(i) Archaeological Resources. A Letter to Lessees (LTL) was issued on November 30, 1990, informing operators of changes in those blocks considered to have a high probability for historic period shipwrecks. A copy of the LTL, a map, and area/block list is available upon request. No changes have been made to those blocks considered to have a high probability for prehistoric archaeological sites.

(j) Availability of Previously Disputed Boundary Blocks. The following blocks are available for leasing as a result of agreements with affected States for OCS Official Protraction Diagram, Mobile NH 16-4:

Blocks 765 through 767
Blocks 809 through 811
Blocks 853 through 855
Blocks 897 through 899

Barry Williamson

Director, Minerals Management Service
Barry A. Williamson

Approved:

for Jennifer A. Salisbury

Acting Assistant Secretary, Land and Minerals Management
Jennifer A. Salisbury

2/15/91

Date

[FR Doc. 91-4197 Filed 2-21-91; 8:45 am]
BILLING CODE 4310-MR-C
BILLING CODE 4310-MR-M

Billing Code: 4310-MR

[FR Doc. 91-4199 Filed 2-21-91; 8:45 am]
BILLING CODE 4310-MR-C
BILLING CODE 4310-MR-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf
Central Gulf of Mexico

Notice of Leasing Systems, Sale 131

Section 8(a)(8) (43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA) requires that, at least 30 days before any lease sale, a Notice be submitted to the Congress and published in the Federal Register:

1. identifying the bidding systems to be used and the reasons for such use; and

2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This Notice is published pursuant to these requirements.

1. Bidding systems to be used. In the Outer Continental Shelf (OCS) Sale 131, blocks will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)): (a) bonus bidding with a fixed 16 2/3-percent royalty on all unleased blocks in less than 400 meters of water; and (b) bonus bidding with a fixed 12 1/2-percent royalty on all remaining unleased blocks.

a. Bonus Bidding with a 16 2/3-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency payments but may yield more rewards if a commercial field is discovered. The relatively high front-end bonus payments may encourage rapid exploration.

b. Bonus Bidding with a 12 1/2-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA. It has been chosen for certain deeper water blocks proposed for the Central Gulf of Mexico (Sale 131) because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water blocks. Department of the Interior analyses indicate that the minimum economically developable discovery on a block in such high-cost areas under a 12 1/2-percent royalty system would be less than for the same blocks under a 16 2/3-percent royalty system. As a result, more blocks may be explored and developed. In addition, the lower royalty rate system is expected to encourage more rapid production and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary constraints to competition.

2. Designation of Blocks. The selection of blocks to be offered under the two systems was based on the following factors:

a. Lease terms on adjacent, previously leased blocks were considered to enhance orderly development of each field.

b. Blocks in deep water were selected for the 12 1/2-percent royalty system based on the favorable performance of this system in these high-cost areas as evidenced in our analyses.

The specific blocks to be offered under each system are shown on Map 2 entitled "Central Gulf of Mexico Lease Sale 131 - Final. Bidding Systems and Bidding Units." This map is available from the Minerals Management Service, Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394.

Barry Williamson

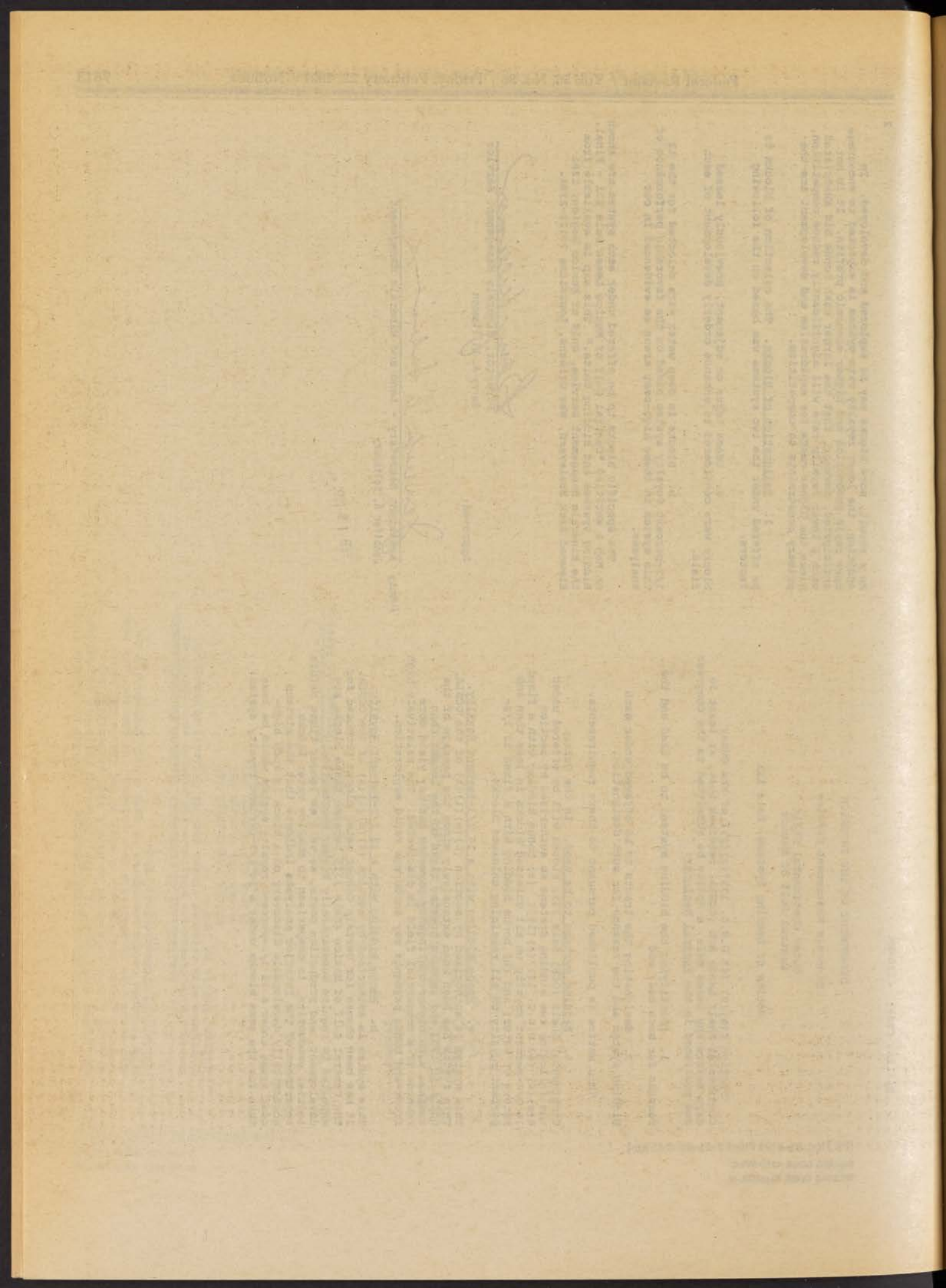
Director, Minerals Management Service
Barry A. Williamson

Approved:

Jennifer A. Salisbury

Deputy Assistant Secretary - Land and Minerals Management
Jennifer A. Salisbury

FEB 15 1991



federal register

Friday
February 22, 1991

Part IV

Department of the Interior

Bureau of Indian Affairs

Land Records for White Earth Indian-Owned Lands in Minnesota; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Land Records for White Earth Indian-Owned Lands in the State of Minnesota

February 13, 1991.

ACTION: Notice; transfer of custody.

SUMMARY: This notice is published in accordance with 25 CFR 150 and in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs under 209 DM 8.1. As of April 1, 1991, the official custody of all White Earth land records and title documents pertaining to Indian-owned trust or restricted lands under the jurisdiction of the Minneapolis Area Office, Minneapolis, Minnesota, and the Minnesota Agency, Cass Lake, Minnesota, within the boundaries of the White Earth Reservation is transferred from the Central Office, Washington, DC, to the Aberdeen Land Titles and Records Office, Bureau of Indian Affairs, 115 4th Avenue SE., Aberdeen, South Dakota 57401. The Aberdeen Land Titles and Records Office is thereafter the official office of record for the recording and maintenance of these records.

EFFECTIVE DATE: April 1, 1991.

FOR FURTHER INFORMATION CONTACT: Quentin M. Jones, Land Records Officer, Division of Real Estate Services, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240.

Stanley M. Speaks,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 91-4213 Filed 2-21-91; 8:45 am]

BILLING CODE 4310-02-M

federal register

Friday,
February 22, 1991

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 200, et al.

Procedures for Obtaining Wage and Claim Information From State Wage Information Collection Agencies; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 215, 221, 235, 236, 247, 290, 760, 813, 880, 881, 882, 883, 884, 885, 886, 887, 900, 904, 905, 913, and 960

[Docket No. R-91-1445; FR-2588-F-02]

RIN 2501-AA80

Procedures for Obtaining Wage and Claim Information From State Wage Information Collection Agencies

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule governs the collection and use of wage and claim information and the collection of employee income information about applicants and participants in HUD's subsidized FHA insurance and assisted housing programs. The rule requires these applicants and participants to sign and submit consent forms when they apply for participation in a program subject to this rule, or when their continuing eligibility to participate in a program is determined. These consent forms may be used by (1) HUD, the Public Housing Agency (PHA), or the owner responsible for determining eligibility for or level of assistance to verify employee income information with previous or current employers, and (2) HUD or the PHA to request wage and claim information from the State agency responsible for the administration of the State unemployment law (State Wage Information Collection Agency [SWICA]). Failure of any applicant or participant to sign the required consent form constitutes grounds for denying assistance, or continuing participation, under the program involved. The rule will help decrease the incidence of fraud, waste, and abuse in these programs. Covered programs include the subsidized FHA insurance programs under 24 CFR chapter II, subchapter B; and the section 8 and Public and Indian Housing programs under 24 CFR chapters VIII and IX.

Protections are provided for applicants and participants in HUD programs from improper use of wage and claim information obtained from a SWICA by HUD or a PHA by restricting the use of the information to official purposes. The rule also prohibits termination, denial, suspension, or reduction of assistance unless the information is independently verified and the applicant or participant has an opportunity to contest adverse findings.

This rule also provides criminal and civil penalties in certain circumstances.

EFFECTIVE DATE: March 25, 1991.

FOR FURTHER INFORMATION CONTACT: For the Section 8, Rent Supplement, Section 221(d)(3), and Section 236 Programs (and activity under 24 CFR part 290) administered by the Assistant Secretary for Housing: James Tahash, Director of Planning and Procedures, Office of Multifamily Housing Management, room 6182, 451 7th St., SW., Washington, DC 20410, telephone number (202) 708-3944.

For the Section 8 Programs (Certificates, Housing Vouchers, Moderate Rehabilitation) administered by Public Housing Agencies: Margaret Milner, Deputy Director, Office of Elderly and Assisted Housing, room 6130, 451 7th St., SW., Washington, DC 20410, telephone number (202) 708-0720.

For the 202 Elderly and Handicapped program administered by the Assistant Secretary for Housing: Robert Wilden, Director, Assisted Elderly and Handicapped Division, room 6116, 451 7th St., SW., Washington, DC 20410, telephone number (202) 708-2730.

For the Public Housing program administered by the Assistant Secretary for Public and Indian Housing: Edward C. Whipple, Director, Occupancy Division, Office of Management Operations, Office of Public Housing, room 4206, 451 7th., SW., Washington, DC 20410, telephone number (202) 708-0744.

For the Indian Housing program administered by the Assistant Secretary for Public and Indian Housing: Dom Nessi, Director, Office of Indian Housing, room 4232, 451 7th St., SW., Washington, DC 20410, telephone number (202) 708-1015.

For the section 235 program administered by the Assistant Secretary for Housing: Joseph Bates, Director, Single Family Servicing, room 9178, 451 7th St., SW., Washington, DC 20410, telephone number (202) 708-1672.

For questions concerning computer matching: Dennis Raschka, Director, Program Integrity Division, Office of Inspector General, room 8254, 451 7th St., SW., Washington, DC 20410, telephone (202) 708-0006. (None of these telephone numbers is toll-free).

With regard to information on this rule for the hearing impaired, the telephone numbers listed in this section may be reached via Telecommunications Devices for the Deaf (TDD machines) by dialing the Federal Information Relay Service on 1-800-877-TDDY or 1-800-877-8339 or 202-708-9300.

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule were approved by OMB under the Paperwork Reduction Act of 1980. Public reporting burden for the collection of information requirements contained in this rule is estimated to include the time for reading, signing, and submitting of consent forms, and performing the computer matches with SWICAs. The information associated with the computer matching aspects of the rule were approved under OMB number 2508-0008. The consent forms are covered under OMB numbers 2502-0082, 2502-0204, 2577-0083, and 2502-0109. Information on the estimated public reporting burden is provided later in this preamble under the subheading, "Findings and Certifications." 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 7th St., SW., room 10276, Washington, DC 20420; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

On November 3, 1989, the Department published a proposed rule (54 FR 46505) to implement section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988) ("McKinney Amendments") for a number of HUD programs.

