



24 CFR Part 5

[Docket No. FR-6464-F-02]

RIN 2501-AE11

Adoption of 2020 Core Based Statistical Area Standards

AGENCY: Office of the Secretary, U.S. Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule adopts the 2020 Core Based Statistical Area (CBSA) standards as determined by the Office of Management and Budget's July 16, 2021, *Federal Register* notice for all HUD use of CBSAs. HUD uses CBSAs throughout its programs and is updating the standards to ensure accuracy of data and program administration.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Kurt Usowski, Deputy Assistant Secretary for Economic Affairs, Office of Policy Development and Research (PD&R), Department of Housing and Urban Development, 451 7th St. SW, Washington, D.C. 20410, telephone number 202-402-5899 (this is not a toll-free number) or via email to Kurt.G.Usowski@hud.gov. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

In its role as coordinator of the Federal statistical system, the Office of Management and Budget (OMB) establishes and maintains the CBSA program. CBSAs are geographic areas

containing a large population center, or urban area, and adjacent communities that have a high degree of integration with that population center measured by commuting ties. OMB maintains CBSAs solely for statistical purposes. Every decade, OMB reviews and updates the Standards for Delineating CBSAs (CBSA standards), which describe the data sources and methods OMB uses to determine which geographic areas are to be designated CBSAs, prior to their application to new decennial census data. OMB updated CBSA standards on July 16, 2021 (86 FR 37770) prior to applying them to 2020 Census data.

The Metropolitan Areas Protection and Standardization Act of 2021, or the MAPS Act, (31 U.S.C. 6102, *et seq.*) prohibits agencies from automatically propagating OMB’s CBSA standards for non-statistical use by any domestic assistance program unless the agency determines that the propagation: (1) supports the purpose of the program; and (2) is in the public interest. (31 U.S.C. 6309(a)(2)(A)). Propagation of the CBSA standards for non-statistical use by domestic assistance programs must be done through a notice and comment rulemaking. (31 U.S.C. 6309(a)(2)(B)).

II. The Proposed Rule

On September 6, 2024, HUD published a proposed rule for public comment (89 FR 72766) to add new subpart M to 24 CFR part 5 adopting the 2020 CBSA standards as determined by OMB in 86 FR 37770 (July 16, 2021). The proposed rule described how HUD programs use CBSAs, as outlined in Table 1. The proposed rule also described how adoption of the new CBSA standards support the purpose of these programs and is in the public interest.

Table 1: HUD Uses of CBSAs

Use	HUD Office
Community Development Block Grant Program	Community Planning and Development (CPD)
Community Development Block Grant Disaster Recovery Program	CPD
Housing Opportunities for Persons with AIDS Program	CPD
HOME Investment Partnerships (HOME) Program	CPD
Housing Trust Fund (HTF) Program	CPD
Continuum of Care	CPD

Emergency Solutions Grant (ESG)	CPD
FHA's Title II Program (loan limits)	Housing
Choice Neighborhoods Initiative	Public and Indian Housing (PIH)
Difficult Development Area (DDA) and Qualified Census Tract (QCT) Designations	PD&R
Fair Market Rents (FMRs), HUD Area Median Family Incomes (HAMFIs), and Income Limits	PD&R

III. This Final Rule

After considering comments received from the public, HUD adopts this final rule without changes from the proposed rule. HUD has determined that adoption of the 2020 CBSA standards, as determined by OMB in 86 FR 37770 (July 16, 2021), supports the purpose of HUD's programs and is in the public interest. The updated CBSA standards, and updated CBSA delineations based on the 2020 CBSA standards, will make calculation of Fair Market Rents, Area Median Family Income, and Income Limits more accurate. The accuracy of these program parameters is in the public interest as it most appropriately will direct resources governed by these parameters to recipients in the most appropriate amounts.

The new CBSA standards support HUD's designation of DDAs and QCTs as well as PIH, CPD, and Housing's programs because they more accurately reflect the current housing markets, which have changed significantly since the 2010 census. Furthermore, adopting the new standards will not be disruptive to the programs as program participants are expecting HUD to regularly update the metropolitan area standards and delineations to reflect current market conditions as HUD has done historically.

