

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT****24 CFR Part 882**

[Docket No. FR-4472-F-02]

RIN 2577-AB98

**Section 8 Moderate Rehabilitation
Program; Executing or Terminating
Leases on Moderate Rehabilitation
Units When the Remaining Term of the
Housing Assistance Payments (HAP)
Contract Is for Less Than One Year**

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

ACTION: Final rule.

SUMMARY: This final rule adopts an interim rule published on October 4, 1999, that implemented in the Section 8 Moderate Rehabilitation Program statutory language that requires that any initial lease term between an owner and a family not extend beyond the term of the HAP contract. Before issuance of the October 4, 1999 interim rule, the program regulations for the Section 8 Moderate Rehabilitation Program provided that the initial lease term between an owner and a family must be for at least one year. The regulations were silent on the requisite lease term when the Housing Assistance Payments (HAP) contract term expires in less than one year.

This October 4, 1999 interim rule also revised the program regulation to allow an owner and a public housing agency (PHA) to mutually agree to terminate a unit from the HAP contract if a unit becomes vacant and the term of the HAP contract is for less than one year.

The October 1999 interim rule provided a 60-day public comment period. No public comments were received and therefore the interim rule is adopted without change.

DATES: Effective Date: May 25, 2000.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Room 4210, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-5000; telephone: (202) 708-0477 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Background**

Section 8(d)(1)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f) (1937 Act) requires that the initial lease between the tenant and the owner in the Section 8 Moderate Rehabilitation Program be for a period of at least one year or the term of the HAP contract, whichever is shorter. In most cases, Section 8 Moderate Rehabilitation dwelling leases will terminate concurrently with Housing Assistance Payments (HAP) contract expirations. In some cases, however, a dwelling lease ended prior to the expiration of the Moderate Rehabilitation HAP contract. A lease may end prior to the expiration of the Moderate Rehabilitation HAP contract as a result of: (1) An action by an owner to terminate tenancy in accordance with the lease addendum and program regulations; (2) a tenant's action to terminate the lease agreement; or (3) an action by a housing authority to terminate the family from the program for failure to comply with the family's obligations under the Statement of Family Responsibility and the owner chooses to terminate the lease with the family.

On October 4, 1999 (64 FR 53868), HUD issued an interim rule that implemented section 8(d)(1)(B)(i) of the 1937 Act. October 4, 1999 interim rule required that any initial lease term between an owner and a family not extend beyond the term of the HAP contract. Before issuance of the October 4, 1999 interim rule, the program regulations in 24 CFR 882.403(d) provided, in pertinent part, that the initial lease between the family and owner must be for at least one year. Under these previous regulations, if a lease agreement ended with less than twelve months remaining on the HAP contract, § 882.403(d) effectively prohibited an owner from reoccupying the unit with a new family. The result was that some Section 8 Moderate Rehabilitation owners lost rental income on units because the remaining term of the HAP contract is for less than twelve months and § 882.512(a) prohibited an owner from occupying a unit under a HAP contract with an ineligible family (i.e., a family other than one participating in the Section 8 Moderate Rehabilitation program).

Accordingly, the October 4, 1999 interim rule revised § 882.403(d) to permit an initial lease for at least one year or the term of the HAP contract, whichever is shorter. The interim rule

also provided that if the initial term of the lease is for less than one year because the remaining term of the HAP contract is for less than one year, the owner and the PHA may mutually agree to terminate the unit from the HAP contract. The provision that any renewal or extension of the lease term may not extend beyond the remaining term of the HAP contract was not changed by the October 4, 1999 interim rule.

The October 4, 1999, interim rule provided a 60-day public comment period. No public comments were received during this period. Accordingly, this final rule adopts the October 4, 1999 interim rule without change.

II. Findings and Certifications*Environmental Impact*

A Finding of No Significant Impact with respect to the environment for this rule was made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of the interim rule. The Finding of No Significant Impact remains available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, U.S. Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. 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.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605(b)), because it does not place major burdens on housing authorities or housing owners. This final rule adopts the October 4, 1999, interim rule without change. The regulatory flexibility analysis provided

in the interim rule is applicable to this rule. This rulemaking merely provides an exception to allow leases for terms of less than twelve months under the Moderate Rehabilitation Program.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not impose, within

the meaning of the UMRA, any Federal mandates on any State, local, or, tribal governments or on the private sector.

List of Subjects for 24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

PART 882—SECTION 8 MODERATE REHABILITATION PROGRAM

Accordingly, the interim rule amending 24 CFR part 882, which was published at 64 FR 53869 on October 4, 1999, is adopted as a final rule without change.

Dated: April 17, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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