Section 904(a), Definitions, of the McKinney Amendments provides that HUD may define the terms "applicant" and "participant" by regulation. It specifies, however, that the terms shall include members of an applicant's or participant's household, but not include persons acting purely in their official capacity, such as State or local government officials or officers of lending institutions.

Section 904(b), Applicant and Participant Consent, of the McKinney Amendments permits HUD to require applicants and participants (and members of their families), in any HUD program involving initial and periodic review of an applicant's or participant's income, to sign a consent form authorizing (1) HUD, the PHA, or the owner to verify employee income information from current or previous employers; and (2) HUD or the PHA to request a SWICA to release wage and claim information. This subsection specifies that the consent may not be

used to request taxpayer information protected by section 6103 of the Internal Revenue Code of 1986. Signing the consent form is made an explicit condition of initial or continuing eligibility for participation in the covered programs. This requirement is designed to ensure correct determinations of eligibility for, and level of, assistance are made under these programs.

Section 904(c)(1), Amendments to Social Security Act, of the McKinney Amendments adds a new section 303(i) to the Social Security Act, which requires SWICAs to disclose wage and claim information to HUD and PHAs with respect to individuals who are applying for or participating in any covered HUD assisted housing program, and who have signed an appropriate consent form. Regulations prescribed by the Secretary of Labor will govern how often and in what form this information may be disclosed. The Department of Labor is required, after notice and hearing, to terminate further payments under the Social Security Act to a State where a SWICA has failed to substantially comply with a request for information. The new subsection 303(i) will expire on October 1, 1994, unless extended.

Section 904(c)(2), Applicant and Participant Protections, of the McKinney Amendments protects applicants and participants from the improper use by HUD or a PHA of information obtained under section 303(i) of the Social Security Act, by restricting the use of the information to (1) Verifying an applicant's or participant's eligibility for or level of assistance, or (2) informing the owner that the applicant's or participant's eligibility or level of assistance is uncertain and needs to be verified. This section prohibits the termination, denial, suspension, or reduction of assistance without independent verification of the wage and claim information. The applicant or participant must also be notified of adverse findings and be given an opportunity to contest them.

Section 904(c)(3), Penalty, of the McKinney Amendments provides that any person who knowingly and willfully requests, or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA under this authority, or who knowingly and willfully discloses information in any manner to any individual not entitled under law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. This penalty applies to officers or employees of HUD, to officers or employees of PHAs, and to any owner (or employee of an owner) responsible for determining eligibility for or level of assistance. This subsection also gives applicants and participants a right of action for damages and other relief against an officer or employee of any public housing agency or owner (or employee of an owner) if the applicant or participant is affected by (1) A negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments, or section 303(i) of the Social Security Act, about the person by the officer or employee of the PHA or the owner (or employee of an owner) which is not authorized by section 904, section 303(i), or by any implementing regulation, or (2) any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation.

Section 904(d), Effective Date, of the McKinney Amendments provides for this section to take effect no earlier than September 30, 1989, with one exception. This exception gives a State or an agency of a State, with the approval of the Secretary of Labor, the option of implementing the provisions governing the collection of wage and claim information on any date which is after February 5, 1989 (90 calendar days after November 7, 1988, the date of enactment of the McKinney Amendments), but before September 30, 1989. In the case of any State legislature which has not been in session for at least 30 calendar days (consecutive or not) between November 7, 1988 and September 30, 1989, the provisions governing the collection of wage and claim information shall take effect 30 calendar days after the first day on which the legislature is in session on or after September 30, 1989.

The proposed rule provided for the implementation of the requirements of section 904 of the McKinney Amendments, through two independent, but parallel, provisions:

1. *24 CFR part 200, subpart V:* This subpart covered the Rent Supplement program; the section 221(d)(3) and 236 programs; and activity under 24 CFR part 290, Management and Preservation of HUD Multifamily Projects.

2. *24 CFR part 760:* This part covered the public housing and section 8 housing assistance programs administered by HUD under 24 CFR chapters VIII and IX.

The remainder of the rule contained conforming changes that were designed to incorporate the proposed consent form requirements into the existing regulatory provisions to which the rule would apply.

The proposed rule contained the following principal features. All applicants and participants (and members of their families over the age of 18) in programs subject to the rule were to be required to sign and submit consent forms authorizing (1) HUD, the PHA, or the owner to verify employee income information from current or previous employers; and (2) HUD or the PHA to request a SWICA to release wage and claim information. Signing the consent form was made an explicit condition of initial or continuing eligibility for participation in the covered programs.

The proposed rule also protected applicants and participants from the improper use, by HUD or a PHA, of information obtained from a SWICA, by restricting the use of the information to (1) Verifying an applicant's or participant's eligibility for or level of assistance, or (2) informing the owner that the applicant's or participant's eligibility is uncertain and needs to be verified. The proposed rule prohibited the termination, denial, suspension, or reduction of assistance without independent verification of the wage and claim information. The applicant or participant was required to be notified of adverse findings and given an opportunity to contest them.

The proposed rule also provided that any person who knowingly and willfully requests, or obtains under false pretenses, any wage and claim information concerning an applicant or participant from a SWICA under the rule, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. This penalty applied to officers or employees of HUD, to officers or employees of PHAs, and to any owner (or employee of an owner) responsible for determining eligibility for or level of assistance. Applicants and participants were also provided a right of action for damages and other relief against an officer or employee of any public housing agency or owner (or employee of an owner) if the applicant or participant is affected by (1) A negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments, or in section 303(i) of the Social Security Act, about the person by the officer or employee of the PHA or the owner (or employee of an owner) which is not authorized by section 904, section 303(i), or any implementing regulation or (2) any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation.

Discussion of Public Comments and Changes Made in the Final Rule

The Department received 6 comments on the proposed rule. The commenters included four housing authorities, the Greater Boston Legal Services Housing Unit, and the Massachusetts Law Reform Institute.

Two of the commenters expressed support for the proposed rule. Four of the commenters expressed various concerns about the administrative burden of the regulation, inefficiency of computer matching for income verification purposes, and the need for the rule to contain procedures for contesting adverse eligibility findings derived from information obtained through computer matching. A number of the commenters proposed changes for inclusion in the final rule. The following is a discussion of the comments.

Administrative Burden

Several commenters expressed concern that the requirement that all participants 18 years and older in covered HUD programs be required to sign and submit consent forms annually (e.g. at the next interim or regularly scheduled income reexamination) is too administratively burdensome. One commenter urged that the rule be modified to require tenants to submit consent forms only when a PHA has a reasonable basis to suspect fraudulent activity. Another commenter noted that it is currently using a release, consent, and Privacy Act statement which is signed by every applicant and participant family member 18 years of age or older, and that unless there is a change in the form of that statement, family members are not required to sign a statement again. This commenter stated that it has never encountered objections to this practice from applicants, participants, information sources, or HUD, and recommends that the rule leave the question of how frequently consent forms are to be executed to the local PHA's discretion, as an operating procedure issue. This commenter also advised that the rule's requirement will produce a plethora of documents to be maintained by the PHA.

The Department agrees that the proposed rule's provisions requiring members of a participant family in covered HUD programs to sign and submit consent forms annually may not be necessary to assure access to information. The final rule has been revised accordingly. Under the revised rule, members of applicant families will be required to sign consent forms at the time their eligibility under a covered program is being determined. Members of participant families in a covered program whose participation was initiated before the effective date of this rule will be required to sign and submit consent forms at the next interim or regularly scheduled income reexamination. The final rule also authorizes HUD or the PHA to require the signing and submission of subsequent consent forms by participants who have already signed and submitted initial consent forms, at any time that HUD or the PHA determines a new consent form is necessary. Examples of where the signing and submitting of a subsequent consent would be required is where a consent form has been lost or destroyed, or where HUD or the PHA has determined that the original consent is too old for use in obtaining information.

Effectiveness and Cost-Benefit

Several commenters questioned whether the proposed verification procedures can ever be cost effective through computer matching. One commenter noted that employers in its State report wage and claim information on a quarterly basis, and that by the time the SWICA puts the information in its data base, the information is already 3 to 6 months old. Moreover, since many applicants and participants work temporary jobs, much of the match information will not be current. This commenter recommended that the computer matching aspect of the regulation be eliminated, and that PHAs and owners be authorized to cross-check wage and claim information on a case-by-case basis.

Another commenter felt that it would have to make significant revisions to the housing agency's computer programs, since its reviews of tenant income are conducted on a quarterly basis for administrative purposes, whereas the SWICA data in its State is based on a calendar year. This commenter believed that the time and cost of the necessary computer revisions will be substantial and will require a significant period to implement. A third commenter questioned the utility of a PHA's using HUD to perform a computer match because of a lack of efficiency and the amount of time that would be involved in obtaining the information.

The Department disagrees that computer matching will be inefficient and too costly, and believes the use of computer matching to obtain wage and claim information from SWICAs will contribute significantly to the Department's ability to combat fraud and abuse in its programs. In 1982, the Office of the Inspector General (OIG) conservatively estimated that $200 million is paid out annually to tenants who falsify their eligibility in order to gain a larger assistance payment. It is conservatively estimated that at least 12 percent of HUD-assisted households are able either to gain eligibility or to receive more assistance than allowed by law by underreporting their income or otherwise falsifying their eligibility. In some locations, the percentage may be much higher. In the most recent computer matching efforts by OIG, $14.4 million was underreported to one PHA since 1983, resulting in the tenants' share of rent being underpaid by over $2.9 million. As computer matching becomes more fully implemented, HUD expects similar instances of underpayment to be uncovered, and for the Department to be able to prevent similar losses. Moreover, the Privacy Act, as amended by the Computer Matching and Privacy Protection Act of 1988, requires that HUD justify its computer matches by doing a cost benefit analysis of all computer matches it intends to perform.

Procedures for Termination, Denial, Suspension, or Reduction of Asssistance Based on Information Obtained From a SWICA

Sections 760.30 and 200.1230 of the proposed rule provide procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA. These procedures, in general, would permit the denial, termination, suspension or reduction of assistance based on wage and claim information obtained from a SWICA only after independent verification of the wage and claim information. The rule also will require that applicants and participants be notified, in writing, of any adverse findings made under this rule, and that applicants and participants be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable housing assistance program.

One commenter contended that the requirement to independently verify wage and claim information is burdensome and that PHAs should not be required to contact either employers or applicants or participants before commencing termination proceedings or seeking restitution, since employers are required by law to furnish employee data to SWICAs and such data is generally reliable and should be sufficient to establish a *prima facie* case for termination or restitution. This commenter also noted that applicants

and participants in public housing would have the opportunity to contest the validity of the data at an administrative hearing.

On the other hand, several commenters asserted that with computer matching, despite independent verification, there remains a high incidence of error in the information produced. These commenters recommended that this section be revised to provide specific procedures for contesting findings, in order to avoid error and termination of assistance in circumstances where it is not warranted. One commenter noted that the proposed regulation simply refers to existing procedures for challenging eligibility determinations in each separate HUD program covered by the regulation, and that the rule also fails to follow the Privacy Act requirement that no adverse action can be taken until the expiration of the written notice period required by a program or thirty days (see 5 U.S.C. 552a(p)(3)), whichever is later. This commenter advised that, in the case of some program (e.g., the public housing grievance procedures), the existing mechanisms may be an adequate and fair forum in which to sort out what are essentially factual issues. However, in other programs—particularly the subsidized housing programs—the participant is only entitled to a review by the same owner that made the adverse determination. The commenter counseled that any errors could be identified through the intervention of an independent intermediary, such as a public housing grievance panel.

Section 904(c)(2)(B) of the McKinney Amendments prohibits the termination, denial, suspension, or reduction of assistance of an applicant or participant until appropriate steps have been taken independently to verify the wage and claim information obtained from a SWICA. The proposed rule provided requirements for independent verification as required by the statute. The final rule has been revised to clarify what steps are necessary for independent verification. The final rule is otherwise unchanged, recognizing that independent verification ensures the accuracy of the wage and claim information obtained from the SWICA so as to prevent improper denial, termination, reduction, or suspension of assistance.

Section 904(c)(2)(C) of the McKinney Amendments also requires that applicants and participants be informed of any findings made on the basis of the verified information and that they be given an opportunity to contest these findings, in the same manner as applies to other information and findings relating to eligibility factors under the covered program. The proposed rule reflects these statutory requirements. Since the procedures covered by this rule are intended primarily to augment current income verification procedures and are in no way intended to supplant those procedures, HUD disagrees that new and additional administrative procedures are necessary for contesting adverse findings related to wage and claim information obtained from a SWICA.

The Department agrees that the rule should reflect the Privacy Act requirement that, where HUD, as a Federal agency, conducts a computer match with a SWICA, no adverse action can be taken until the expiration of the written notice period required by the applicable program or thirty days, whichever is later. Where a PHA conducts the computer match, no adverse action can be taken until the expiration of the written notice period required by the applicable program. The final rule has been revised accordingly.

