percentile rental distribution of standard quality rental housing units, and the other based on the 40th percentile rent of the same rental housing distributions. The published notice explained that HUD was considering a 40th percentile FMR standard. A reduction in the FMR standard was also announced as a proposed cost savings measure in HUD's FY 1995 budget presentation.

The June 23, 1994 Notice requested public comment on the proposed FMRs at both the 45th and 40th percentiles. Since the public has already had the opportunity to consider the proposed change in the FMR standard and to comment on the actual proposed FMRs at the 40th percentile level, an abbreviated comment period on the same idea will not have an adverse impact on the ability of the public to participate in this rulemaking.

The Department believes this abbreviated comment period is justified in order to speed the publication of a final rule which will allow more low income families to receive housing assistance.

IV. Other Matters

Executive Order 12866, Regulatory Planning and Review

This proposed 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 proposed 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.

Environmental Assessment

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the establishment and review of fair market rents is categorically excluded from the Department's regulations implementing the National Environment Policy Act at 24 CFR 50.20(*l*).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this document before publication and by approving it certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities, because FMRs reflect the rents for similar quality units in the area. Therefore, FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this proposed rule would not have a significant impact on family formation, maintenance, or wellbeing. The proposed rule would amend the method for calculating Fair Market Rent for various Section 8 assisted housing programs, and would not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

Executive Order 12611, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, Federalism, has determined that this proposal would not involve the preemption of State law by Federal statute or regulation and would not have Federalism implications. The establishment of Fair Market Rents does not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

Semi-Annual Regulatory Agenda

This rule was listed as sequence number 1727 in the Department's Semiannual Regulatory Agenda published on November 14, 1994 (59 FR 57632, 57641) under Executive Order 12866 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 888

Grant programs—housing and community development, Rent subsidies.

Accordingly, title 24 of the Code of Federal Regulations would be amended as follows:

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

1. The authority citation for part 888 would continue to read as follows:

Authority: 42 U.S.C. 1437c, 1437f, and 3535(d).

2. Sections 888.101 and 888.105 would be removed, and § 888.111 would be revised to read as follows:

§ 888.111 Fair market rents for existing housing: Applicability.

The Fair Market Rents (FMRs) for existing housing (see definition in § 882.102 of this chapter) are determined by the Department of Housing and Urban Development (HUD) and apply to the Section 8 Certificate Program, including space rentals by owners of manufactured homes under the Section 8 Certificate Program, the Section 8 Moderate Rehabilitation Program, Section 8 existing housing project-based assistance, and Section 8 existing housing assisted under part 886. FMRs are also used to determine payment standard schedules in the Rental Voucher program.

3. Section 888.113, would be revised to read as follows:

§ 888.113 Fair market rents for existing housing: Methodology.

(a) Basis for setting fair market rents. Fair Market Rents (FMRs) are estimates of rent plus the cost of utilities, except telephone. They are housing marketwide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units in the FMR area. FMRs are set at the 40th percentile rent-the dollar amount below which 40 percent of standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of all units that are occupied by recent movers. Adjustments are made to exclude Public Housing units and newly built units.

(b) FMR Areas. FMR areas are metropolitan areas and nonmetropolitan counties (nonmetropolitan parts of counties in the New England States). With several exceptions, the most current Office of Management and Budget (OMB) metropolitan area definitions of Metropolitan Statistical Areas (MSAs) and Primary Metropolitan Statistical Areas (PMSAs) are used because of their generally close correspondence with housing market area definitions. HUD may make exceptions to OMB definitions if the MSAs or PMSAs encompass areas that are larger than housing market areas. The counties deleted from the HUDdefined FMR areas in those cases are established as separate metropolitan county FMR areas. FMRs are established for all areas in the United States, the District of Columbia, Puerto Rico, the Virgin Islands, and the Pacific Islands.

(c) *Data sources.* (1) HUD uses the most accurate and current data available