

# INITIAL STATEMENT OF REASONS

## Community Development Block Grant (CDBG) California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 2 Commencing with Section 7062

Proposed Amendments to:  
Sections 7062, 7062.5, 7065.5,

### 1. INTRODUCTION

This Initial Statement of Reasons (ISOR) has been prepared by the California Department of Housing and Community Development (hereinafter "the Department") to describe amendments to regulations currently in effect for the State Community Development Block Grant (CDBG) Program and the factual basis for these amendments.

The State of California receives an annual CDBG allocation of money from the U.S. Department of Housing and Urban Development (hereinafter "HUD") to make grants to non-entitlement local governments (city or county) which do not receive funds directly from HUD. CDBG funds are also received via special appropriations of congress, via Disaster Recovery Initiative (DRI) allocations, that are intended to address federally declared disasters. Congress may also appropriate supplemental assistance for economic or housing emergency stimulus, i.e. American Recovery and Reinvestment Act (ARRA). CDBG funds are ideal for use under these special appropriations because of the wide variety of eligible activities, including housing rehabilitation, housing acquisition, public works, community facilities, public services, planning, and economic development. Jurisdictions using CDBG funds must comply with requirements prescribed by federal laws and regulations and state laws and regulations.

The Department administers CDBG funding on behalf of the State. Annual funding is provided to eligible non-entitlement cities and counties through a Notice of Funding Availability (NOFA) competitive application process. The NOFA is released at approximately the same time every year. Annual applications are reviewed and evaluated using scoring criteria set forth in the State CDBG statutes, regulations and per the Consolidated Plan and Annual Action Plan provided to HUD.

When there is disaster emergency event, as formally declared by the governor or president, or other supplemental CDBG funds appropriated by Congress, then CDBG funds need to be provided quickly to address the supplemental funding's goals. The current NOFA process or grant amendment process will not allow for timely expenditures of supplemental funding, outside of the established NOFA schedule which provides one funding opportunity per year.

The proposed regulation language allows the Department to provide special supplemental CDBG funding via a special NOFA. New language also allows the Department to release a special NOFA using existing Department CDBG funds that are unencumbered / recaptured. Existing regulation language for amending existing grant contracts has proposed language changes which expand the Department's ability to approve these special amendments when there is a disaster. Incorporating the proposed new regulation language and amended language allows the Department to address special disaster events and process supplemental funding in an expedient manner. This proposed regulation change will permanently add the necessary language to administer special CDBG funding provided by federal supplemental or disaster appropriations.

## **2. DISCUSSION OF THE PROPOSED AMENDMENTS**

These amendments propose to improve the CDBG regulations as follows:

### **1. Amend Regulations for Accuracy**

These amendments will align state CDBG regulations with current state statutes. In addition, all federal CDBG Entitlement regulation citations will be removed and replaced with state CDBG non-entitlement regulation citations.

### **2. Incorporate Disaster and Supplemental Assistance Regulations Permanently**

Section 7062.5 Special Allocation for Federal Disaster or Supplemental Assistance was completed via an emergency rulemaking process in 1998. Subsequently, a Certificate of Compliance was never filed and therefore the emergency regulation was repealed by operation of law in 2002. These regulations allowed the Department to administer special funding awards from HUD. Special funding is provided for federal disaster recovery efforts or providing funds for economic or housing stimulus.

Section 7065.5 Emergency Disaster Assistance was originally adopted into the California Code of Regulations Title 25 under the emergency rulemaking process in 2007. Subsequently, a Certificate of Compliance was never filed and therefore the emergency regulation was repealed by operation of law in 2014. This regulation language provides authority to issue a special NOFA and waivers to state requirements that may impede or hinder the award of special disaster or emergency stimulus allocation from HUD.

The Department is proposing to permanently incorporate language into these sections of the State's CDBG regulations.

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### 3. Amend Emergency Program Amendment Regulations

Section 7065 language needs to be amended to reflect new Departmental policies. The existing language reflects the policy of the Department of limiting disaster active grant contract amendments to activities that use the national objective of Urgent Need. The Department proposes to change the regulation language so that any of the three national objectives can be used to validate an eligible CDBG activity.