SWICA as Primary Source for Income Verification

One commenter asked what source HUD and the PHA would utilize for verifying incomes of applicants and participants between quarters, since SWICAs will become the primary source for verifying incomes of applicants and participants in HUD programs. This commenter noted that some employment information may not be available to SWICAs before the beginning or end of a quarter. This commenter also felt that the rule was not clear on whether or not it is mandatory for HUD and the PHA to utilize the SWICA's service for income verification of applicants for and participants in HUD programs. Another commenter advised that the time element and cost must be considered, if HUD determines that PHAs must perform computer matches irrespective of whether a reasonable basis exists for doing so.

The rule does not intend that SWICAs be the primary source for verifying the income of applicants for and participants in the covered HUD programs. The procedures covered by this rule are intended to augment current verification procedures used to verify the incomes of applicants and participants. Also, under the rule, neither HUD nor PHAs are required to obtain, through computer matches or otherwise, wage and claim information from SWICAs. If HUD were to require PHAs to perform computer matches with SWICAs in the future, the Department would, of course, take into account the PHAs' time and expense in performing computer matches. HUD may, however, require PHAs to provide the Department with the tenant information necessary for HUD to perform a computer match. The Department has revised the sections of the final rule which discuss the purpose of the rule, to clarify these points.

Moreover, implementation of the rule is intended to proceed as discussed in the preamble to the proposed rule. To review that discussion, a PHA could enter into a computer matching agreement to obtain wage and claim information with a SWICA separately from HUD, or could request that HUD perform the match. No PHA would be required to perform a computer match itself. The HUD Office of Inspector General would be responsible for coordinating initial implementation of computer matches under the regulation. However, in the future, other HUD offices may conduct computer matches under the regulation.

HUD intends to encourage groups of PHAs, or individual PHAs who have the capacity to perform computer matches, to enter into computer matching agreements with SWICAs. Computer matches subject to these agreements could take several forms. For example, some States are willing to allow PHAs on-line access to their SWICA's wage and claim databases. Subject to any regulations issued by the Department of Labor, these PHAs could perform front-end verification by checking the income of an applicant before he or she becomes a tenant by matching the applicant's social security number with the SWICA's wage and claim database These PHAs could also verify a participant's wage and claim information in this manner.

PHAs without on-line access, but with computer matching capability, would also be encouraged to enter into computer matching agreements with SWICAs. HUD would be available to provide technical assistance. PHAs without the capability to handle computer matching could request that HUD perform the computer match for them. HUD would be responsible for determining how and when these matches would be performed. In these cases, PHAs would be expected to provide HUD with a computer tape or diskette containing all relevant applicant and participant data, including social security numbers. PHAs would also have to certify to HUD that applicants and participants subject to a match have signed appropriate consent forms and have been provided with

adequate Privacy Act Notices. HUD would copy the social security numbers of the applicants and participants onto a separate computer-readable media and send it to the SWICA for computer matching. Once a match was completed, HUD would compare the data received from the SWICA with the applicant and participant data received from the PHA.

PHAs that currently receive wage and claim information from SWICAs in less formal ways, such as by individual written request or telephone call, would not be prohibited from continuing these practices. However, all collection and use of wage and claim information by PHAs from SWICAs would be subject to having individual consent by applicants and participants, to the Department of Labor regulations, and to the restrictions and penalties set out in this rule.

In the case of private owner projects where there is no PHA operating as a section 8 contract administrator and for the Section 235 program, HUD would be responsible for establishing and conducting computer matching agreements with SWICAs.

Federal Preemption

Sections 200.1201(c) and 760.1(c) provide for the preemption of any State law, including restrictions and penalties, which governs the collection and use of wage and claim information, to the extent the State law is inconsistent with this rule. (See the preamble of the proposed rule at 54 FR 46513 (Nov. 3, 1989) for a discussion of Federal preemption for purposes of this rule.)

One commenter recommended that, to resolve disputes over the question of whether a particular State law requirement is or is not preempted by the proposed regulation, HUD should establish an administrative mechanism so that PHAs, owners, participants and applicants can obtain a determination from the Office of General Counsel, or from Regional Counsel where appropriate, concerning whether the specific State law provisions at issue pose an impermissible conflict with the regulations or the statute.

The Department believes no special administrative mechanism is needed to determine whether a particular State requirement is or is not preempted by the regulation. In a case where HUD is performing a computer match for a PHA or an owner, HUD will examine any issues that arise with regard to whether a particular State law requirement is preempted by this rule. Where a PHA is performing the computer match with a SWICA, it is expected that the PHA will examine any such issues. The PHA may, of course, consult with HUD.

Consent by Applicants and Participants

Several commenters recommended that an exception be made to the requirement that all applicants and participants sign and submit consent forms for special cases in which a consent form cannot be obtained, or where there must be a delay in getting a form signed. Such occasions can occur when a family member is away, hospitalized, or not competent to sign. One commenter suggested that the rule provide that if there is good cause for failing to submit a consent form by any member of an assisted family, the family's eligibility will be determined in any event, and the household will have to make a good faith effort to produce the consent form as soon as feasible. Another commenter noted that HUD's recent regulation on disclosure and verification of social security numbers (54 FR 39680; Sept. 27, 1989) recognized that similar burdens may arise in the context of obtaining documentation verifying social security numbers, and provided for a 60-day period for the family to provide documentation. This commenter recommended that a similar time period be provided to all applicants and participants so that they can secure the necessary consent.

The Department does not agree that a special exception should be made to the consent form requirement where consent forms cannot be obtained, or where there must be a delay in getting a form signed. There are no such exceptions to the requirement to sign and submit consent forms for verification of income and other information under current regulations, and none has been needed. Moreover, the 60-day period under the social security regulation is to allow applicants and participants sufficient time to get proof of their SSNs. Under the rule, applicants and participants merely have to sign and submit consent forms which are provided by the PHA or owner; there are no other procedures or actions which require additional time.

One commenter noted that proposed §§ 200.1210(b)(4)(i) and 760.10(b)(4)(i) would require that whenever there has been a change in family composition, any new member of the family must sign and submit a consent form at the next interim or regularly scheduled reexamination. This commenter recommended that these sections be amended to make clear that they should only be applied to persons 18 or older. The commenter also suggested that HUD may want to consider whether it is cost-effective, in terms of administrative expense and time, to require the signing and submission of consent forms in elderly and handicapped housing where most households are not employed.

The Department agrees that the rule should be clear concerning the fact that new members of families are only required to sign and submit consent forms where those persons are 18 years old or older. The rule has been revised accordingly. HUD has determined, however, that the signing and submission of consent forms should be required in housing for the elderly and disabled. HUD does not believe that it is appropriate to assume that these people are not employed. Additionally, the signing and submitting of consent forms under this rule is an insignificant burden for applicants and participants.

One commenter noted that § 760.10(b)(4)(iii) would permit public housing authorities, in the case of the Public Housing, Section 8, or Moderate Rehabilitation programs, to prescribe "other circumstances" in which consent forms may be required. The commenter noted that HUD removed similar language in HUD's recent regulation on disclosure and verification of social security numbers, because HUD was given sole authority to implement the statute that provided the authority for that regulation, and a PHA's unfettered discretion to develop guidelines would interfere with HUD's authority. The commenter recommended that PHAs be permitted to exercise authority under § 760.10(b)(4)(3) only in conjunction with administrative instructions from HUD.

The Department has revised the final rule to require, essentially, a one-time signing and submission of consent forms by applicants and participants in the covered programs. (See §§ 200.1210 and 760.10.) The final rule also authorizes HUD or the PHA to require the signing and submission of subsequent consent forms by participants who have already signed and submitted initial consent forms, at any time HUD or the PHA determines a new consent form is necessary. HUD believes it is appropriate for PHAs to have the discretion to determine when subsequent consents are needed to be signed by participants, since the PHAs are responsible for maintaining the consent forms and are in the best position to know when new consents are needed.

Fiscal Impact

Several commenters expressed concern about the cost of computer matching and how payment would be made. One commenter suggested that HUD seek additional funds to defray PHA costs in implementing the income verification program. The commenter

advised that, without further financial assistance, the rule would create further shortfalls in PHA operating subsidies, and increase PHA problems in meeting ordinary operating costs and expenses. Another commenter asked, if the Section 8 programs are administered by a PHA, will the processing fees be paid from the housing assistance payments, or from the PHA's administrative fees? A third commenter questioned whether SWICAs should be allowed to charge PHAs for the wage and claim information, and if such a charge is allowable, how would PHAs charge off the expense of computer matching?

Section 904(c)(1) of the McKinney Amendments provides for reimbursement of costs to SWICAs for providing wage and claim information to HUD and PHAs. For computer matches involving mortgagees under the section 235 Program, owners where there is no PHA operating as a section 8 contract administrator, and for some PHAs, HUD will be conducting the matches. In these cases, HUD will absorb the costs of performing the computer matches. Costs in other cases will be paid through administrative fees, which are already adequate to cover these costs.

Deviations in Income

Section 760.30(b)(1) (i) and (ii) of the proposed rule would provide that if wage and claim information received from an applicant or participant differs from the information obtained from a SWICA, the PHA should begin the process of income verification. Two commenters recommended that the final rule set guidelines for reasonable income deviation levels.

The preamble to the proposed rule advised that HUD or a PHA would not be expected to pursue verification where the differences in income reported are too small to raise an inference of fraud or to justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of assistance. HUD disagrees that the rule should set *specific* guidelines for reasonable income deviation levels. HUD has revised the final rule to provide the flexibility discussed in the proposed rule regarding when HUD, or PHAs, are expected to pursue verification. HUD believes this flexibility is necessary since circumstances, such as the degree of administrative burden for the size of the PHA involved, may dictate differing standards. However, as a rule of thumb, past HUD matches have sometimes used a difference of $3,000 in income as a threshold for further action.

Sharing SWICA Information With an Owner

One commenter believed that the requirements under § 760.30(b) (1) (i), (ii), and (2) are ambiguous regarding the sharing between HUD or a PHA and an owner of wage and claim information received from the SWICA. Can wage and claim information received from the SWICA regarding applicants and participants in HUD programs be shared with owners?

Section 904(c)(2) limits the use of wage and claim information by HUD and PHAs (1) To verifying an applicant's or participant's eligibility for or level of assistance, and (2) in the case of an owner responsible for determining eligibility for or level of assistance, to informing the owner that an applicant's or participant's eligibility for or level of assistance is uncertain and requesting the owner to verify the applicant's or participant's income information. The Department has construed this section as prohibiting HUD or PHAs from providing wage and claim information obtained from SWICAs directly to owners (or mortgagees, as applicable). HUD believes the rule is clear on this matter.

National Bulletin for Fraud

One commenter recommended that the rule include provision for a tracking system that would maintain a list of all tenants who have committed fraud and who have relocated to another HUD project to avoid reimbursement of rental assistance to the Department.

The Department has not examined whether wage and claim information obtained from SWICAs through computer matching under section 904 of the McKinney Amendments can be used in a tracking system for tenants who have committed fraud against the Department. To include such a provision in this rule would require proposed rulemaking, since it would be an addition of a substantive nature, requiring public comment.

Responsibility for Obtaining Information

One commenter stated it believed there is an apparent conflict between the proposed rule and other regulations that place the burden for providing income verification on the family as a condition of admission to or continued occupancy of any assisted unit (e.g. 24 CFR 813.109(b), 882.118(a), 913.109(b), and 966.4(c)(2)). The proposed rule would place a positive burden on a PHA to verify income information from some source other than the SWICA before a denial, termination, suspension, or reduction of assistance. The commenter recommended that the rule be clarified so that it in no way changes the applicant's or participant's responsibilities as detailed in the regulatory sections cited above.

HUD disagrees with this commenter. Participants are responsible for providing income information. On the other hand, income verification has always been the responsibility of the PHA or owner, and this rule does nothing to change that.

Need for the Rule

One commenter questioned the need for the rule, since the commenter believed there is already adequate regulatory authority for obtaining and verifying employee income information.

The Department believes this rule is necessary since section 904 of the McKinney Amendments provides new and specific requirements with regard to the obtaining of wage and claim information from SWICAs. These requirements are complex and this rule is designed to provide the necessary guidance for proper implementation.

Other Issues

The following is a discussion of other changes the Department has made to the regulation.

Title of the Regulation

The title has been changed from "Income Verification Procedures for Applicants and Participants in HUD Programs" to "Procedures for Obtaining Wage and Claim Information from State Wage Information Collection Agencies." HUD believes this title conveys a more accurate description of the content of this rule than did the previous title.

Computer Matching Agreements

Section 760.25(c) would require a PHA to submit its computer matching agreement to HUD for review and approval before entering into the agreement with a SWICA.

HUD has removed from the final rule the requirement for HUD approval of computer matching agreements, since it believes that this is an unnecessary additional administrative requirement. PHAs should consult their own attorneys with regard to the adequacy of the computer matching agreement, especially with regard to State law. This will free HUD from reviewing State laws. The rule continues to specify provisions that need to be contained in the computer matching agreement.

