

(IRS) should issue the rulings that are necessary to confirm that these interpretations are correct.

HUD response: While HUD is responsible for the designation of RCs, the implementation and administration of the tax incentives for these areas is the responsibility of the Internal Revenue Service.

Regulation Protecting Health and Safety or Preventing Public Nuisance

The program requires the nominating governments to commit to "economic growth promotion requirements." Specifically, they certify that they will repeal, reduce, or not enforce legal restrictions on certain types of business activities. The certifications do not apply to the extent that the regulation of businesses and occupations is necessary for, and well-tailored to, the protection of health and safety or if a public nuisance is involved, and the certifications may be limited to exclude specific businesses and occupations. The commenter recommended that HUD should allow the local governments broad discretion in determining what is a public nuisance.

HUD response: What constitutes a public nuisance is a determination to be made by the community at the local level.

Using CDBG Funds To Implement Renewal Communities

HUD should allow jurisdictions with designated RCs to use funds from the CDBG program, or, if applicable, EZ funds, for promotion and administration of RC responsibilities, perhaps with an annual cap of, say, \$2.00 per RC resident.

HUD response: HUD is considering this suggestion, and will issue appropriate guidance to grantees.

Retaining One State's EZ Designation

Philadelphia and Camden request that Camden be allowed to retain its EZ status even if Philadelphia is awarded designation of an RC that includes census tracts from the Philadelphia-Camden EZ. They point out that the EZ is in two states and two cities, and each state/city combination has entered into a separate Memorandum of Agreement with HUD to implement their portions of the Round I EZ.

HUD response: As discussed above, section 1400E(e) of the IRC mandates that if any portion of an area designated as an EZ is given RC designation, the entire EZ designation ceases to be in effect. HUD has no authority to permit a different result.

IV. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in 24 CFR parts 598 and 599 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 control numbers 2506–0148 and 2506–0173, respectively. 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 currently valid OMB control number.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made for this rule at the interim 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. Because this final rule adopts the interim rule without change, the Finding of No Significant Impact continues to apply. The Finding of No Significant Impact 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 the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

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 will not have a significant economic impact on a substantial number of small entities as distinguished from large entities. The rule does not place any mandates on small entities. It merely authorizes them to seek designation as Renewal Communities as authorized by statute, and the burdens placed on applicants derive from the statute.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This 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

Executive Order 12875 calls for federal agencies to refrain, to the extent feasible and permitted by law, from promulgating any regulation that is not required by statute that would create a mandate on a state, local, or Tribal government, unless the agency provides funds for complying with the mandate or the agency first consults with affected state, local, and Tribal governments. Title II of the Unfunded Mandates Reform Act of 1995 (12 U.S.C. 1501) established requirements for federal agencies to assess the effects of their regulatory actions on state, local, and Tribal governments, and the private sector.

This rule does not impose any federal mandates on any state, local, or Tribal governments, or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995, because it does not mandate any particular action. The rule only authorizes states, localities, and tribes to apply for designation of areas within their jurisdiction as Empowerment Zones or Renewal Communities, which permits special tax treatment of business activities within the areas.

Regulatory 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 "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 the rule after its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, Office of General Counsel, 451 Seventh Street, SW, Washington, DC 20410–0500.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program number assigned to these programs is 14.244.

List of Subjects

24 CFR Part 598

Community development, Economic development, Empowerment zones, Housing, Indians, Intergovernmental relations, Reporting and record keeping requirements, Urban renewal.