#### **Problem with the Current Regulation Language**

##### *Reliance on Annual Funding Cycle*

Current regulations address the normal CDBG annual funding cycle. With the repealed language missing from the current regulations, they are not consistent with CDBG state Statute Section 50833.1.

Given the current regulation language, the Department is limited to providing special allocations of federal disaster or supplemental assistance using the annual NOFA and grant award process. Use of the annual NOFA process will impede CDBG funding of activities that could address HUD goals for disaster or supplemental assistance.

Current regulation language in 7065 restricts the use of active grant contract amendments for jurisdictions experiencing disasters. These grantees need easy access to existing CDBG grant funds to address local impacts of a disaster.

#### **Proposed Solutions**

The Department is proposing the following solutions:

1. Amend regulations to change federal entitlement regulation references to federal state non entitlement regulation references.
2. Incorporate permanent disaster and emergency supplemental assistance regulations Sections 7062.5 and 7065.5 that allow the State CDBG program to make special program funds available through issuance of one or more non annual NOFAs.
3. Amend existing regulation language in 7065 to allow active grant amendments for federal declared disasters along with state declared disasters. Remove text that requires grant contract amendment requests only for activities that meet CDBG national objective of Urgent Need.

### 3. DISCUSSION OF PROPOSED AMMENDEMENTS

#### **Section: 7062.5. Special Allocation for Federal Disaster or Other Supplemental Assistance, (Incorporate).**

##### Amending Section Title

Purpose: The proposed regulation amendment adds in the terms “Federal” and “or Other Emergency Supplemental” to the title of the section for clarity and consistency.

Problem: The current section title is not consistent with the other two related section titles of 7065 and 7065.5 and CDBG state statutes. The existing section title does not reflect the text in the section.

Rational and Benefits: Using the same terms in all three section titles indicates that all three reference the same topic of discussion. Providing these terms in the regulations allows them to be consistent with terms used in CDBG state statutes.

Alternative Considered: The Department considered not changing the language in the section title, but rejected this alternative because the existing title conflicts with the regulation text language and are not consistent with state statute.

##### Subsection (a)

Purpose: New language is being proposed for permanent reinstatement into this section. Incorporating this new language provides an overall description of federal authority for the Department to administer the Stafford Relief and Emergency Assistance Act when necessary under the Community Development Block Grant (CDBG) program and regulations.

Problem: The language describing the authority of the Department to administer disaster supplemental funding and other emergency supplemental allocations of funding was repealed, so this section of the regulations currently has no language. Because there is no language in this section, any supplemental funds awarded by HUD would be added the normal annual NOFA process or an emergency regulation change would be needed to allow a special NOFA. State statute allows for special NOFAs to allocate special funding awards but there is no current language in regulations to allow a special funding process. This proposed new language provides an overall description of federal authority for the Department to administer the Stafford Relief and Emergency Assistance Act when necessary under the Community Development Block Grant (CDBG) program and regulations. New language in this section allows for waivers of some state program requirements to expedite the CDBG NOFA and funding process.

Rational and Benefits: Adding this new language into this section provides authority for the Department to accept and administer special funding awards from HUD, outside of normal annual awards. This language will allow for consistency between state statute and regulations.

Alternatives Considered: The Department considered conducting an emergency regulation change that would temporarily amend the regulations with this language, however, that could lead to a repeal of the language, as has happened in the past.

#### Subsection (b)

Purpose: New language is being proposed for permanent reinstatement into this section. Incorporating this new language provides a reference to another new section of the regulations which specifies options the Department has in releasing a special NOFA.

Problem: Specific language describing the different NOFA processes available to the Department for streamlining and expediting grant funding awards is in a separate section of the regulations. As such, that language does not need to be repeated here but must be referenced for clarity. Adding the special NOFA language here would be redundant, so a simple reference is made to the proposed language in subsequent section 7065.5 of the regulations.

Rational and Benefits: Adding this new reference language into this section provides the ability to administer special disaster or emergency supplemental funding from HUD with special NOFA administration language in another section of the regulations. The new language also provides a justification for the streamlining process.

Alternatives Considered: The Department considered including all the special NOFA criteria in this current section, however there is the ability to issue a special NOFA without a special HUD allocation, so having the same language in two places would be redundant.

