that adds references to provisions of the rule has been adopted in the final rule.

Local and State governments suggested that the definitions of income categories need to be clarified with respect to whether they apply to "household" or "family." The terms seem to be used interchangeably, although they have distinct demographic meanings resulting in different median incomes.

The final rule defines the income categories in terms of "family". For planning purposes, the definition HUD uses for that term in its assisted housing programs is used in this rule (in accordance with the definition that is adopted by the Cranston-Gonzalez National Affordable Housing Act). The connection between data supplied by the Census, which uses a different definition of "family", is explained in the Guidelines. The individual program definitions govern the actual use of the funds and reporting on beneficiaries.

The District of Columbia points out that the definition of "State" includes the District of Columbia and the definition "unit of general local government" excludes the District of Columbia; however, the District is defined as an entitlement jurisdiction (local government) for purposes of the CDBG and ESG programs. These definitions should not adversely impact grant allocations or application requirements. The final rule removes reference to the District of Columbia from the definitions, and adds a new section to the rule to specify consolidated plan requirements for the District of Columbia.

A State suggests that the definition of "jurisdiction" should be clarified to assure that it includes only those jurisdictions receiving funds directly from HUD. It states that the rule, as written, appears to apply directly to the units of general local government that are State recipients of HOME and CDBG funds. The applicability section, § 91.2(b), states that "[a] jurisdiction must have a consolidated plan that is approved by HUD as a prerequisite to receiving funds from HUD under the following programs. * * *." The provision does not state that a jurisdiction must have such a plan in order to receive funds from a State. However, the section has been revised to clarify its applicability rather than to revise the definition of "jurisdiction."

Section 91.10 Program Year

Representatives of county officials and local governments commented on the requirement that a jurisdiction must have one program year for all four of its CPD formula programs. One city praised this change as "a positive step in streamlining the application process." It went on to say that the flexibility of permitting the jurisdiction to select this program year also is beneficial. On the other hand, an organization of county officials stated that the change of program year will cause additional administrative costs. It proposed that HUD permit waiver of the cap on administrative costs in the first year under this rule to accommodate the additional cost of changing program

The administrative cap is statutory.

Section 91.15 Submission date

One concern of States, local governments, disability group advocates, and low-income advocates was the timing of the deadline for submission of the first consolidated plan. The proposed rule states that the consolidated plan must be submitted to HUD "at least 45 days before the start of its program year." Since the Department has made it known that it plans to implement the rule for Federal Fiscal Year 1995 funds, many commenters have indicated that there is insufficient time before the required submission date to comply with the process required under the rule. More specifically, they indicate that the stated submission deadlines do not provide for the negotiation of exceptions to a jurisdiction's implementation of the consolidated plan for FY 1995, as

Several alternatives were suggested: (1) Delay implementation until FY 1996 or make implementation optional in FY 1995; (2) implement the new rule by a demonstration, giving incentive grants to several jurisdictions to gain experience with the process; (3) start implementation with jurisdictions that have a program year beginning 180 days following the effective date of the rule; or (4) give explicit authority in the rule to HUD field offices to provide exceptions to the submission deadline where they are warranted. One large city commented that it is pleased with the apparent expanded role of local HUD offices in granting exceptions and would like the criteria for their action to be stated in the final rule.

The Department has chosen option number 4. The rule has been revised to add a provision, § 91.20, that explicitly authorizes HUD field offices to grant three types of exceptions: from the requirement to submit all or part of the consolidated plan in FY 1995 (and permit submission of a CHAS annual update plus the individual program submissions), from the deadline for submission, and from the guidelines.

Exceptions to requirements found in the guidelines require that no statutory or regulatory requirements may be overridden and that there must be a finding of good cause by the HUD field office, documented by sending written memoranda periodically to HUD Headquarters stating the authorized exception and the basis for the exception.

Commenters who suggested option number 4 commended HUD for empowering its field offices, a change that will allow local HUD staff to more effectively coordinate the process to accommodate local needs. One commenter recommended that the exception provision state what steps must be taken by a jurisdiction in order to request an exception. The rule does not deal with the procedure in this level of detail. However, any interested jurisdiction should contact its HUD field office for the specific information to be contained in a particular request.

Many States have been in contact with their HUD field offices and have worked out agreed upon schedules for complying with the requirements of this rule. It is anticipated that most jurisdictions will work out arrangements that are mutually agreeable for the submission of a consolidated plan that comes close to that envisioned in this rule for this fiscal year.

Another deadline stated in the proposed rule (§ 91.15(a)(2)) is the date required by the CDBG statute: "Failure to submit the plan by August 16 will automatically result in a loss of the CDBG funds to which the jurisdiction would otherwise be entitled." State, county and local government entities stated that this provision does not appear to encompass the flexibility expected from HUD, based on discussions with HUD field office staff. They recommend that the rule allow some flexibility on HUD's part not to penalize jurisdictions that may have a bona fide problem in making the complete submission in any given year.

The August 16 date for CDBG submissions has been established pursuant to section 116(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5316) as the final date for submission of final statements for each fiscal year.

Section 91.100 Consultation

a. Adjacent Local Governments

Several local governments criticized the proposed rule's requirement to notify adjacent local governments regarding priority nonhousing community development needs and