

for these areas. HUD estimates the 2000 population of these areas as follows:

1. The 2000 Population of Denali Borough (1,893) was allocated entirely to the Yukon-Koyukuk Census Area. The part of Denali Borough created from the Southeast Fairbanks Census Area was deemed uninhabited after examination of Census Block data for, and maps of, the area of Denali Borough formerly in the Southeast Fairbanks Census Area.

2. The population of Yakutat City and Borough (808) was allocated to the former Skagway-Yakutat-Angoon Census Area (680) and the Valdez-Cordova Census Area (128). The populations of Yakutat City and Borough Census Blocks located east of 141° longitude were allocated to the Skagway-Yakutat-Angoon Census Area. The populations of Yakutat City and Borough Census Blocks located west of 141° longitude were allocated to the Valdez-Cordova Census Area.

#### Future Designations

Difficult Development Areas are designated annually as updated income and FMR data become available. Qualified Census Tracts are updated periodically to reflect changes in OMB's designations of metropolitan areas. Qualified Census Tracts are not being updated at this time to reflect the recent change in metropolitan area definitions (OMB Bulletin N0. 03-04, June 6, 2003) because the Census Bureau has not yet released official data on median incomes in the newly defined metropolitan areas and nonmetropolitan parts of states. This notice designates Qualified Census Tracts for American Samoa, Guam, and the Northern Mariana Islands based on 2000 Census data. The 2003 Qualified Census Tracts designated for the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands published December 12, 2002, at 67 FR 76452 are unchanged by this notice.

#### Effective Date

The lists of Difficult Development Areas and the list of Qualified Census Tracts are effective for allocations of credit made after December 31, 2003. In the case of a building described in section 42(h)(4)(B) of the Code, the lists are effective if the bonds are issued and

the building is placed in service after December 31, 2003.

#### Interpretive Examples for Effective Date

For the convenience of readers of this notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose Difficult Development Area status with respect to projects described in section 42(h)(4)(B) of the Code. The examples are equally applicable to Qualified Census Tract designations.

(Case A) Project "A" is located in a newly designated 2004 Difficult Development Area. Bonds are issued for Project "A" on November 1, 2003, and Project "A" is placed in service March 1, 2004. Project "A" IS NOT eligible for the increase in basis otherwise accorded a project in this location because the bonds were issued BEFORE January 1, 2004.

(Case B) Project "B" is located in a newly designated 2004 Difficult Development Area. Project "B" is placed in service November 15, 2003. The bonds that will support the permanent financing of Project "B" are issued January 15, 2004. Project "B" IS NOT eligible for the increase in basis otherwise accorded a project in this location because the project was placed in service BEFORE January 1, 2004.

(Case C) Project "C" is located in an area that is a Difficult Development Area in 2003, but IS NOT a Difficult Development Area in 2004. Bonds are issued for Project "C" on October 30, 2003, but Project "C" is not placed in service until March 30, 2004. Project "C" is eligible for the increase in basis available to projects located in 2003 Difficult Development Areas because the first of the two events necessary for triggering the effective date for buildings described in section 42(h)(4)(B) of the Code (the two events being bonds issued and buildings placed in service) took place on October 30, 2003, a time when project "C" was located in a Difficult Development Area.

#### Other Matters

##### *Environmental Impact*

In accordance with 40 CFR 1508.4 of the CEQ regulations and 24 CFR 50.19(c)(6) of the HUD regulations, the policies and procedures contained in this notice provide for the establishment

of fiscal requirements or procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites and therefore, are categorically excluded from the requirements of the National Environmental Policy Act, except for extraordinary circumstances, and no FONSI is required.

##### *Impact on Small Entities*

The Secretary, in accordance with 5 U.S.C. section 605(b) (the Regulatory Flexibility Act), has reviewed and approved this notice, and in so doing certifies that this notice does not have a significant economic impact on a substantial number of small entities. The notice involves the designation of "Difficult Development Areas" and "Qualified Census Tracts" as required by section 42 of the Code, as amended, for use by political subdivisions of the states in allocating the Low-Income Housing Tax Credit. This notice places no new requirements on the states, their political subdivisions, or the applicants for the credit. This notice also details the technical methodology used in making such designations.

##### *Federalism Impact*

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the notice 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. As a result, the notice is not subject to review under the order. The notice merely designates "Difficult Development Areas" and "Qualified Census Tracts" as required under section 42 of the Internal Revenue Code, as amended, for the use by political subdivisions of the states in allocating the Low-Income Housing Tax Credit. The notice also details the technical methodology used in making such designations.

Dated: December 11, 2003.

**Mel Martinez,**  
Secretary.

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