### **Section: 7065. Special Grant Amendments for Disasters. (Amendment).**

#### Amending Section Title

Purpose: The proposed regulation amendment adds in the terms “Special” and “Grant” and “for Disasters” to the title of the section for clarity and consistency. It also deletes the terms “Emergency” and “Program” from the title.

Problem: The current section title is not consistent with the other two related section titles of 7062.5 and 7065.5 and CDBG statutes. The existing section title would not reflect the proposed amended text in the section.

Rational and Benefits: Using the same terms in all three section titles indicates that all three reference the same topic of discussion. The new terms in the title of this section allows for consistency with terms used in CDBG state statutes.

Alternative Considered: The Department considered not changing the language in the section title, but rejected this alternative because the existing titles conflict with the regulation text language.

#### Subsection (a)

Purpose: The proposed regulation amendment adds in the terms “an active” and “or mitigate” to the text for clarity and consistency.

Problem: The current language needs to be clarified so that the term grant contact is understood to mean an active grant agreement, and that amended activities can assist in mitigating disaster impacts not just alleviate.

Rational and Benefits: Clarifying these key terms in this section helps to provide a fuller understanding about use of grant amendments for disasters.

Alternative Considered: The Department considered not changing the language in the section, but rejected this alternative because the existing language does not accurately reflect the process or requirements of grant amendments.

#### Subsection (b) (1)

Purpose: The proposed regulation amendment adds in the term “presidentially declared disaster” to the text for clarity and consistency. The amended language in this section also deletes a requirement that the amendment request be within 18 months of the declared disaster event.

Problem: The current language needs added to allow special grant amendments when there is a federally declared disaster, not just when the state declares a disaster. The language restricting amendments to those done within 18 months of the disaster declaration is required for use of CDBG national objective “Urgent Need”, however, it is possible to use other national objectives on eligible activities under an amendment. Not expanding this language by adding in presidential declaration and not eliminating the Urgent Need criteria will limit future amendment requests by grantees.

Rational and Benefits: Adding the federal disaster term is consistent with text in the two other sections of CDBG regulations that address special funding for disasters and supplemental funding awards. Removing the language around amendments and timing of the declaration will allow more grantees to use grant amendments where there are disasters and address problems caused by those disasters by funding eligible activities with any of the three CDBG national objectives, not just Urgent Need. Clarifying these

key terms in this section helps to provide a fuller understanding about use of grant amendments for disasters.

Alternative Considered: The Department considered not changing the language in the section title, but rejected this alternative because the existing language restricts the use of grant amendments to alleviate or mitigate health and safety concerns caused by disasters.

#### Subsection (b) (2)

Purpose: The proposed regulation amendment adds in the terms “amended or” and “or mitigate” to the text for clarity and consistency.

Problem: The current language needs to be clarified so that the term grant contact is understood to mean an active grant agreement, and that amendments can be for program or project activities and that amended activities can assist in mitigating disaster impacts not just alleviate.

Rational and Benefits: Clarifying these key terms in this section helps to provide a fuller understanding about use of grant amendments for disasters.

Alternative Considered: The Department considered not changing the language in the section, but rejected this alternative because the existing language does not accurately reflect the process or requirements of grant amendments.

#### Subsection (b) (3)

Purpose: The proposed regulation amendment deletes this language to allow more amendments to be approved for disaster events. There is new language being proposed for this part of the regulations that describes the Department’s review and approval process.

Problem: The current language needs to be deleted because it is too restrictive. The existing language is a required eligibility criterion for using Urgent Need national objective to qualify eligible activities. It may not be in the interest of the grantee to use Urgent Need or the disaster the grantee is addressing may not qualify under Urgent Need, which would prohibit them from requesting a grant amendment. In addition, the current regulation language in this section does not describe the specific requirements that the Department will be reviewing as part of a formal grant amendment approval.

Rational and Benefits: Deleting this existing regulation text will allow more grantees to use special grant amendments for disasters. It will allow grantees to use the other two CDBG national objectives to qualify eligible activities that address impacts of disasters. Providing new language that clearly describes the Department’s process for an active grant contract amendment allows the grantee to understand the minimum federal eligibility criteria that must be met.

Alternative Considered: The Department considered not deleting the language in this section, but rejected this alternative because the existing language is too restrictive and impedes grantee's ability to recover from local disaster events.