Consent Forms and Privacy Act Notices

HUD has made several changes to the rule to ensure the adequacy of consent

forms being used. With regard to obtaining wage and claim information from SWICAs, the rule now requires that the consent form authorize HUD or the PHA (as applicable) to obtain information or materials from SWICAs that it needs to complete or verify the application for participation or continued assistance of applicants and participants under the covered programs. With regard to employee income information, the consent form must explicitly authorize HUD, PHAs or the owner (or mortgagee, as applicable) to obtain employee income information from current or previous employers. Under a separate notice, HUD intends to issue a specific consent form for use under this rule.

The requirement of a specific consent provision (and in the future, a specific consent form) is to ensure that applicants and participants have adequate notice that they have consented to the disclosure of wage and claim information. This will allow HUD to perform computer matches while relying on certifications, made by owners (and mortgagees, as applicable) and PHAs, that applicants and participants have signed adequate consent forms. SWICAs, in turn, can rely on these certifications to perform computer matches without requiring actual production of the individual consents. The final rule requires owners, mortgagees, and PHAs to certify to HUD that all applicants and participants who are subject to a computer match to be conducted by HUD have signed an adequate consent form.

The rule has also been revised to require that all applicants and participants in the covered programs be provided with a Privacy Act notice. The Privacy Act (5 U.S.C. 552a(e)(3)), as amended by the Computer Matching and Privacy Protection Act of 1988, requires, in general, the applicable Federal agency to inform each individual from whom it seeks information, on the form which it uses to collect the information or on a separate form that can be retained by the individual, concerning: (1) The authority which authorizes the solicitation of information, and whether disclosure of such information is mandatory or voluntary, (2) the principal purpose or purposes for which the information is intended to be used, (3) the routine uses which may be made of the information, and (4) the effects on the participant, if any, of not providing all or any part of the information. Further, each Privacy Act notice must include reference to mandatory social security numbers and notification that computer matching may be done to verify the information that has been provided.

Since HUD must comply with the Privacy Act in performing its computer matches, the requirement in the rule that all covered applicants and participants be provided with a Privacy Act notice will allow HUD to perform computer matches while relying on certifications made by owners and PHAs that applicants and participants have received a Privacy Act notice. The final rule requires owners, mortgagees, and PHAs to certify to HUD that all applicants and participants, subject to a computer match to be conducted by HUD, have received a Privacy Act notice.

Since participants are asked to give information at annual recertifications, Privacy Act notices should be provided to participants at each annual recertification. Privacy Act notices must also be provided to applicants at time of application. The Privacy Act notice may be provided to applicants and participants as part of a consent form under this rule, or in a separate document.

Inclusion of the Section 235 Program

The final rule includes the section 235 program. Section 904 of the McKinney Amendments provides HUD with authority to implement the requirements of that section as a condition of initial or continuing eligibility for participation in any HUD program involving initial and periodic review of an applicants or participant's income. The section 235 program involves initial and periodic review of an applicant's or participant's income, and HUD has exercised its discretion under section 904 to include the section 235 program under this rule.

Section 235 of the National Housing Act authorizes HUD to make monthly payments to mortgagees in order to reduce effective interest costs to aid lower income families in homeownership. This section requires mortgagors to meet certain initial eligibility requirements, including having an annual income within limits prescribed by HUD, and to recertify annually. Under the final rule, applicants are required to sign and submit consent forms as a condition of eligibility for the program. Participants are required to sign and submit consents at their next interim or regularly scheduled income reexamination. HUD will be responsible for performing any computer matching programs for the section 235 program.

Findings and Certifications

Environment

A Finding of No Significant Impact with respect to the environment has been 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. The Finding of No Significant Impact is available for public inspection during regular business hours (7:30 a.m. to 5 p.m. weekdays) in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

Major Rule

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule requires applicants and participants in certain HUD programs to sign consent forms permitting (1) HUD, the PHA, or the owner to verify employee income information, and (2) HUD or the PHA to request wage and claim information from a SWICA. The costs of complying with this requirement and collection of the information will be slight, since verification of family income is already required.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule would not (if implemented) have federalism implications and, thus, are not subject to review under the Order. Although section 904 preempts

certain State privacy acts which might otherwise interfere with the ability of HUD and PHAs to collect wage and claim information about applicants and participants in HUD programs from SWICAs, the extent of the preemption is the minimum necessary to accomplish the goals of section 904 in the collection of the information. (See the preamble of the proposed rule at 54 FR 46513 (Nov. 3, 1989) for a discussion of Federal preemption for purposes of this rule.) Moreover, the only entities subject to the rule that are covered by the Order are PHAs and SWICAs. PHAs would be affected in their role as "processing entities." Since PHAs already perform significant functions in this role with respect to providing HUD assistance to applicants and participants, the additional burden of requiring applicants and participants to sign consent forms and of collecting information pursuant to the consent appears to be insubstantial. Under section 303(i) of the Social Security Act, as amended by section 904 of the McKinney Amendments, SWICAs are required to provide wage and claim information to HUD and PHAs. Since HUD anticipates the information will be collected through a computer matching program, the burden on the SWICAs should be small. SWICAs are also to be reimbursed for this activity.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. Under the rule, applicants and participants, and adult members of their families, are required to sign and submit consent forms authorizing the verification or collection of certain information necessary for determining eligibility for or level of assistance under the covered programs. Consent forms to permit verification of information provided by the family are already required. This rule adds an insignificant additional burden for applicants and participants, and will help ensure that scarce housing assistance will be targeted to the truly needy.

Semiannual Agenda of Regulations

This rule was listed as item number 1163 in the Department's Semiannual Agenda of Regulations published on October 29, 1990 (55 FR 44530, 44541) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance

The catalog of Federal Domestic Assistance program numbers are 14.103, 14.135, 14.137, 14.149, 14.156, 14.157, 14.177, 14.850, 14.851, and 14.852.

Information Collection Requirements

The collection of information requirements contained in this rule were reviewed by OMB under section 3504(h) of the Paperwork Reduction Act of 1980. Virtually all of the sections of this final rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN INCOME VERIFICATION PROCEDURES FOR APPLICANTS AND PARTICIPANTS IN HUD PROGRAMS [1]

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondent	Total annual responses	Hours per responses	Total hours
Consent form allowing: (1) HUD or Public Housing Authority, (PHA) or owner to verify employee income information with previous or current employees; (2) HUD or the PHA to request wage and claim information from the State Wage agency responsible for the administration of the State Unemployment Law State Wage Information Collection Agency (SWICA). (2502-0204).	200, 215, 221, 236, 247, 290, 760, 880, 881, 883, 884, 885, 886	2,171,256	4	8,685,024	.016	138,960
Consent form allowing: (1) HUD or PHA or owner to verify employee income information with previous or current employers; (2) HUD or the PHA to request wage and claim information from State Wage agency responsible for the administration of the State Unemployment Law (SWICA). (2577-0083).	760, 813, 882, 887, 900, 904, 905, 913 960	2,640,000	4	10,560,000	.016	168,960
Consent form allowing: (1) HUD or the mortgagee to verify employee income information with previous or current employees; (2) HUD to request wage and claim information from the State Wage agency responsible for the administration of the State Unemployment Law (SWICA). (2502-0190).	235	55,000	1.25	68,750	.016	1,100
Consent form allowing: (1) HUD or the mortgagee to verify employee income information with previous or current employees; (2) HUD to request wage and claim information from the State Wage agency responsible for the administration of the State Unemployment Law (SWICA). (2502-0082).	235	150,000	1.25	187,500	.016	3,000
OIG Request for SWICA to provide wage and claim information, (includes computer match agreement and running magnetic tape against State Wage database). (2508-0008).		53	1	53	16	848
Total annual burden						312,868

[1] The annual reporting burden for OMB clearance numbers (2502-0204), (2502-0082), (2577-0083), and (2502-0190) on this table was included in the calculation of annual burden at the most recent approval of each and does not represent an increase in the HUD information collection inventory.

List of Subjects

24 CFR Part 200

Administrative practice and procedure,
Claims,
Housing standards,
Loan programs: Housing and community development,
Mortgage insurance,
Organization and functions (Government agencies),
Reporting and recordkeeping requirements,
Minimum property standards,
Incorporation by reference.

24 CFR Part 215

Grant programs: Housing and community development,
Rent subsidies.

24 CFR Part 221

Condominiums,
Low and moderate income housing,
Mortgage insurance,
Displaced families,
Single family housing,
Projects,
Cooperatives.

24 CFR Part 235

Condominiums,
Cooperatives,
Low and moderate income housing,
Mortgage insurance,
Homeownership.

24 CFR Part 236

Low and moderate income housing,
Mortgage insurance,
Rent subsidies,
Taxes,
Utilities,
Projects.

24 CFR Part 247

Low and moderate income housing,
Public housing,
Tenant eviction.

24 CFR Part 290

Mortgage insurance,
Low and moderate income housing.

24 CFR Part 760

Certain housing assistance programs,
Income verification procedures.

24 CFR Part 813

Low and moderate income housing.

24 CFR Part 880

Grant programs: Housing and community development,
Rent subsidies,
Low and moderate income housing,
New construction.

24 CFR Part 881

Grant programs: Housing and community development,
Rent subsidies,
Low and moderate income housing.

24 CFR Part 882

Grant programs: Housing and community development,
Housing,
Mobile homes,
Rent subsidies,
Low and moderate income housing.

24 CFR Part 883

Grant programs: Housing and community development,
Rent subsidies,
New construction and substantial rehabilitation,
Low and moderate income housing.

24 CFR Part 884

Grant programs: Housing and community development,
Rent subsidies,
Rural areas,
Low and moderate income housing.

24 CFR Part 885

Grant programs: Housing and community development,
Aged,
Handicapped,
Loan programs: Housing and community development.

24 CFR Part 886

Grant programs: Housing and community development,
Low and moderate income housing,
Rent subsidies.

24 CFR Part 887

Grant programs: Housing and community development,
Housing,
Rent subsidies,
Low and moderate income housing.

24 CFR Part 900

Housing assistance payments: New construction and substantial rehabilitation,
Guaranteed/insured loans.

24 CFR Part 904

Grant programs: Housing and community development,
Loan programs: Housing and community development,
Low and moderate income housing,
Public housing,
Homeownership.

24 CFR Part 905

Grant programs: Housing and community development,
Grant programs: Indians,
Indian housing,
Loan programs: Indians,
Low and moderate income housing,
Public housing,
Homeownership.

24 CFR Part 913

Public housing,
Indian housing.

24 CFR Part 960

Public housing.

Accordingly, 24 CFR parts 200, 215, 221, 235, 236, 247, 290, 813, 880, 881, 882, 883, 884, 885, 886, 887, 900, 904, 905, 913, and 960 would be amended, and new 24 CFR part 760 would be added, to read as follows:

PART 200—INTRODUCTION

1. The authority citation for part 200 is revised to read as follows:

Authority: Titles I, II, National Housing Act (12 U.S.C. 1701–1715z–18); sec. 7(d), Department of Housing and Urban Development Act (12 U.S.C. 3535(d)). Subparts T and U are also issued under sec. 165, Housing and Community Development Act of 1987 (42 U.S.C. 3543). Subpart V is also issued under sec. 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544). Subparts T and V are also issued under sec. 101, Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and sec. 203, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–11).

2. Part 200 is amended by adding a new subpart V, to read as follows:

Subpart V—Procedures for Obtaining Wage and Claim Information About Applicants and Participants in HUD's Assisted Mortgage and Loan Insurance and Related Programs From State Wage Information Collection Agencies (SWICAs)

Sec.

200.1201 Summary, purpose, and Federal preemption.
200.1203 Applicability.
200.1205 Definitions.
200.1210 Consent by applicants and participants.
200.1215 Penalties for failing to sign consent forms.
200.1220 Compliance with the Privacy Act and other requirements.
200.1225 Request for wage and claim information from SWICAs and restrictions on the use of the information.
200.1230 Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA.
200.1235 Criminal and civil penalties.
200.1240 Effective date of rule.

Subpart V—Procedures for Obtaining Wage and Claim Information About Applicants and Participants in HUD's Assisted Mortgage and Loan Insurance and Related Programs From State Wage Information Collection Agencies (SWICAs)

§ 200.1201 Summary, purpose, and Federal preemption.

(a) *Summary.* (1) This part implements section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 ("McKinney Amendments") as it pertains to the assisted mortgage and loan insurance and related programs administered by the Department of Housing and Urban Development under subchapter B of this chapter. The programs covered by this subpart include the following: Rent Supplements under 24 CFR part 215; management of HUD-acquired multifamily properties under 24 CFR part 290; the rental assistance programs under sections 221(d)(3) and 236 of the National Housing Act; and the mortgage assistance program under section 235 of the National Housing Act. Section 904 is implemented for most of the housing assistance programs administered by HUD under 24 CFR chapters VIII and IX, at 24 CFR part 760.

