fws.gov/docs/recovery_plan/KOKDRY_Draft%20Recovery%20Plan%20Amendment_20180801.pdf</a> .		
Uhi uhi .....	<i>Mezoneuron kawaiense</i> ...	E	HI		<a href="https://ecos.fws.gov/docs/recovery_plan/MEZKAV_Draft%20Recovery%20Plan%20Amendment_20180801.pdf">https://ecos.fws.gov/docs/recovery_plan/MEZKAV_Draft%20Recovery%20Plan%20Amendment_20180801.pdf</a> .		
Aupaka .....	<i>Isodendron hosakae</i> .....	E	HI	Recovery Plan for <i>Lipochaeta venosa</i> and <i>Isodendron hosakae</i> .	<a href="https://ecos.fws.gov/docs/recovery_plan/ISOHOS_Draft%20Recovery%20Plan%20Amendment_20180801.pdf">https://ecos.fws.gov/docs/recovery_plan/ISOHOS_Draft%20Recovery%20Plan%20Amendment_20180801.pdf</a> .		