IV. Public Comments

HUD received three relevant comments in response to the proposed rule. Two comments were from interested individuals and one was from a real estate association. Commenters were generally supportive of the proposed rule. This section includes a summary of the issues raised by commenters.

Policy Suggestions

One commenter urged HUD to minimize disruptions for program participants. To do so, the commenter suggested that HUD adopt a “hold harmless” policy that keeps income limits constant rather than allowing them to decline. Specifically, the commenter noted that the exception should not merge a high-income county with an MSA that has a lower HAMFI but instead allow the high-income county to become its own HUD Metropolitan Fair Market Rent Area (HMFA). It would also hold harmless any county detached from an MSA, meaning that when a relatively lower-income county is detached from an MSA with a higher HAMFI, income limits in the detached county should be kept at the same level as they were when part of the MSA, rather than allowed to decline. The commenter noted that downward changes are difficult for program participants to predict and stated that this exception would avoid disruptive changes. The commenter recommended that this exception be available for all income limits, including Section 8 limits.

Additionally, the commenter asked that HUD allow reasonable “grandfathering” for uses of CBSAs beyond FMR/HAMFI/Income Limits such that any area, property or individual currently receiving assistance, or in the process of applying for assistance, should be grandfathered in for a reasonable period of time, rather than lose eligibility instantly due to the change in geographic definitions.

HUD RESPONSE: This rule allows HUD to use CBSA delineations based on OMB’s latest standards for CBSA delineation in its program administration. It does not otherwise set policy for HUD program eligibility such as generally defining the methods by which HUD sets program eligibility income limits derived from the HAMFI or determining program eligibility in cases where income limits decline due to geographic change caused by adopting new CBSA delineations or for other reasons. HUD’s FMR, Income Limit and HAMFI policies allow for various exceptions to the CBSA delineations HUD uses in the estimation processes for these program operating parameters. This rule allows HUD to include the latest CBSA delineations in

the computation process for FMRs, Income Limits, and HAMFIs, but does not otherwise affect that process or the rules of program administration.

ZIP codes

One commenter suggested that HUD use a zip-codes based system rather than a county-based system because zip codes are a more concise and accurate measure of populations and will help ensure taxes are going to the intended beneficiaries of these programs. The commenter also noted that there has been a change in commuting habits since 2020 and a decline in urban populations in 2020-2021 which is not reflected in the 2020 census data.

One commenter reflected that FMRs are poor indicators of the housing market and noted the move away from the regional standard to a zip code standard. The commenter asked whether the zip code standard will allow for more resources for enforcement and rent control to be directed towards lower-income areas. The commenter also asked whether tying large areas around a metropolitan area to the metropolitan area would turn the smaller areas into large areas again.

HUD RESPONSE: OMB determines the geographic units (counties and county equivalents) that form the basis of CBSAs in the process of setting the standards for CBSA delineation. HUD interprets its statutes and regulations referencing “metropolitan areas” as referring to the metropolitan CBSAs delineated by OMB. Thus, in HUD’s program administration activities based on “metropolitan areas”, HUD is required to use the county-based metropolitan CBSAs delineated by OMB and cannot establish separate metropolitan areas based on ZIP-Codes or other alternative geographic units. Regarding changes in population since 2020, while OMB updates the standards for CBSA delineation approximately every 10 years, OMB generally updates the delineations annually based on changes in the underlying data as measured by the Census Bureau through the American Community Survey.

HUD produces the FMRs to help Public Housing Agencies (PHAs) that administer Housing Choice Vouchers to set payment standards that determine the amount the vouchers pay

to participating landlords. Some PHAs in certain FMR areas are required to use “Small Area FMRs” estimated at the ZIP-code level to set all their payment standards, and other PHAs may opt into using Small Area FMRs to set some or all payment standards. Use of Small Area FMRs has no effect on the resources available to the PHAs for voucher administration. FMRs are not a mechanism for rent control, but rather a measure of the 40th percentile rent paid by recent movers into standard quality rental housing located in the applicable area. In estimating FMRs, HUD generally does not add new counties to metropolitan areas for purposes of the overall FMR unless the added county has rental data quality deficiencies.

