

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 882

[Docket No. FR-3709-P-01]

RIN 2577-AB48

Section 8 Moderate Rehabilitation; Rent Adjustments; Annual and Special Adjustments; Comparability Studies; Rent Reductions

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the current regulations on adjusting Section 8 Moderate Rehabilitation Contract Rents. The rule would modify the method used by Public Housing Agencies (PHAs) to determine the amount of the annual increase in the Contract Rents by providing for PHAs to conduct comparability studies for Moderate Rehabilitation projects to prevent the application of the Annual Adjustment Factors from resulting in a material difference between rents charged for assisted units and similar unassisted units. The proposed rule provides a substitute method of determining the initial difference between Moderate Rehabilitation rents and rents charged for comparable unassisted units, if the PHA failed to establish the amount of the difference when the initial Contract Rents were determined. The proposed rule also provides, subject to the availability of appropriations, for special adjustments when an exemption from real property tax expires under certain circumstances. The proposed rule also adds insurance to the categories of cost increases that may result in a special adjustment.

DATES: Comment Due Date: December 1, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Madeline Hastings, Rental Assistance Division, Room 4226, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-2841 (voice) or (202) 708-4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

The public reporting burden for each of these collections of information is estimated to include the time for reviewing and instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the preamble heading, Other Matters.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW, Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for HUD, Washington, DC 20503. At the end of the public comment period on this rule, the Department may amend the information collection requirements set out in this rule to reflect public comments or OMB comments received concerning the information collection.

II. Background

A. Applicability

This proposed rule would be applicable to all projects which are currently, or will be in the future, under a Section 8 Moderate Rehabilitation Housing Assistance Payments (HAP) Contract, as provided in the regular Section 8 Moderate Rehabilitation Program, and the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals. This rule proposes to revise

the current regulations in 24 CFR part 882, subpart D, that govern the special procedures for adjusting Contract Rents of regular and SRO Moderate Rehabilitation projects during the term of the HAP Contract. The procedures for both annual and special rent adjustments would be revised by the rule. These are the only upward adjustments to the initial base and Contract Rents set forth in the HAP Contract that are allowed during the term of the HAP Contract. Downward adjustments due to changes in project financing are also permitted during the term of the HAP Contract.

Regulations governing annual and special rent adjustments for the other Section 8 Programs have been and will be addressed by separate rulemaking. A proposed rule, entitled "Annual Adjustments of Contract Rents for Section 8 Assisted Housing; Comparability Studies," was published in the Federal Register on October 29, 1992 (57 FR 49120). The Department received considerable public comment on the October 29, 1992 proposed rule, and, as a result of this public comment, is further considering its October 29, 1992 proposal. Accordingly, the language of this proposed rule which is limited to the Section 8 Moderate Rehabilitation Program and which would make similar amendments to those amendments proposed to be made by the October 29, 1992 rule is not based on the language of the October 29, 1992 proposed rule.

Additionally, the Department notes that 24 CFR part 888, subpart B, does not apply to the process utilized under the Section 8 Moderate Rehabilitation Program. Although subpart B currently applies to all Section 8 Housing Assistance Programs, its scope is limited to the Automatic Annual Adjustment factors. The Section 8 Moderate Rehabilitation Program does not utilize automatic adjustments and, therefore, adjustments will be made in accordance with § 882.410, not 24 CFR part 888, subpart B.¹

B. Comparability Studies

This proposed rule would implement section 801(c) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989) (HUD Reform Act), by providing for PHAs to conduct comparability studies for Moderate Rehabilitation projects to prevent a material difference between

¹ Another proposed rule applicable to the section 8 regulations and entitled "Section 8 Certificate and Voucher Programs Conforming Rule" was published on February 24, 1993 (58 FR 11292).