Response: The FMRs, set at the 40th percentile level of standard quality recent mover rental units, would include approximately the bottom half of an area's standard quality rental stock. It is not HUD's intention to set the FMRs at a level high enough to support new construction and only in very unusual situations would this occur. Over the years, some production programs, such as the HOME and LIHTC programs, have had program rents tied to the FMRs to ensure that the end result was affordable housing. HOME participants can use the grant money in a variety of ways ranging from leveraging production costs to directly paying for them. Many of the HOME and LIHTC participants have used other sources of funds to write down rents on these projects.

9. *Comment:* Commenters objected to the 30-day comment period as being too short a time period to comment on the

proposed changes.

As stated in the preamble to the proposed rule and repeated here, HUD's position in providing a 30-day comment period, rather than 60 days, is that the public had already had ample notice that HUD was considering this change. On June 23, 1994 (59 FR 32492), HUD published a notice in the Federal **Register** containing two separate sets of FMRs—one based on the 45th percentile rent levels and the other based on the 40th percentile rent levels. The 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 40th and 45th percentiles. Since the public had 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, HUD believes that a 60-day comment period was unnecessary since the abbreviated comment period did not adversely impact the public's ability to participate in this rule making. In fact, HUD received and evaluated all comments received after the 30-day comment period had ended.

10. Comment: Commenters contended that HUD's proposal to provide for a 30-day comment period for the annual notice of proposed FMRs is not enough time for HAs to do rental housing surveys. Some commenters requested a comment period longer than the 60 days currently allowed.

Response: The regulation requires the Department to provide a comment period of at least 30 days to identify

areas where the FMRs are believed to be too high or too low. HUD's practice has been, and will continue to be, to allow interested parties 60 days to prepare their comments. The 60-day comment period was adopted in recognition that the additional time was needed for HAs to conduct rental housing surveys. HUD reserves the right, however, to abbreviate the comment period in the event that special circumstances should warrant such an action.

HUD cannot provide for a comment period longer than 60 days and still be able to publish final FMRs on October 1 of each year. Because of the time required to obtain the year-end data used to update and process the FMR schedules each year, the earliest these estimates can be published is in mid-April. The 60-day comment period, therefore, ends in mid-June, and the remainder of that month is required to process and distribute the comments to the respective HUD Field offices. HUD reviews the comments for the next month and a half, through mid-August. The remainder of the time is spent preparing the revised FMRs for publication, clearing the publication, and submitting them to the **Federal** Register.

11. Comment: Commenters objected to the proposal to give the Secretary the discretion to make modifications to the FMR area definitions of large metropolitan areas.

Response: HUD generally uses the OMB definitions of metropolitan areas as FMR definitions because they are good approximations of housing market area definitions—the criterion that HUD uses to define FMR areas. OMB in its publication establishing these definitions (OMB Bulletin NO. 93–17), however, directs agencies who use the definitions for nonstatistical purposes to ensure that they are appropriate for the specific program use. OMB recommends that the agency in such a circumstance seek public comment on their appropriateness. The OMB bulletin further states that an agency may deviate from the definitions, but should identify the deviations and specify the program for which they will apply. In establishing the FMR area definitions, HUD followed the OMB procedures. First, HUD conducted an evaluation of the revised OMB metropolitan area definitions and determined there were seven metropolitan areas for which the OMB definitions were too large to represent housing market area definitions. HUD then invited public comment in the notice of proposed FMRs published on May 6, 1993 (58 FR 27062). HUD received only one public comment on this issue. After reviewing

the comment, HUD decided to make the modified definitions effective, which it did in the October 1, 1993, **Federal Register** publication of final FMRs (58 FR 51410). This rule merely codifies HUD's existing policy of making exceptions to FMR definitions, as warranted, in accordance with OMB's instructions.

12. *Comment:* Several commenters objected to HUD's rule to set manufactured home space rents at the 30 percent of the FMRs for a two-bedroom unit.

Response: HUD first announced in the May 6, 1993, notice of proposed FMRs that it was considering other alternatives for establishing manufactured home space FMRs. It was explained in the notice that the data base used to estimate the FMRs for manufactured home space rents was quite old, from a 1978 survey, and that no new data sources were available. HUD did not consider the existing data sufficiently accurate to continue using these estimates. Because there is very limited use of the manufactured home space rents in the tenant-based rental assistance programs, the expected cost of obtaining new survey data was not justified.

HUD did not receive any comments on this proposal and, therefore, on June 23, 1994, proposed that the manufactured home space FMR would be 30 percent of the Section 8 twobedroom FMR. The 30-percent ratio was selected on the basis of an analysis which showed that the vast majority of the manufactured home space FMRs were within a 20 to 30 percent range of the regular two-bedroom FMR. Recognizing that there would be valid exceptions to this relationship, HUD informed the public that it would accept local surveys of space rentals in manufactured home parks as a basis for modifying the FMRs where the proposed new standard was not adequate to operate the program. HUD also announced that it was retaining all local surveys that had been accepted since 1990 as the basis for modifying the manufactured home space FMRs. On September 28, 1994 (59 FR 49494), HUD published separately in Schedule D, the manufactured home space FMRs for 13 areas that had recent local surveys and established the FMRs for all other areas at 30 percent of the two-bedroom FMR.

13. *Comment*: A commenter requested that HUD publish a contract rent and a utility amount rather than a gross rent FMR estimate. The basis for this request is the concern that the amount HUD is using for the utility component is less than what is used at the local level.