Fair Market Rent calculation

One commenter noted that Fair Market Rents are calculated based on home-to-work interactions and asked how far out the standard reaches and if it is calculated on a case-by-case decisions for every metropolitan area.

HUD RESPONSE: CBSAs are delineated based on the commuting interchange between counties, and the larger are the counties, the larger is the CBSA. In estimating FMRs, HUD generally does not add new counties to metropolitan areas for purposes of the overall FMR unless the added county has rental data quality deficiencies. HUD may use the full CBSA delineation including newly added counties for some parts of the calculation, such as recent mover adjustments, inflation factors, and trend factors, but HUD uses the most local data allowed under data quality standards for setting base rents and making other adjustments in the FMR calculation process.

VII. Findings and Certifications

Regulatory Review (Executive Orders 12866, 13563, and 14094)

Pursuant to Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the

importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The order also directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” Executive Order 13563 further directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. Executive Order 14094 entitled “Modernizing Regulatory Review” (hereinafter referred to as the “Modernizing E.O.”) amends section 3(f) of Executive Order 12866, among other things.

As discussed above, this rule adopts updated standards for CBSA delineations that HUD programs use for program administrative purposes. It is statistical and administrative in nature with the purpose of maintaining past administrative practices. This rule was determined not to be a “significant regulatory action” as defined in section 3(f) of Executive Order 12866 and is not an economically significant regulatory action.

Unfunded Mandates Reform Act

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

Environmental Review

This rule establishes discretionary review of loan limits, fair market rent schedules, income limits and exclusions with regard to eligibility for or calculation of HUD housing assistance or rental assistance, and similar rate and cost determinations and related external administrative or fiscal requirements or procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites.

Accordingly, under 24 CFR 50.19 (c)(6), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule adopts updated standards for the delineation of CBSA geographic areas that affected HUD programs use for various administrative purposes. The adoption is statistical and administrative in nature and consistent with longstanding HUD policy and practice. Therefore, this final rule does not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either: (i) imposes substantial direct compliance costs on State and local governments and is not required by statute, or (ii) 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.

List of Subjects in 24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Crime, Government contracts, Grant programs-housing and community development, Individuals with disabilities, Intergovernmental relations, Loan programs-housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR part 5 as follows:

PART 5 – GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority for part 5 continues to read as follows:

Authority: 12 U.S.C. 1701x; 42 U.S.C. 1437a, 1437c, 1437f, 1437n, 3535(d); 42 U.S.C. 2000bb *et seq.*; 34 U.S.C. 12471 *et seq.*; Sec. 327, Pub. L. 109-115, 119 Stat. 2396; E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273; E.O. 14015, 86 FR 10007, 3 CFR, 2021 Comp., p. 517.

2. Add subpart M, consisting of § 5.3001, to read as follows:

Subpart M – Core Based Statistical Areas

§ 5.3001 Automatic propagation of OMB’s Core Based Statistical Area Standards.

When using Core Based Statistical Areas (CBSAs), HUD shall use the 2020 CBSA standards adopted by the Office of Management and Budget and published in the Federal Register on July 16, 2021, as well as any subsequent updates to the CBSA delineations based on these standards made by the Office of Management and Budget. Purposes and programs that use the CBSA standards include, but are not limited to:

- (a) The Community Development Block Grant Program (24 CFR part 570);
- (b) The Community Development Block Grant Disaster Recovery funds (applicable appropriations and *Federal Register* notices);
- (c) The Housing Opportunities for Persons with AIDS Program (24 CFR part 574);
- (d) The HOME Investment Partnerships Program (24 CFR part 92);
- (e) The Continuum of Care Program (24 CFR part 578);
- (f) The Emergency Solutions Grants Program (24 CFR part 576);
- (e) The FHA Title II Program (National Housing Act of 1934 Title II);
- (f) The Choice Neighborhoods Initiative Program (42 U.S.C. 1437v, as applied by the applicable annual appropriations act(s); 24 CFR 905.602(d));
- (g) The Housing Trust Fund Program (24 CFR part 93); and

(h) The calculation of: Fair Market Rents (24 CFR part 888); HUD Area Median Family Income (this part); Income Limits (this part); Difficult Development Areas; and Qualified Census Tracts.

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