(2) This part requires applicants and participants in the covered programs to sign consent forms authorizing:

(i) HUD or the owner (or mortgagee, where applicable) to verify employee income information; and

(ii) HUD to request a SWICA to release wage and claim information.

The failure of any person to sign these consent forms constitutes grounds for denial of assistance, or termination of assistance or tenancy (or both), for the covered program.

(3) This part restricts the use of information received by HUD from a SWICA to—

(i) Verifying an applicant's or participant's eligibility for or level of assistance; or

(ii) Informing the owner (or mortgagee, where applicable) that an applicant's or participant's eligibility for or level of assistance is uncertain and needs to be verified.

This part prohibits termination, denial, suspension, or reduction of assistance without prior independent verification of wage and claim information obtained from a SWICA. The applicant or participant shall then be notified of any adverse findings and given an opportunity to contest them.

(4) This part provides criminal and civil penalties for certain wrongful or negligent actions under this part.

(b) *Purpose.* The purpose of this part is to enable HUD to obtain wage and claim information about applicants and participants in the covered programs through computer matches with SWICAs in order to verify an applicant's or participant's eligibility for or level of assistance and help decrease the incidence of fraud, waste, and abuse in these programs. The procedures covered by this part are intended primarily to augment current income verification procedures and/or requirements, and are in no way intended to supplant or otherwise affect those procedures and/or requirements.

(c) *Federal preemption.* This part preempts any State law, including restrictions and penalties, which governs the collection and use of employee income information and wage and claim information, to the extent it is inconsistent with this part.

§ 200.1203 Applicability.

(a) *Information to be covered by consent forms.* The information covered by consent forms described in this part involves employee income information and wage and claim information from a SWICA. In addition, consent forms may authorize the collection of other information, including information which can be obtained under other laws, regulations, and handbooks.

(b) *Programs covered.* This part applies to the following housing assistance programs contained in subchapter B of this chapter:

(1) Part 215, Rent Supplement Payments.

(2) Part 221, Low Cost and Moderate Income Mortgage Insurance.

(3) Part 235, Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation.

(4) Part 236, Mortgage Insurance and Interest Reduction Payments for Rental Projects.

(5) Part 290, Management and Disposition of HUD-Owned Multifamily Housing Projects.

§ 200.1205 Definitions.

As used in this part:

Applicant means an applicant for assistance under the programs referred to in § 200.1203.

Claim information means information regarding:

(a) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(b) The amount of compensation the individual is receiving or is entitled to receive; and

(c) The period or periods when, or with respect to which, the individual actually received such compensation.

Consent form means a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from a SWICA or other information which can be obtained under other laws, regulations and handbooks.

Employee income information means all the information known to current or previous employers which HUD or the processing entity determines is necessary for purposes of determining an applicant's or participant's eligibility for or level of assistance in a covered program.

HUD means the United States Department of Housing and Urban Development.

Mortgagee means the original lender under a mortgage, and its successors and such of its assigns as are approved by the Federal Housing Commissioner, that receive assistance payments from the Secretary on behalf of eligible mortgagors or cooperative members pursuant to section 235 of the National Housing Act.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

Participant means a family receiving assistance under a program referred to in § 200.1203.

Processing entity means the person or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the programs referred to in § 200.1203.

Scheduled income reexamination has the following meaning for the programs referred to in § 200.1203.

(a) *Parts 215, 221, 235, and 236:* The regularly scheduled reexamination of participant income.

(b) *Part 290:* Income certification as provided by § 290.17(e).

State Wage Information Collection Agency (SWICA) means the SWICA receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor to be as effective and timely in providing employment related income and eligibility information.

Wage information means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one), name of the employee, quarterly wages of the employee, and the name, address, State,

telephone number, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

§ 200.1210 Consent by applicants and participants.

(a) *Required consent by applicants and participants.* The following individuals shall sign one or more consent forms authorizing HUD or the owner (or mortgagee, as applicable) to verify employee income information, and HUD to request a SWICA to release wage and claim information:

(1) Each member of an applicant family who is at least 18 years of age, including each family head and spouse regardless of age; and

(2) Each member of a participant family who is at least 18 years of age, including each family head and spouse regardless of age.

(b) *Consent authorization: to whom and when*— (1) *Consent by applicants.* Applicants shall sign the consent forms and submit them to the processing entity when their eligibility under a program referred to in § 200.1203 is being determined. Applicants shall be responsible for the signing and submitting of consent forms by applicable family members.

(2) *Initial consent by participants.* If participation for a program referred to in § 200.1203 was initiated before the effective date of the part, participants, including applicable members of their family, shall sign and submit consent forms at the next interim or regularly scheduled income reexamination. Participants shall be responsible for the signing and submitting of consent forms by family members.

(3) Subsequent consent forms to be signed at the next interim or regularly scheduled income reexamination—special cases. Consent forms are required under the following circumstances:

(i) Where there has been a change in the composition of the participant's family, any new member of the family 18 years or older shall sign and submit a consent form at the next interim or regularly scheduled reexamination;

(ii) When a member of a family turns 18 years of age, that member shall sign and submit a consent form at the next interim or regularly scheduled reexamination;

(iii) Once a participant has submitted signed consent forms as an applicant or as a preexisting participant, subsequent consent forms are required to be signed and submitted at the next interim or regularly scheduled income reexamination as required by HUD.

(c) *Consent form requirements.* The consent form required by this subpart shall contain, at a minimum, provisions authorizing:

(1) HUD to obtain from SWICAs any information or materials necessary to complete or verify the application for participation and/or to maintain continued assistance under a program referred to in § 200.1203; and

(2) HUD or the owner (or mortgagee, as applicable) responsible for determining eligibility for or level of assistance, to verify with previous or current employers employee income information pertinent to the applicant's or participant's eligibility for or level of assistance under a program referred to in § 200.1203.

These requirements may be contained in more than one consent form.

§ 200.1215 Penalties for failing to sign consent forms.

(a) *Denial of assistance.* The processing entity shall deny assistance to an applicant, in accordance with the provisions governing the program involved, if the applicant, or any member of the applicant's family, does not sign and submit the consent forms as required in § 200.1210.

(b) *Termination of assistance or tenancy.* It shall be considered grounds for termination of assistance, and (as provided by the individual program covered by this part) the tenancy of a participant, in accordance with the provisions governing the program involved, if the participant, or any member of the participant's family, fails to sign and submit the consent forms as required in § 200.1210.

(c) *Cross references.* Individuals should consult the regulations and administrative instructions for the programs referred to in § 200.1203 for further information on the use of employee income information and wage and claim information in determining the eligibility of applicants and the continued eligibility of participants.

§ 200.1220 Compliance with the Privacy Act and other requirements.

(a) *Compliance with the Privacy Act.* The collection, maintenance, use, and dissemination of employee income information and wage and claim information under this part shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

(b) *Privacy Act notice.* All applicants shall be provided with a Privacy Act notice at the time of application. All participants shall be provided with a Privacy Act notice at each annual income recertification.

§ 200.1225 Request for wage and claim information from SWICAs and restrictions on the use of the information.

(a) *Information available from SWICA—to whom and what.* HUD may, after signed consent forms have been submitted to the processing entity by an applicant or participant, request wage and claim information from a SWICA. The processing entity shall certify to HUD that the applicable applicants and participants have signed consent forms meeting the requirements of § 200.1210(c) and have received a Privacy Act Notice as required by § 200.1220(b). Regulations prescribed by the Secretary of Labor govern how often and in what form information may be disclosed by a SWICA.

(b) *Restrictions on use of wage and claim information obtained from SWICA.* HUD may only use wage and claim information obtained from a SWICA:

(1) To verify an applicant's or participant's eligibility for or level of assistance; or

(2) In the case of an owner (or mortgagee, as applicable), to inform the owner (or mortgagee) that an applicant's or participant's eligibility for or level of assistance is uncertain and needs to be verified.

(Approved by the Office of Management and Budget under control number 2508-0008)

§ 200.1230 Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA.

(a) *Termination, denial, suspension, or reduction of assistance.* Assistance may terminated, denied, suspended, or reduced for an applicant or participant based on wage and claim information obtained from a SWICA if:

(1) The steps contained in paragraph (b) of this section have been taken to independently verify wage and claim information relating to:

(i) The amount of the wages or unemployment compensation involved;

(ii) Whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use; and

(iii) The period or periods when, or with respect to which, the applicant or participant actually received the wages or benefits; and

(2) The applicant or participant has been given an opportunity to contest any adverse findings in accordance with paragraph (c) of this section.

(b) *Procedures for independent verification.* Independent verification may be satisifed by any of the following procedures:

(1) *Verification by HUD.* Upon receiving wage and claim information from a SWICA, HUD shall compare this information with the information about a family's income obtained by the owner (or mortgagee, as applicable) from the applicant or participant or from his or her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant, or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, HUD may request the undisclosed employer or other employer to furnish, in writing, to the owner (or mortgagee, as applicable) or to HUD any information HUD determines to be necessary for purposes of having the owner (or mortgagee) redetermine an applicant's or participant's eligibility for or level of assistance in a covered program. HUD may also verify wage and claim information obtained from a SWICA by checking the accuracy of the information with the applicant or participant directly.

(2) *Verification by owner (or mortgagee, as applicable).* Based on the wage and claim information, HUD may inform an owner (or mortgagee, as applicable) that an applicant's or participant's eligibility for or level of assistance is uncertain and needs to be verified. The owner (or mortgagee) shall then reverify the applicant's or participant's income information by checking the accuracy of the information with the employer or directly with the family. HUD may not disclose wage and claim information obtained from a SWICA directly to an owner.

(c) *Opportunity to contest.* HUD or the owner (or mortgagee, as applicable) shall promptly notify any applicant or participant, in writing, of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section. Termination, denial, suspension, or reduction of assistance shall be carried out in accordance with requirements and procedures applicable to the individual covered program, and shall not be required until the expiration of any notice period provided by the program's law or regulations, or 30 days from the date of the notice, whichever is later. Any determination or redetermination of family income made on the basis of information verified in accordance with paragraph (b) of this section shall also be carried out in accordance with the requirements and procedures applicable to the individual covered program. This notice required by this subsection shall run concurrently with any other notice required by any other law, regulation, or handbook. The applicant or participant shall be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to determination of family income or composition under the applicable housing assistance program.

§ 200.1235 Criminal and civil penalties.

(a) *Criminal penalties.* Any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA pursuant to this part, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" for purposes of this paragraph shall include an officer or employee of HUD and any owner or mortgagee (or employee of an owner or mortgagee) responsible for determining eligibility for or level of assistance.

(b) *Civil penalties.* Any applicant or participant affected by:

(1) A negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act about the applicant or participant by an officer or employee of any PHA or owner (or mortgagee, as applicable), which disclosure is not authorized by section 904, section 303(i), or any implementing regulation; or

(2) Any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation; may bring a civil action for damages and such other relief as may be appropriate against any owner or mortgagee (or employee of an owner or mortgagee) responsible for any such unauthorized action. Authorized use of employee income information includes any use of the information determined by HUD or an owner (or mortgagee, as applicable) to be necessary for determining eligibility for or level of assistance in a covered program and not prohibited by any Federal or State law. Jurisdiction of such a case is in the United States district court in the district in which the affected applicant or participant resides, in which the unauthorized action occurred, or in which the applicant or participant alleged to be responsible for the unauthorized action resides. Appropriate relief that may be ordered by the district court shall include reasonable attorney fees and other litigation costs.

§ 200.1240 Effective date of rule.

(a) *Applicants.* The provisions of this part, and the conforming changes made with respect to consent forms in the regulations governing the programs referred to in § 200.1203, apply to all applicant eligibility determinations initiated on or after the effective date of this rule.

(b) *Participants.* The provisions of this part, and the conforming changes made with respect to the execution of consent forms for participants in the regulations governing the programs referred to in § 200.1203, apply to each interim or regularly scheduled reexamination of the income of a participant initiated by the processing entity on or after the effective date of this rule.

PART 215—RENT SUPPLEMENT PAYMENTS

3. The authority citation for 24 CFR part 215 continues to read as follows:

Authority: Sec. 101(g), Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. In § 215.20, paragraph (b)(2) is revised to read as follows:

§ 215.20 Qualified tenant.

* * * * *

(b) * * *

(2) For requirements covering the disclosure and verification of Social Security Numbers by individuals and families, see part 200, subpart T, of this chapter. For requirements regarding the signing and submitting of consent forms by individuals and families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter.

* * * * *

5. Section 215.55 is revised to read as follows:

§ 215.55 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and family composition of all Qualified Tenants at least once every 12 months. After consultation with the Qualified Tenant and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with § 215.45 and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the

Rent Supplement payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the Qualified Tenant to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 200, subpart T of this chapter. For requirements regarding the signing and submitting of consent forms by individuals and families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter.