### Reference Section

Purpose: The proposed regulation amendment deletes the entitlement regulation citation 24 CFR 570.208(c) pertaining to eligible activities and adds in the correct federal regulation citation for eligible activities for state CDBG programs, codified within the text at 24 CFR 570.482.

Problem: The State does not use Subpart C to determine the eligibility of an activity.

Rational and Benefits: Deleting this existing regulation citation and providing the state citation provides clarity and accuracy to the regulations. The Department is in process of doing this type of update as part of any regulation change so all federal CDBG Entitlement regulation citations are removed and replaced with state CDBG non-entitlement regulation citations.

Alternative Considered: The Department considered not changing the entitlement citation, but rejected this alternative because the existing citation is inaccurate.

## **Section: 7065.5. Special Disaster or Emergency Supplemental Assistance NOFAs. (Incorporate)**

### Amending Section Title

Purpose: The proposed regulation amendment adds in the terms "Special" and "or Emergency Supplemental" and "NOFAs" to the title of the section for clarity and consistency. The term "Emergency" was deleted as it was redundant to the term Disaster.

Problem: The current section title is not consistent with the other two related section titles of 7062.5 and 7065 and CDBG statutes. The section title would not reflect the newly incorporated text within the section.

Rational and Benefits: Using the same terms in all three section titles indicates that all three reference the same topic of discussion. Providing these terms in the regulations allows consistency with terms used in CDBG state statutes.

Alternative Considered: The Department considered not changing the language in the section title, but rejected this alternative because the existing titles conflict with the regulation text language.

## Incorporating Language into Section 7065.5

Purpose: The proposed regulation incorporates language into this section where there is currently none. The proposed language describes how a special NOFA can be issued. The special NOFA must address federal or state disaster. The special NOFA process can also be used for other federal supplemental funding.

Problem: The current section does not contain any language, as past language in this section was repealed. This language is needed in order for the Department to release a special NOFA, outside of the normal annual NOFA process. Language is needed in this section to be consistent with the NOFA reference in section 7062.5 and state statutes.

Rational and Benefits: Incorporating new language into this section will permanently allow the Department to issue special NOFAs to expedite funding of grants that address disaster events and expedite grant awards for supplemental funding received from HUD. Providing this language in the regulations allows consistency with other parts of the regulations and special funding language in CDBG state statutes.

Alternative Considered: The Department considered not changing the language in the section title, but rejected this alternative because the existing titles conflict with the regulation text language.

## **Adding Language to Note with Authority and Reference Text in support of Section 7065.5**

Purpose: New citations in this section's Note add authority and reference language supporting the proposed policies in this section's text.

Problem: The Note with Authority and Reference language does not contain a reference to Health and Safety Code 50833.1. This statute is important because it allows for waivers of some state statutes, which allows for more expedient award of supplemental funding. There is no reference to federal state CDBG program regulation.

Rational and Benefits: Adding 24 CFR 570.483 citation supports the policies in this section to use any of the three national objective to make a CDBG activity eligible under a special allocation NOFA. Adding the state statute reference support the policy in this section that allows for waiving of certain state regulations or statutes.

Alternatives Considered: The Department considered not adding the reference language, but believe it would not be not support the policies in this section which provide more streamline funding of special NOFA awards.

# **AMENDED PAGES OF INITIAL STATEMENT OF REASONS**

## **Community Development Block Grant (CDBG) California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 2 Commencing with Section 7062**

**Proposed Amendments to:  
Sections ~~7062~~ 7062.5, 7065, 7065.5**

### **1. INTRODUCTION**

This Initial Statement of Reasons (ISOR) has been prepared by the California Department of Housing and Community Development (hereinafter "the Department") to describe amendments to regulations currently in effect for the State Community Development Block Grant (CDBG) Program and the factual basis for these amendments.

