

the 1990 Census, which HUD believes provides a fair and impartial measure of poverty level. With respect to the second commenter's concern, these suggestions will be considered in future rulemaking.

Comments on Submission of Nomination of Designation

Comment. Two commenters stated that the affected community should have access to the same information and reports, at no cost, that are available to HUD.

Response. Following completion of the designation process, the information contained in applications will be available to the public through requests made under the Freedom of Information Act.

Comment. One commenter suggested that the rule require the affected State to receive a copy of notice of intent to participate by the community, at the same time the local community sends the notice to HUD.

Response. HUD will consider adopting this suggestion in future rulemaking.

Comments on the Selection Factors for Designation

Comment. One commenter stated that the rule should include procedures for appealing selections based on geographic diversity. The commenter notes the rule allows HUD to designate a lower rated application over a higher rated application in the interests of geographic diversity of the designations (see § 597.301). Another commenter states that the geographic diversity provision should be strengthened by providing that each State will receive at least one urban designation as either an EZ or EC. A third commenter stated that HUD should reserve two of the six urban zone designations for small cities with populations under 100,000.

Response. HUD is not inclined to adopt any of these commenters' suggestions as regulatory requirements. These suggestions limit the flexibility that is needed in the selection process. However, HUD will re-evaluate these issues at the time of any future rulemaking.

Comments on Other Provisions

Comment. One commenter stated that the rule should be explicit about the eligibility of areas for designation within the Commonwealth of Puerto Rico.

Response. Pursuant to Title XIII, no areas of Puerto Rico were eligible for designation.

IV. Other Matters

National Environmental Policy Act. A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of the interim rule. That Finding remains applicable to this final rule and is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street SW, Washington, DC 20410.

Executive Order 12866, Regulatory Planning and Review. This rule was reviewed and approved by the Office of Management and Budget as a significant rule, as that term is defined in Executive Order 12866, which was signed by the President on September 30, 1993. Any changes to the rule as a result of that review are contained in the public file of the rule in the office of the Department's Rules Docket Clerk.

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 the rule will not have a significant economic impact on a substantial number of small entities within the intent and purpose of that Act. The Act is intended to encourage Federal agencies to utilize innovative administrative procedures in dealing with individuals, small businesses, small organizations, and small governmental bodies that would otherwise be unnecessarily adversely affected by Federal regulations. To the extent that this rule affects those entities, its purpose is to reduce any disproportionate burden by providing for the waiver of regulations and by affording other incentives directed toward a positive economic impact. Therefore, no regulatory flexibility analysis under the Act is necessary.

Executive Order 12611, Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, *Federalism*, has determined that, although the policies contained in this rule may have a substantial direct effect on States or their political subdivisions that are designated as Empowerment Zones or Enterprise Communities, this effect is intended by the legislation authorizing the program. The purpose of the rule is to provide a cooperative atmosphere between the Federal government and States and local governments, and to reduce any regulatory burden imposed by the Federal government that impedes

the ability of States and local governments to solve pressing economic, social, and physical problems in their communities.

Executive Order 12606, The Family. The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that the provisions of this rule will not have a significant impact on family formation, maintenance or well being, except to the extent that the program authorized by the rule will empower communities and their residents to take effective action to solve difficult and pressing economic, human, community and physical development challenges that have a negative impact on families. Any such impact is beneficial and merits no further review under the Order.

Semiannual Agenda. This rule was listed as sequence number 1851 in the Department's semiannual agenda of regulations published on November 14, 1994 (59 FR 57632, 57665) under Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 597

Community development, Empowerment zones, Enterprise communities, Economic development, Housing, Indians, Intergovernmental relations, Reporting and recordkeeping requirements, Urban renewal.

In accordance with the reasons set out in the preamble, 24 CFR part 597 is revised to read as follows:

PART 597—URBAN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Subpart A—General Provisions

Sec.

- 597.1 Applicability and scope.
- 597.2 Objective and purpose.
- 597.3 Definitions.
- 597.4 Secretarial review and designation.
- 597.5 Waivers.

Subpart B—Area Requirements

- 597.100 Eligibility requirements and data usage.
- 597.101 Data utilized for eligibility determinations.
- 597.102 Tests of pervasive poverty, unemployment and general distress.
- 597.103 Poverty rate.

Subpart C—Nomination Procedure

- 597.200 Nominations by State and local governments.
- 597.201 Evaluating the strategic plan.
- 597.202 Submission of nominations for designation.

Subpart D—Designation Process

- 597.300 HUD action and review of nominations for designation.
- 597.301 Selection factors for designation of nominated urban areas.