(b) *Interim reexaminations.* The Qualified Tenant must comply with provisions in its lease regarding interim reporting of changes in income or family composition. If the owner receives information concerning a change in the Qualified Tenant's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the Qualified Tenant and make adjustments determined to be appropriate. Any change in the Qualified Tenant's income or other circumstances that would result in an adjustment in the Total Tenant Payment, Tenant Rent, and the Rent Supplement Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for disclosure and verification of Social Security Numbers for interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by individuals and families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter.

(c) *Termination of assistance.* A Qualified Tenant's eligibility for Rent Supplement Payments continues until the Total Tenant Payment equals the Gross Rent. The rent charged at that point may not exceed the market rent approved by the Secretary. The termination of eligibility at such point will not affect the Qualified Tenant's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, assistance also may be terminated in accordance with any requirements of the lease or with HUD requirements, including the failure of the Qualified Tenant to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 200, subpart T of this chapter, and the failure of the Qualified Tenant to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 200, subpart V of this chapter.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

6. The authority citation for part 221 continues to read as follows:

Authority: Secs. 211, 221 National Housing Act (12 U.S.C. 1715b, 1715*l*); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 221.544(a)(3) is also issued under sec. 201(a), National Housing Act (12 U.S.C. 1707(a)).

7. In § 221.537, a new paragraph (g) is added, to read as follows:

§ 221.537 Additional occupancy requirements; preferred purchasers or tenants.

* * * * *

(g) *Signing of consent forms for income verification.* Upon determining an individual's or family's eligibility for initial occupancy under paragraph (a) of this section, and at any subsequent reexamination of a tenant's income for continued occupancy under paragraph (b) of this section, the mortgagor must require the individual or family, or the tenant (as appropriate), to sign and submit consent forms for obtaining information from State Wage Information Collection Agencies, as provided by part 200, subpart V, of this chapter. Failure of the individual or family, or the tenant (as appropriate), to meet such requirements will constitute grounds for denying its eligibility for initial occupancy, or for terminating its tenancy, in accordance with the Commissioner's administrative instructions and, if applicable, part 200, subpart V, of this chapter.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

8. The authority citation for part 235 continues to read as follows:

Authority: Sections 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

9. In § 235.10, paragraph (e) is revised to read as follows:

§ 235.10 Eligible mortgagors.

* * * * *

(e) To be eligible under this part, the mortgagor or cooperative member must meet the requirements for the disclosure and verification of Social Security Numbers, as provided by part 200, subpart T, of this chapter. For requirements regarding the signing and submitting of consent forms by mortgagors and cooperative members for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter.

* * * * *

10. In § 235.350, a paragraph (d) is revised to read as follows:

§ 235.350 Mortgagor's required recertification.

* * * * *

(d) The homeowner must meet the disclosure and verification requirements for Social Security Numbers in connection with any recertification under this section, as provided by part 200, subpart T, of this chapter. For requirements regarding the signing and submitting of consent forms by homeowners for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter.

* * * * *

11. In § 235.375, paragraphs (b)(4) and (e) are revised to read as follows:

§ 235.375 Termination, suspension, or reinstatement of the assistance payment contract.

* * * * *

(b) * * *

(4) The mortgagee is unable to obtain from the homeowner (or from the cooperative association on behalf of the cooperative member) a required recertification of occupancy, employment, income, and family composition, and (if required) disclosure and verification of Social Security Numbers, as prescribed in § 235.350, and (if required) signed consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as prescribed in § 235.350.

* * * * *

(e) *Reinstatement.* Where the assistance payments contract is suspended, it may be reinstated by the Secretary at the Secretary's discretion and on such conditions as the Secretary may prescribe. To be eligible for reinstatement under this section, the mortgagor or cooperative member must meet the requirements for the disclosure and verification of Social Security Numbers, as provided by part 200, subpart T, of this chapter, and the requirements for the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection

Agencies, as provided by part 200, subpart V of this chapter.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

12. The authority citation for part 236 continues to read as follows:

Authority: Sections 211, 236, National Housing Act (12 U.S.C. 1715b, 1715z–1); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

13. In § 236.70, paragraph (a)(1) is revised to read as follows:

§ 236.70 Occupancy requirements.

(a)(1) In processing applications for admission, the housing owner will determine eligibility in accordance with procedures prescribed by the Commissioner, including those specified for the disclosure and verification of Social Security in part 200, subpart T, of this chapter and those specified for the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies as provided by part 200, subpart V, of this chapter.

* * * * *

14. Section 236.80 is revised to read as follows:

§ 236.80 Reexamination of income.

(a) *Regular reexaminations.* The owner must reexamine the income and family composition of all Qualified Tenants at least once every 12 months. After consultation with the Qualified Tenant and upon verification of the information, the owner must make appropriate adjustments in the Tenant Rent (or Total Tenant Payment for tenants receiving the benefit of Rental Assistance Payments) in accordance with § 236.55 or § 236.735, and determine whether the Qualified Tenant's unit size is still appropriate. The owner must adjust Tenant Rent and the Rental Assistance Payment, if applicable, to reflect any change in Total Tenant Payment, and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 200, subpart T of this chapter. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter.

(b) *Interim reexaminations.* The Qualified Tenant must comply with provisions in its lease regarding interim reporting of changes in income or family composition. If the owner receives information concerning a change in the Qualified Tenant's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the Qualified Tenant and make adjustments determined to be appropriate. Any change in the Qualified Tenant's income or other circumstances that would result in an adjustment in the Rental Assistance Payment or Tenant Rent must be verified. See 24 CFR 200.1015(d)(2)(i) for the requirements for disclosure and verification of Social Security Numbers for interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter.

(c) *Termination of assistance.* A Qualified Tenant loses eligibility for assistance when the Tenant Rent (Total Tenant Payment for tenants receiving the benefit of Rental Assistance Payments) equals the Basic Rent (Gross Rent for RAP tenants). The termination of eligibility at such point will not affect the Qualified Tenant's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the contract. However, assistance or eligibility to pay below Market Rent also may be terminated in accordance with any requirements of the lease or with HUD requirements, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 200, subpart T, of this chapter, and the failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 200, subpart V, of this chapter.

* * * * *

15. Section 236.710 is revised to read as follows:

§ 236.710 Qualified tenant.

The benefits of rental assistance payments are available only to an individual or a family renting a dwelling unit in a project that is subject to a contract under this subpart or occupying such a dwelling unit as a cooperative member. To qualify for such benefits, the individual or family must satisfy the definition of Qualified Tenant found in § 236.2 of subpart A. In order to receive rental assistance under this subpart, it must have been determined that the income of the individual or family is too low to permit the individual or family to pay the approved Gross Rent with 30 percent of such individual's or family's Adjusted Monthly Income, as defined in subpart A. For requirements concerning the disclosure and verification of Social Security Numbers, see part 200, subpart T of this chapter. For requirements regarding the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter.

* * * * *

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

16. The authority citation for part 247 continues to read as follows:

Authority: Sec. 101, Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); secs. 211, 221, 236, National Housing Act (12 U.S.C. 1715b, 1715*l*, 1715z–1); sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

17. In § 247.3, paragraph (c) is revised to read as follows:

§ 247.3 Entitlement of tenants to occupancy.

* * * * *

(c) *Material noncompliance.* The term "material noncompliance with the rental agreement" includes:

(1) One or more substantial violations of the rental agreement;

(2) Repeated minor violations of the rental agreement that:

(i) Disrupt the livability of the project,

(ii) Adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities,

(iii) Interfere with the management of the project, or

(iv) Have an adverse financial effect on the project;

(3) Failure of the tenant to timely supply all required information on the income and composition, or eligibility factors, of the tenant household (including, but not limited to, failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 200, subpart T, or 24 CFR part 750 (as appropriate), or failure to sign and submit consent forms for the obtaining of wage and claim information from

State Wage Information Collection Agencies, as provided by 24 CFR part 200, subpart V, or 24 CFR part 760 (as appropriate)), or to knowingly provide incomplete or inaccurate information; and

(4) Non-payment of rent or any other financial obligation due under the rental agreement (including any portion thereof) beyond any grace period permitted under State law, except that the payment of rent or any other financial obligation due under the rental agreement after the due date, but within the grace period permitted under State law, constitutes a minor violation.

* * * * *

PART 290—MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

18. The authority citation for part 290 continues to read as follows:

Authority: Secs. 202, 203, 204, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1b, 1701z–11, 1701z–12); secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

19. In § 290.17, a new paragraph (g) is added, to read as follows:

§ 290.17 Rental rates during ownership by HUD.

* * * * *

(g) *Signing of consent forms for income verification.* Any certifications or reexaminations of the income of tenants or prospective tenants in connection with tenancy under this section are subject to the requirements for the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 200, subpart V, of this chapter.

* * * * *

20. 24 CFR chapter VII is amended by adding a new part 760, to read as follows:

PART 760—PROCEDURES FOR OBTAINING WAGE AND CLAIM INFORMATION ABOUT APPLICANTS AND PARTICIPANTS IN HUD'S SECTION 8 AND PUBLIC HOUSING PROGRAMS FROM STATE WAGE INFORMATION COLLECTION AGENCIES (SWICAs)

Subpart A—General

Sec.

760.1 Summary, purpose, and Federal preemption.
760.3 Applicability.
760.5 Definitions.

Subpart B—Conditions Governing Collection and Use of Information Obtained Pursuant to Consent Forms

760.10 Consent by applicants and participants.
760.15 Penalties for failing to sign consent forms.
760.20 Compliance with the Privacy Act and other requirements.
760.25 Request for wage and claim information from SWICAs and restrictions on the use of the information.
760.30 Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA.
760.35 Criminal and Civil Penalties.

Subpart C—Implementation

760.40 Effective date of rule.

Authority: Sec. 904, Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544), sec. 3, 6, 8, 205, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437f, 1437ee); sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 760.1 Summary, purpose, and Federal preemption.

(a) *Summary.* (1) This part implements section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 ("McKinney Amendments") as it pertains to the Section 8 Housing Assistance Payments program and the Public and Indian Housing programs. Section 904 is implemented for the assisted mortgage and loan insurance and related programs administered by HUD under 24 CFR chapter II, subchapter B, at 24 CFR part 200, subpart V.

(2) This part requires applicants and participants in the covered programs to sign consent forms authorizing:

(i) HUD, the PHA, or the owner to verify employee income information; and

(ii) HUD or the PHA to request a SWICA to release wage and claim information.

The failure of any person to sign these consent forms constitutes grounds for denial of eligibility, or termination of assistance or tenancy (or both), for the covered program.

(3) This part restricts the use of information received by HUD or a PHA from a SWICA to:

(i) Verifying an applicant's or participant's eligibility for or level of assistance; or

(ii) In the case of an owner, informing the owner that an applicant's or participant's eligibility for or level of assistance is uncertain and needs to be verified.

This part prohibits termination, denial, suspension, or reduction of assistance without prior independent verification of wage and claim information obtained from a SWICA. The applicant or participant shall then be notified of any adverse findings and given an opportunity to contest them.

(4) This part provides criminal and civil penalties for certain wrongful or negligent actions under this part.

(b) *Purpose.* The purpose of this part is to enable HUD and PHAs to obtain wage and claim information about applicants and participants in the covered programs through computer matches with SWICAs in order to verify an applicant's or participant's eligibility for or level of assistance and help decrease the incidence of fraud, waste, and abuse in these programs. The procedures covered by this part are intended primarily to augment current income verification procedures and/or requirements, and are in no way intended to supplant or otherwise affect those procedures and/or requirements.

(c) *Federal preemption.* This part preempts any State law, including restrictions and penalties, which governs the collection and use of employee income information and wage and claim information to the extent it is inconsistent with this part.

§ 760.3 Applicability.

(a) *Information to be covered by consent forms.* The information covered by consent forms described in this part involves employee income information, and wage and claim information from a SWICA. In addition, consent forms may authorize the collection of other information, including information which can be obtained under other laws, regulations, and handbooks. See 24 CFR 813.109(b) and 24 CFR 913.109(b) for current verification procedures, including requirements regarding signing and submitting consent forms, for the covered programs.

(b) *Programs covered.* This part applies to the following housing assistance programs under chapters VIII and IX of this title:

(1) Part 880, Section 8 Housing Assistance Payments for New Construction.

(2) Part 881, Section 8 Housing Assistance Payments for Substantial Rehabilitation.

(3) Part 882 (except Subparts D and E), Section 8 Housing Certificate Program.

(4) Part 882, Subparts D and E, Section 8 Moderate Rehabilitation Program.

(5) Part 883, Section 8 Housing Assistance Payments Program for State Housing Agencies.

(6) Part 884, Section 8 Housing Assistance Payments Program, New Construction Set-aside for Section 515 Rural Rental Housing Projects.

(8) Part 885, Loans for Housing for the Elderly or Handicapped.

(9) Part 886, Section 8 Housing Assistance Program Special Allocations (subpart A, Loan Management, and subpart C, Property Disposition).

(10) Part 887, Housing Vouchers.

(11) Part 900, Section 23 Housing Assistance Payments Program—New Construction and Substantial Rehabilitation.