The State of California receives an annual CDBG allocation of money from the U.S. Department of Housing and Urban Development (hereinafter "HUD") to make grants to non-entitlement local governments (city or county) which do not receive funds directly from HUD. CDBG funds are also received via special appropriations of congress, via Disaster Recovery Initiative (DRI) allocations, that are intended to address federally declared disasters. Congress may also appropriate supplemental assistance for economic or housing emergency stimulus, i.e. American Recovery and Reinvestment Act (ARRA). CDBG funds are ideal for use under these special appropriations because of the wide variety of eligible activities, including housing rehabilitation, housing acquisition, public works, community facilities, public services, planning, and economic development. Jurisdictions using CDBG funds must comply with requirements prescribed by federal laws and regulations and state laws and regulations.

The Department administers CDBG funding on behalf of the State. Annual funding is provided to eligible non-entitlement cities and counties through a Notice of Funding Availability (NOFA) competitive application process. The NOFA is released at approximately the same time every year. Annual applications are reviewed and evaluated using scoring criteria set forth in the State CDBG statutes, regulations and per the Consolidated Plan and Annual Action Plan provided to HUD.

When there is disaster emergency event, as formally declared by the governor or president, or other supplemental CDBG funds appropriated by Congress, then CDBG funds need to be provided quickly to address the supplemental funding's goals. The current NOFA process or grant amendment process will not allow for timely expenditures of supplemental funding, outside of the established NOFA schedule which provides one funding opportunity per year.

The proposed regulation language in 7062.5 is required so that the Department may administer federal disaster and emergency supplemental CDBG funding via a special NOFA. The new language in Section 7065.5 is required so that the Department can release a special NOFA using existing Department CDBG funds that are unencumbered / recaptured; the Department may waive certain regulations to streamline the process for funding disaster assistance. Existing regulation language in Section 7065, for amending existing grant contracts, is required to be changed in order to expand the Department's ability to approve these special amendments, when there is a disaster. Incorporating the proposed new regulation language and amended language allows the Department to address special disaster events and process supplemental funding in an expedient manner. The state Administrative Procedures Act requires the use of regulations for administering programs, like the proposed CDBG disaster funding referenced in Sections 7062.5 and 7065.5. The proposed regulations are necessary in order to provide authority to implement federal funding programs for disaster or emergency circumstances.

## **2. DISCUSSION OF THE PROPOSED AMENDMENTS**

These amendments propose to improve the CDBG regulations as follows:

### **1. Amend Regulations for Accuracy**

These amendments will align state CDBG regulations with current state statutes. In addition, all federal CDBG Entitlement regulation citations will be removed and replaced with state CDBG non-entitlement regulation citations. These changes are necessary to avoid confusion between compliance with CDBG entitlement regulations verses non-entitlement regulations

### **2. Incorporate Disaster and Supplemental Assistance Regulations Permanently**

Section 7062.5 Special Allocation for Federal Disaster or Supplemental Assistance was completed via an emergency rulemaking process in 1998. Subsequently, a Certificate of Compliance was never filed and therefore the emergency regulation was repealed by operation of law in 2002. These regulations allowed the Department to administer special funding awards from HUD. Special funding is provided for federal disaster recovery efforts or providing funds for economic or housing stimulus.

Section 7065.5 Emergency Disaster Assistance was originally adopted into the California Code of Regulations Title 25 under the emergency rulemaking process in 2007. Subsequently, a Certificate of Compliance was never filed and therefore the emergency regulation was repealed by operation of law in 2014. This regulation language provides authority to issue a special NOFA and waivers to state requirements that may impede or hinder the award of special disaster or emergency stimulus allocation from HUD.

The Department believes it is necessary to permanently incorporate language into these sections of the State's CDBG regulations in order to fund projects in the event of an emergency.

### 3. Amend Emergency Program Amendment Regulations

Section 7065 language needs to be amended to reflect new Departmental policies. The existing language reflects the policy of the Department of limiting disaster active grant contract amendments to activities that use the national objective of Urgent Need. The Department proposes to change the regulation language so that any of the three national objectives can be used to validate an eligible CDBG activity.

#### **Problem with the Current Regulation Language**

##### *Reliance on Annual Funding Cycle*

Current regulations address the normal CDBG annual funding cycle. With the repealed language missing from the current regulations, they are not consistent with CDBG state Statute Section 50833.1.

Given the current regulation language, the Department is limited to providing special allocations of federal disaster or supplemental assistance using the annual NOFA and grant award process. Use of the annual NOFA process will impede CDBG funding of activities that could address HUD goals for disaster or supplemental assistance.

