

public housing funds for tenant-based assistance will be the continued deterioration of public housing.” “[O]perating and capital funds are appropriated to ensure the preservation of public housing as an affordable housing resource and, as such, any funds attributable to developments identified for conversion should be re-invested in the public housing stock.”

**HUD response.** HUD has not adopted the change requested by the commenters. The final rule does not mandate that the initial year of tenant-based assistance be provided from the Capital and Operating Funds. Rather, the final rule, as did the proposed rule before it, merely provides for this possibility.

**HUD should provide additional guidance regarding post-conversion.** One commenter wrote that it would be helpful for HUD to clarify the timing of the phased process for substituting tenant-based assistance for assistance provided from the Capital and Operating Funds. Rather, the final rule, as did the proposed rule before it, merely provides for this subsidy for the units being converted.

**HUD response.** Converted public housing would be phased-out using currently applicable procedures. Subject to appropriations, new Section 8 funding would be committed and provided to PHAs for the provision of tenant-based voucher assistance.

#### *H. Comments Regarding the Timing of Conversion (§ 972.122 of the Proposed Rule; § 972.109 of This Final Rule)*

The proposed rule at § 972.122 provided that a PHA may proceed to convert a development only after receiving written approval from HUD. The approval will be separate from the one provided for the PHA Annual Plan.

**Comment: HUD should establish a reasonable time frame for providing approval of a conversion plan.** One commenter suggested that the final rule establish a 75-day period for HUD review and approval of conversion plans. According to the commenter, this “will enable PHAs to better plan relocation activities with residents and make adjustments necessary for the loss of subsidy.” The commenter wrote that a 75-day period would conform to the time frame established for HUD approval of the PHA Annual Plan.

**HUD response.** HUD has revised the rule to be more sensitive to the concerns raised by the commenter. The final rule clarifies that HUD anticipates that its review of a conversion plan will ordinarily occur within 90 days following submission of a complete plan by the PHA. A longer process may be

required where HUD’s initial review of the plan raises questions that require further discussion with the PHA. In any event, HUD will provide all PHAs with a preliminary response within 90 days following submission of a conversion plan.

#### **IV. Findings and Certifications**

##### *Public Reporting Burden*

The information collection requirements contained in §§ 972.130, 970.133, and 972.136 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2577–0234. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

##### *Impact on Small Entities*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD’s determination are as follows.

(1) *A Substantial Number of Small Entities Will Not be Affected.* The entities that are subject to this rule are public housing agencies that administer public housing. Under the definition of “small governmental jurisdiction” in section 601(5) of the RFA, the provisions of the RFA are applicable only to those public housing agencies that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial. HUD anticipates that no more than 10 percent of all PHAs will be subject to the requirements of required conversion. Most PHAs with developments large enough to be subject to this final rule are located in larger political jurisdictions. This is a result of the statutory direction to identify units subject to the requirements based on the criteria established by the National Commission on Severely Distressed Public Housing, which focused on larger troubled agencies.

(2) *No Significant Economic Impact.* The conversion plan will involve a one-time cost, and this cost can vary from development to development, depending on the scope of the assessment, location of the property,

and other factors. A mitigating factor concerning the cost for PHAs whose properties are potentially subject to the requirements of required conversion is that they may request assistance from HUD in conducting the required analyses in order to offset the costs. HUD has provided such assistance in the past and intends to continue to do so, if resources are available. Therefore, the cost burden on small entities is not likely to be great.

##### *Environmental Impact*

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). That Finding remains applicable to this final rule and is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

##### *Federalism Impact*

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

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose any federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

##### *Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, entitled “Regulatory Planning and Review.” OMB determined that this rule is a