(12) Part 904, Low Income Housing Homeownership Opportunities.

(13) Part 905, Indian Housing.

(14) Part 960, Admission to, and Occupancy of, Public Housing (other than Indian Housing).

§ 760.5 Definitions.

As used in this part:

Applicant means an applicant for assistance under the programs referred to in § 760.3.

Claim information means information regarding:

(a) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(b) The amount of compensation the individual is receiving or is entitled to receive; and

(c) The period or periods when, or with respect to which, the individual actually received such compensation.

Computer match means the automated comparison of data bases containing records about individuals.

Computer matching agreement means the agreement which describes the responsibilities and obligations of the parties regarding a computer match.

Consent form means a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from a SWICA or other information which can be obtained under other laws, regulations and handbooks.

Employee income information means all the information known to current or previous employers which HUD or the processing entity determines is necessary for purposes of determining an applicant's or participant's eligibility for or level of assistance in a covered program.

HUD means the United States Department of Housing and Urban Development.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

Participant means a family receiving assistance under the programs referred to in § 760.3.

Public Housing Agency (PHA) means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families under 24 CFR Chapters VIII or IX. The term includes Indian Housing Authorities.

Processing entity means the person or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the programs referred to in § 760.3.

State Wage Information Collection Agency (SWICA) means the SWICA, including any Indian tribal agency, receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor, to be as effective and timely in providing employment related income and eligibility information.

Wage information means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one), name of the employee, quarterly wages of an employee, and the name, address, State, telephone number, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

Subpart B—Conditions Governing Collection and Use of Information Obtained Pursuant to Consent Forms

§ 760.10 Consent by applicants and participants.

(a) *Required consent by applicants and participants.* Each of the following individuals shall sign one or more consent forms authorizing HUD, the PHA, or the owner to verify employee income information, and HUD or the PHA to request a SWICA to release wage and claim information:

(1) Each member of an applicant family who is at least 18 years of age, including the family head and spouse regardless of age; and

(2) Each member of the participant family who is at least 18 years of age, including the family head and spouse regardless of age.

(b) *Consent authorization: To whom and when—* (1) *Consent by applicants.* The applicant shall submit the signed consent forms to the processing entity when their eligibility under a program referred to in § 760.3 is being determined. Applicants shall be responsible for the signing and submitting of consent forms by each applicable family member.

(2) *Initial consent by participants.* If participation for a program referred to in § 760.3 was initiated before the effective date of the part, participants, including applicable members of their family, shall sign and submit consent forms at the next regularly scheduled income reexamination. Participants shall be responsible for the signing and submitting of consent forms by the family members.

(3) *Subsequent consent forms to be signed at the next interim or regularly scheduled income reexamination—special cases.* Consent forms are required under the following circumstances:

(i) Where there has been a change in the composition of the participant's family, any new member of the family 18 years or older shall sign and submit a consent form at the next interim or regularly scheduled reexamination;

(ii) When a member of a family turns 18 years of age, that member shall sign and submit a consent form at the next interim or regularly scheduled reexamination;

(iii) Once a participant has submitted signed consent forms as an applicant or as a preexisting participant, subsequent consent forms are required to be signed and submitted at the next interim or regularly scheduled income reexamination as required by the PHA or as prescribed by HUD in administrative instructions.

(c) *Consent form requirements.* The consent form required by this section shall contain, at a minimum, provisions authorizing:

(1) HUD and PHAs to obtain from SWICAs any information or materials necessary to complete or verify the application for participation and/or to maintain continued assistance under a program referred to in § 760.3; and

(2) HUD, PHAs, or the owner responsible for determining eligibility for or level of assistance, to verify with previous or current employers employee income information pertinent to the applicant's or participant's eligibility for or level of assistance under a program referred to in § 760.3. These requirements may be contained on more than one consent form.

§ 760.15 Penalties for failing to sign consent forms.

(a) *Denial of assistance.* The processing entity shall deny admission of an applicant, in accordance with the

provisions governing the program involved, if the applicant, or any member of the applicant's family, does not sign and submit the consent form as required in § 760.10.

(b) *Termination of assistance or tenancy.* It shall be considered grounds for termination of assistance, and (if provided by the individual program covered by this part) the tenancy of a participant, in accordance with the provisions governing the program involved, if the participant, or any member of the participant's family, fails to sign and submit the consent forms as required in § 760.10.

(c) *Cross references.* Individuals should consult the regulations and administrative instructions for the programs referred to in § 760.3 for further information on the use of employee income information and wage and claim information in determining the eligibility of applicants and the continued eligibility of participants.

§ 760.20 Compliance with the Privacy Act and other requirements.

(a) *Compliance with the Privacy Act.* The collection, maintenance, use, and dissemination of employee income information and wage and claim information under this part shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

(b) *Privacy Act Notice.* All applicants shall be provided with a Privacy Act notice at the time of application. All participants shall be provided with a Privacy Act notice at each annual income recertification.

§ 760.25 Request for wage and claim information from SWICAs and restrictions on the use of the information.

(a) *Information available from SWICA—to whom and what.* HUD or the PHA may, after signed consent forms have been submitted to the processing entity by an applicant or participant, request wage and claim information from a SWICA. Where HUD is to conduct the computer match with a SWICA, the processing entity shall certify to HUD that the applicable applicants and participants have signed consent forms meeting the requirements of § 760.10(c) and have received a Privacy Act Notice as required by § 760.20(b). Where the PHA is to conduct the computer match with a SWICA, the PHA shall certify to the SWICA that the applicable applicants and participants have signed consent forms meeting the requirements of § 760.10(c). Regulations prescribed by the Secretary of Labor govern how often and in what form information may be disclosed by a SWICA. Wage and claim information will generally be obtained through computer matching agreements between HUD or a PHA and a SWICA, as described in paragraph (c) of this section.

(b) *Restrictions on use of wage and claim information obtained from SWICA.* HUD or a PHA may only use wage and claim information obtained from a SWICA:

(1) To verify an applicant's or participant's eligibility for or level of assistance; or

(2) In the case of an owner, to inform the owner that an applicant's or participant's eligibility for or level of assistance is uncertain and needs to be verified.

(c) *Computer matching agreements between PHAs and SWICA.* Computer matching agreements shall specify, among other things, the purpose and the legal authority for the match, a description of the records to be matched, a statement regarding disposition of information generated through the match, a description of the administrative and technical safeguards to be used in protecting the information obtained through the match, a description of the use of records, duplication and redisclosure restrictions, a certification and the amount a SWICA will charge HUD or a PHA for processing a request.

(Approved by the Office of Management and Budget under control number 2508–0008)

§ 760.30 Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA.

(a) *Termination, denial, suspension, or reduction of assistance.* Assistance may be terminated, denied, suspended, or reduced for an applicant or participant based on wage and claim information obtained from a SWICA if (1) the steps contained in paragraph (b) of this section have been taken to independently verify wage and claim information relating to—

(i) The amount of the wages or unemployment compensation involved;

(ii) Whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use; and

(iii) The period or periods when, or with respect to which, the applicant or participant actually received the wages or benefits; and

(2) The applicant or participant has been given an opportunity to contest any adverse findings in accordance with paragraph (c) of this section.

(b) *Procedures for independent verification.* Independent verification may be satisfied by any of the following procedures:

(1) *Where a PHA is responsible for determining eligibility for or level of assistance.* (i) Where HUD obtains wage and claim information from a SWICA, HUD shall compare the information with applicant and participant information about a family's income provided by the PHA to HUD. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs substantially from the information received from the applicant or participant or from his or her employer, HUD shall have the PHA request the undisclosed employer or other employer to furnish in writing to the PHA any information necessary to establish an applicant's or participant's eligibility for or level of assistance in a covered program. PHAs shall not be required to pursue these verification procedures where the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of assistance. The PHA may also verify the wage and claim information directly with an applicant or participant.

(ii) Where a PHA obtains wage and claim information from a SWICA, the PHA shall compare the information with applicant and participant information about a family's income provided by the applicant or participant or from his or her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs substantially from the information received from the applicant or participant or from his or her employer, the PHA shall request the undisclosed employer or other employer to furnish in writing to the PHA any information necessary to establish an applicant's or participant's eligibility for or level of assistance in a covered program. PHAs shall not be required to pursue these verification procedures where the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of assistance. The PHA may also verify the wage and claim information directly with an applicant or participant.

(2) *Where an owner is responsible for determining eligibility for or level of assistance.* (i) Upon receiving wage and

claim information from a SWICA, HUD or the PHA, in cases where the PHA is contract administrator for an owner, shall compare the wage and claim information with the information about a family's income obtained by the owner from the applicant or participant or from his or her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs substantially from the information received from the applicant or participant or from his or her employer, HUD or the PHA, as applicable, shall request the undisclosed employer or other employer to furnish in writing to the owner any information HUD or the PHA determines to be necessary for purposes of having the owner redetermine an applicant's or participant's eligibility for or level of assistance in a covered program. Neither HUD nor the PHA shall be required to contract the employer where the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of assistance. Neither HUD nor the PHA may disclose wage and claim information obtained from a SWICA directly to an owner (unless a PHA is the owner).

(ii) Based on the wage and claim information, HUD or the PHA may inform an owner that an applicant's or participant's eligibility for or level of assistance is uncertain and needs to be verified. The owner shall then reverify the applicant's or participant's income information by checking the accuracy of the information with the employer or directly with the family. Neither HUD nor the PHA may disclose wage and claim information obtained from a SWICA directly to an owner (unless a PHA is the owner).

(c) *Opportunity to contest.* HUD, the PHA, or the owner shall promptly notify any applicant or participant in writing of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section. Where the PHA conducts the computer match with a SWICA, termination, denial, suspension, or reduction of assistance shall be carried out in accordance with requirements and procedures applicable to each individual program, and shall not be required until the expiration of any notice period provided by the program's law or regulations. Where HUD conducts the computer match with a SWICA, termination, denial, suspension, or reduction of assistance shall be carried out in accordance with requirements and procedures applicable to each individual program, and shall not be required until the expiration of any notice period provided by the program's law or regulations, or 30 days from the date of the notice, whichever is later. Any determination or redetermination of family income made on the basis of information verified in accordance with paragraph (b) of this section shall also be carried out in accordance with the requirements and procedures applicable to the individual covered program. The notice required by this subsection shall run concurrently with any other notice required by any other law, regulation, or handbook. The applicant or participant shall be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to determination of family income or composition under the applicable housing assistance program.

§ 760.35 Criminal and civil penalties.

(a) *Criminal penalties.* Any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA pursuant to this part, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" for purposes of this paragraph shall include an officer or employee of HUD, an officer or employee of any PHA, and any owner (or employee of an owner) responsible for determining eligibility for or level of assistance.

(b) *Civil penalties.* Any applicant or participant affected by:

(1) A negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act about such person by an officer or employee of any PHA or owner (or employee of an owner), which disclosure is not authorized by section 904, section 303(i), or any implementing regulation, or

(2) Any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any PHA or owner (or employee of an owner) responsible for any such unauthorized action.

Authorized use of employee income information includes any use of the information determined by HUD, a PHA, or an owner to be necessary for determining eligibility for or level of assistance in a covered program and not prohibited by any Federal or State law. Jurisdiction of such a case is in the United States district court in the district in which the affected applicant or participant resides, in which the unauthorized action occurred, or in which the applicant or participant alleged to be responsible for the unauthorized action resides. Appropriate relief that may be ordered by the district court shall include reasonable attorney fees and other litigation costs.

Subpart C—Implementation

§ 760.40 Effective date of rule.

(a) *Applicants.* The provisions of this part, and the conforming changes made with respect to consent forms in the regulations governing the programs referred to in § 760.3, apply to all applicant eligibility determinations initiated on or after the effective date of this rule.

(b) *Participants.* The provisions of this part, and the conforming changes made with respect to the execution of income verification consent forms for participants in the regulations governing the programs referred to in § 760.3, apply to each interim or regularly scheduled reexamination of the income of a participant initiated by the processing entity on or after the effective date of the rule.

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AND RELATED PROGRAMS

21. This authority citation for part 813 continues to read as follows:

Authority: Secs. 3, 5(b), 8, 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f, 1437n); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

22. In § 813.109, paragraph (b) is revised to read as follows:

§ 813.109 Initial determination, verification, and reexamination of family income and composition.