Current regulation language in 7065 restricts the use of active grant contract amendments for jurisdictions experiencing disasters. These grantees need easy access to existing CDBG grant funds to address local impacts of a disaster.

#### **Proposed Solutions**

The Department is proposing the following solutions:

1. Amend regulations to change federal entitlement regulation references to federal state non entitlement regulation references. **These changes are required in order to avoid confusion between compliance with CDBG entitlement regulations verses non-entitlement regulations.**
2. Incorporate permanent disaster and emergency supplemental assistance regulations Sections 7062.5 and 7065.5 that allow the State CDBG program to make special program funds available through issuance of one or more non annual NOFAs. **This new language is required in order to comply with state Administrative Procedures Act.**
3. Amend existing regulation language in 7065 to allow active grant amendments for federal declared disasters along with state declared disasters. Remove text

that requires grant contract amendment requests only for activities that meet CDBG national objective of Urgent Need. **These changes are necessary so that local communities can more freely access their existing CDBG funding to meet needs with in their community during and after a disaster.**

### **3. DISCUSSION OF PROPOSED AMMENDEMENTS**

#### **Section: 7062.5. Special Allocation for Federal Disaster or Other Supplemental Assistance (Incorporate)**

##### **Amending Section Title**

Purpose: The proposed regulation amendment adds in the terms “Federal” and “or Other Emergency Supplemental” to the title of the section for clarity and consistency.

Problem: The current section title is not consistent with the other two related section titles of 7065 and 7065.5 and CDBG state statutes. The existing section title does not reflect the text in the section.

Rational and Benefits: Using the same terms in all three section titles indicates that all three reference the same topic of discussion. Providing these terms in the regulations allows them to be consistent with terms used in CDBG state statutes.

Alternative Considered: The Department considered not changing the language in the section title, but rejected this alternative because the existing title conflicts with the regulation text language and are not consistent with state statute.

##### **Subsection (a)**

Purpose: New language is being proposed for permanent reinstatement into this section. Incorporating this new language provides an overall description of federal authority for the Department to administer the Stafford Relief and Emergency Assistance Act when necessary under the Community Development Block Grant (CDBG) program and regulations.

Problem: **This language is necessary** to provide authority of the Department to administer disaster supplemental funding and other emergency supplemental allocations of funding, which was repealed, so this section of the regulations currently has no language. Because there is no language in this section, any supplemental funds awarded by HUD would be added the normal annual NOFA process or an emergency regulation change would be needed to allow a special NOFA. State statute allows for special NOFAs to allocate special funding awards but there is no current language in regulations to allow a special funding process. This proposed new language provides an overall description of federal authority for the Department to administer the Stafford Relief and Emergency Assistance Act when necessary under the Community

of the declaration will allow more grantees to use grant amendments where there are disasters and address problems caused by those disasters by funding eligible activities with any of the three CDBG national objectives, not just Urgent Need. Clarifying these key terms in this section helps to provide a fuller understanding about use of grant amendments for disasters.

Alternative Considered: The Department considered not changing the language in the section, but rejected this alternative because the existing language is not consistent with Sections 7062 and 7065.5. Furthermore, current language restricts the use of grant amendments to alleviate or mitigate health and safety concerns caused by disasters.

### **Subsection (b) (2)**

Purpose: The proposed regulation amendment adds in the terms “amended or” and “or mitigate” to the text for clarity and consistency.

Problem: The current language needs to be clarified so that the term grant contact is understood to mean an active grant agreement, and that amendments can be for program or project activities and that amended activities can assist in mitigating disaster impacts not just alleviate.

Rational and Benefits: Clarifying these key terms in this section helps to provide a fuller understanding about use of grant amendments for disasters.

Alternative Considered: The Department considered not changing the language in the section, but rejected this alternative because the existing language does not accurately reflect the process or requirements of grant amendments.

### **Subsection (b) (3)**

Purpose: The proposed regulation amendment deletes this language to allow more amendments to be approved for disaster events. There is new language being proposed for this part of the regulations that describes the Department’s review and approval process.

Problem: The current language needs to be deleted because it is too restrictive. The existing language is a required eligibility criterion for using Urgent Need national objective to qualify eligible activities. It may not be in the interest of the grantee to use Urgent Need or the disaster the grantee is addressing may not qualify under Urgent Need, which would prohibit them from requesting a grant amendment. In addition, the current regulation language in this section does not describe the specific requirements that the Department will be reviewing as part of a formal grant amendment approval.

Rational and Benefits: Deleting this existing regulation text will allow more grantees to use special grant amendments for disasters. It will allow grantees to use the other two CDBG national objectives to qualify eligible activities that address impacts of disasters.

Providing new language that clearly describes the Department's process for an active grant contract amendment allows the grantee to understand the minimum federal eligibility criteria that must be met.

Alternative Considered: The Department considered not deleting the language in this section, but rejected this alternative because the existing language is too restrictive and impedes grantee's ability to recover from local disaster events.

### **Subsection (b) (4)**

Purpose: The proposed regulation amendment adds language to clarify the process of changing eligible activities to an existing contract for disaster events. The new language being proposed for this part of the regulations clarifies the Department's review and approval process.

Problem: The new language is necessary to clarify what changes can be made to an existing grant contract in the event of a declared disaster. The existing language restricts changes to replacement projects, when in fact the contract change can be an amended activity that already exists in the contract.

Rational and Benefits: Adding the proposed language will allow existing grantees to have more options for using special grant amendments for mitigating disasters. It will allow grantees to use the all possible options available in making changes to their contracts.

Alternative Considered: The Department considered not adding this language deleting the language in this section, but rejected this alternative because the existing language is too restrictive and impedes grantee's ability to recover from local disaster events.

### **Reference Section**

Purpose: The proposed regulation amendment deletes the entitlement regulation citation 24 CFR 570.208(c) pertaining to eligible activities and adds in the correct federal regulation citation for eligible activities for state CDBG programs, codified within the text at 24 CFR 570.482.

Problem: The State does not use Subpart C to determine the eligibility of an activity.

Rational and Benefits: Deleting this existing regulation citation and providing the state citation provides clarity and accuracy to the regulations. The Department is in process of doing this type of update as part of any regulation change so all federal CDBG Entitlement regulation citations are removed and replaced with state CDBG non-entitlement regulation citations.

Alternative Considered: The Department considered not changing the entitlement citation, but rejected this alternative because the existing citation is inaccurate.

## **Section: 7065.5. Special Disaster or Emergency Supplemental Assistance NOFAs. (Incorporate)**

### **Amending Section Title**

**Purpose:** The proposed regulation amendment adds in the terms “Special” and “or Emergency Supplemental” and “NOFAs” to the title of the section for clarity and consistency. The term “Emergency” was deleted as it was redundant to the term Disaster.

**Problem:** The current section title is not consistent with the other two related section titles of 7062.5 and 7065 and CDBG statutes. The section title would not reflect the newly incorporated text within the section.

**Rational and Benefits:** Using the same terms in all three section titles indicates that all three reference the same topic of discussion. Providing these terms in the regulations allows consistency with terms used in CDBG state statutes.

**Alternative Considered:** The Department considered not changing the language in the section title, but rejected this alternative because the existing title conflicts with the proposed regulation text language.

### **Incorporating Language into Section 7065.5**

**Purpose:** The proposed regulation incorporates language into this section where there is currently none. **The proposed language is necessary to deal with impacts of the disasters and will allow the Department to issue one or more special NOFAs to assist eligible jurisdictions pay for local recovery efforts.** The special NOFA must address federal or state disaster. The special NOFA process can also be used for other federal supplemental funding.

**Problem:** The current section does not contain any language, as past language in this section was repealed. This language is needed in order for the Department to release a special NOFA, outside of the normal annual NOFA process. Language is needed in this section to be consistent with the NOFA reference in section 7062.5 and state statutes.

**Rational and Benefits:** Incorporating new language into this section will permanently allow the Department to issue special NOFAs to expedite funding of grants that address disaster events and expedite grant awards for supplemental funding received from HUD. Providing this language in the regulations allows consistency with other parts of the regulations and special funding language in CDBG state statutes.

**Alternative Considered:** The Department considered not adding in the new language into this section, but rejected this alternative because there is a strong need for special disaster funding that can be made available quickly, without having to wait for the annual CDBG funding cycle.