* * * * *

(b) *Verification.* As a condition of housing assistance under any program covered by this part, the PHA or Owner shall require the Family head and other such Family members as it designates to

execute a HUD-approved release and consent (including any release and consent as required under Part 760) authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to the PHA or Owner and to HUD such information as the PHA, Owner or HUD determines to be necessary. The PHA or Owner shall also require the Family to submit directly documentation determined to be necessary. Information or documentation shall be determined to be necessary if it is required for purposes of determining or auditing a Family's eligibility to receive housing assistance, for determining the Family's Adjusted Income or Tenant Rent, for verifying related income, or for monitoring compliance with equal opportunity requirements. The use or disclosure of information obtained from a Family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of this part 813 or the housing program under which the Family is receiving or applying for assistance.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

23. The authority citation for 24 CFR part 880 continues to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c; 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

24. In § 880.601, paragraph (b) is revised to read as follows:

§ 880.601 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 880.613, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms from families for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760), reexamination of family income, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

25. In § 880.603, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), are revised to read as follows:

§ 880.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal selection preference in accordance with § 880.613.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because of failure by an applicant to sign and submit consent forms (as provided by 24 CFR parts 760 and 813), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request HUD review of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference are contained in § 880.613(k). See 24 CFR 760.30(c) for notice requirements where assistance is terminated, denied, suspended, or reduced based on wage and claim information obtained by HUD from a State Wage Information Collection Agency.

* * * * *

(c) *Reexamination of family income and composition*—(1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least every 12 months. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose the verify Social Security Numbers, as provided by 24 CFR part 750. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect he family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

26. In § 880.607, paragraph (b)(3) is revised to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building; adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the building or have an adverse financial effect on the building.

Failure of the family to timely submit all required information on family income and composition (see 24 CFR part 750, part 760, or part 813) will constitute a substantial violation of the lease. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

26. The authority citation for 24 CFR part 881 continues to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

27. In § 881.601, paragraph (b) is revised to read as follows:

§ 881.601 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 881.613, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms from families for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760), reexamination of family incomes, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

28. In § 881.603, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), are revised to read as follows:

§ 881.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal selection preference in accordance with § 881.613.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because the applicant fails to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request HUD review of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being descriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference are contained in § 881.613(k). See 24 CFR 760.30(c) for notice requirements where assistance is terminated, denied, suspended, or reduced based on wage and claim information obtained by HUD from a State Wage Information Collection Agency.

* * * * *

(c) *Reexamination of family income and composition*—(1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and compostion, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in income between regularly scheduled reexaminations, the Owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD

requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

29. In § 881.607, paragraph (b)(3) is revised to read as follows:

§ 881.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building; adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the building; or have an adverse financial effect on the building. Failure of the family to timely submit all required information on family income and composition or eligibility factors (including failure to disclose and verify Social Security Numbers (as provided by 24 CFR part 750), failure to sign and submit consent forms (as provided by 24 CFR part 760), or knowingly provide incomplete or inaccurate information) will constitute a substantial violation of the lease. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

30. The authority citation for 24 CFR part 882 would be revised to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Subpart H is also issued under secs. 401 and 441, Stewart B. McKinney Homeless Assistance Act, Pub. L. 100–77, approved July 22, 1987; secs. 481 and 485, Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Pub. L. 100–628, approved November 7, 1988.

31. In § 882.116, paragraphs (c) and (m) are revised to read as follows:

§ 882.116 Responsibilities of the PHA.

* * * * *

(c) Receipt and review of applications for Certificates of Family Participation; provision of a Federal preference in selecting applicants for participation in accordance with § 882.219; verification of family income and other factors relating to eligibility and amount of assistance (including obtaining and verifying Social Security Numbers submitted by families, as provided by 24 CFR part 750, and requiring families to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760); and maintenance of a waiting list in accordance with this part;

* * * * *

(m) Reexamination of family income, composition, and extent of medical or child care expenses; redeterminations, as appropriate, of the amount of Total Tenant Payment and amount of housing assistance payment in accordance with part 813 of this chapter; obtaining and verifying Social Security Numbers submitted by families, as provided by 24 CFR part 750; and requiring families to sign and submit consent forms, as provided by 24 CFR part 760;

* * * * *

32. In § 882.118, paragraph (a)(1) is revised to read as follows:

§ 882.118 Obligations of the family.

(a) The family must:

(1) Supply such certification, release, information, or documentation as PHA or HUD determine to be necessary, including the submission of Social Security Numbers and verifying documentation (as provided by 24 CFR part 750), the submission of signed consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760), and submissions required for an annual or interim reexamination of family income and composition.

* * * * *

33. In § 882.209, paragraph (a)(2) is revised to read as follows:

§ 882.209 Selection and participation.

(a) * * *

(2) The PHA must determine whether an applicant for participation:

(i) Qualifies as a family; and

(ii) Is income-eligible.

The Family shall submit any certification, release, information, or documentation as the PHA or HUD determines to be necessary (see 24 parts 750, 760 and 813).

* * * * *

34. In § 882.210, a new paragraph (e) is added to read as follows:

§ 882.210 Grounds for denial or termination of assistance.

* * * * *

(e) The PHA shall deny the admission of a Family, if the applicant, or any member of the applicant's family does not sign and submit consent forms, as provided by 24 CFR part 760. It shall be considered grounds for termination of assistance, if the participant, or any member of the participant's family fails to sign and submit consent forms, as provided by 24 CFR part 760.

35. In § 882.212, paragraphs (a), (b), and (c) are revised to read as follows:

§ 882.212 Reexamination of Family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and compositon of all families at least once every 12 months. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate (see § 882.213). The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At the time of the annual reexamination of family income and composition, the PHA shall require the family to submit any certification, release, information, or documentation as the PHA or HUD determines to be necessary (see 24 CFR parts 750, 760, and 813).

(b) *Interim reexaminations.* The family must comply with provisions in § 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements

regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Agencies, as provided by 24 CFR part 760.

* * * * *

36. In § 882.514, paragraph (a)(1) is revised to read as follows:

§ 882.514 Family participation.

(a) *Initial determination of family eligibility.* (1) The PHA is responsible for receipt and review of applications, and determination of family eligibility for participation in accordance with HUD regulations (see parts 812 and 813 of this chapter, and 24 CFR parts 750 and 760). The PHA is responsible for verifying the sources and amount of the family's income and other information necessary for determining income eligibility and the amount of the assistance payments. The PHA is also responsible for giving a Federal selection preference in accordance with § 822.517.

* * * * *

37. Section 882.515 is revised to read as follows:

§ 882.515 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate (see § 882.213). The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in § 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

38. The authority citation for 24 CFR part 883 continues to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

39. In § 883.702, paragraph (b) is revised to read as follows:

§ 883.702 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 883.714, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760), reexamination of family income, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

40. In § 883.704, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), are revised to read as follows:

§ 883.704 Selection and admission of tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal preference in accordance with § 883.714.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements of Social Security Numbers (as provided by 24 CFR part 750), or because of failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760), or if the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the

right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request a review by the Agency and HUD of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference are contained in § 883.714(k) of that section. See 24 CFR 760.30(c) for notice requirements where assistance is terminated, denied, suspended, or reduced based on wage and claim information obtained by HUD from a State Wage Information Collection Agency.

* * * * *

(c) *Reexamination of family income and composition*—(1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(2) *Interim-reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

41. In § 883.708, paragraph (b)(3) is revised to read as follows:

§ 883.708 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the building; or have an adverse financial effect on the building or project. Failure of the family to timely submit all required information on family income and composition or eligibility factors (including failure to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760, or knowingly provide incomplete or inaccurate information) will constitute a substantial violation of the lease.

Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

42. The authority citation for part 884 continues to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

43. In § 884.118, paragraphs (a) (3) and (7) are revised to read as follows:

§ 884.118 Responsibilities of the owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families, including verification of income, provision of Federal selection preferences in accordance with § 884.226, obtaining and verifying Social Security Numbers submitted by applicants (as provided by 24 CFR part 750), obtaining signed consent forms from applicants for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760), and other pertinent requirements; and determination of eligibility and amount of tenant rent in accordance with HUD-established schedules and criteria.

* * * * *

(7) Reexamination of family income and composition; redetermination, as appropriate, of the amount of Tenant Rent and the amount of housing assistance payment in accordance with part 813; obtaining and verifying Social Security Numbers submitted by participants, as provided by 24 CFR part 750; and obtaining signed consent forms from participants for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

44. Section 884.216 is revised to read as follows:

§ 884.216 Termination of tenancy.

The owner is responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies must be as set forth in § 884.106(c)(1). Failure of the family to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760, shall be grounds for termination of tenancy.

45. Section 884.218 is revised to read as follows:

§ 884.218 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions of its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent, or until the family loses eligibility for continued occupancy under Farmer's Home Administration regulations. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

46. The authority citation for 24 CFR part 885 continues to read as follows:

Authority: Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 8, United States Housing Act of 1937 (42 U.S.C. 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

47. In § 885.950, paragraphs (a) and (c) are revised to read as follows:

§ 885.950 Selection and admission of tenants.

(a) *Application for admission.* The Borrower must accept applications for admission to the project in the form prescribed by HUD. Applicant families applying for assisted units (or residential spaces in a group home) must complete a certification of eligibility as part of the application for admission. Applicant families must meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750. Applicant families must sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760. Both the Borrower and the applicant family must complete and sign the application for admission. On request, the Borrower must furnish copies of all applications for admission to HUD.

* * * * *

(c) *Reexamination of family income and composition*—(1) *Regular reexaminations.* If the family occupies an assisted unit (or residential space in a group home), the Borrower must reexamine the income and composition of the family at least every 12 months. Upon verification of the information, the Borrower shall make appropriate adjustments in the total tenant payment in accordance with part 813 of this chapter, as modified by § 885.5, and determine whether the family's unit size is still appropriate. The Borrower must adjust tenant rent and the project assistance payment and must carry out any unit transfer in accordance with HUD standards. At the time of the annual reexamination of family income and composition, the Borrower must require the family meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(2) *Interim reexamination.* If the family occupies an assisted unit (or residential space in a group home) the family must comply with provisions in the lease regarding interim reporting of changes in income. If the Borrower receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the Borrower must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the total tenant payment, tenant rent and project assistance payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(3) *Continuation of project assistance payment.* (i) A family occupying an assisted unit (or residential space in a group home) shall remain eligible for project assistance payment until the total tenant payment equals or exceeds the gross rent (or a pro rata share of the gross rent in a group home). The termination of subsidy eligibility will not affect the family's other rights under its lease. Project assistance payment may be resumed if, as a result of changes in income, rent or other relevant circumstances during the term of the PAC, the family meets the income eligibility requirements of part 813 (as modified in § 885.5) and project assistance is available for the unit or residential space under the terms of the PAC. The family will not be required to establish its eligibility for admission to

the project under the remaining requirements of paragraph (b) of this section.

(ii) A family's eligibility for project assistance payment may also be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750) or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760).

* * * * *

48. In § 885.955, paragraph (a)(2) is revised to read as follows:

§ 885.955 Obligations of the family.

(a) *Requirements.* The family shall:

(1) * * *

(2) Supply such certification, release, information, or documentation as the Borrower or HUD determines to be necessary, including information relating to the disclosure and verification of Social Security Numbers, as provided by 24 CFR part 750, and the signing and submission of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

49. The authority citation for 24 CFR part 886 continues to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

50. In § 886.119, paragraphs (a) (3) and (7) are revised to read as follows:

§ 886.119 Responsibilities of owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families, verification of income, provision of Federal selection preferences in accordance with § 886.132, obtaining and verifying Social Security Numbers submitted by applicants (as provided by 24 CFR part 750), obtaining signed consent forms from applicants for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760), and other pertinent requirements; and determination of eligibility and amount of Tenant Rent in accordance with part 813 of this chapter.

* * * * *

(7) Reexamination of family income and composition, redetermination, as appropriate, of the amount of Tenant Rent and the amount of housing assistance payment in accordance with part 813 of this chapter; collection of rent; obtaining and verifying participant Social Security Numbers, as provided by 24 CFR part 750; and obtaining signed consent forms from participants for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

51. Section 886.124, is revised to read as follows:

§ 886.124 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(c) *Continuation of housing assistance payments.* A family's eligibility for housing assistance payments will continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with program requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

52. In § 886.318, paragraphs (a)(3) and (a)(6) are revised to read as follows:

§ 886.318 Responsibilities of the owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families in accordance with the owner's tenant selection factors approved by HUD and the Federal preferences in accordance with § 886.337; obtaining and verifying Social Security Numbers submitted by applicants, as provided by 24 CFR part 750; obtaining signed consent forms from applicants for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760; verification of income and other pertinent requirements; and determination of eligibility and amount of tenant rent in accordance with part 813 of this chapter;

* * * * *

(6) Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses; redeterminations, as appropriate, of the amount of Tenant Rent and amount of housing assistance payment in accordance with part 813 of the chapter; obtaining and verifying Social Security Numbers submitted by participants, as provided by 24 CFR part 750; and obtaining signed consent forms from participants for the obtaining of wage and claim information from State Wage

Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

53. Section 886.324 are revised to read as follows:

§ 886.324 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments will continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requiremetns for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

PART 887—HOUSING VOUCHERS

54. The authority citation for 24 CFR part 887 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

55. In § 887.105, paragraph (b)(1) is revised to read as follows:

§ 886.105 PHA responsibilities.

* * * * *

(b) * * *

(1) Publish and disseminate information concerning the availability and nature of housing assistance for lower income families (see § 887.107); invite owners to make units available for leasing in the program and develop working relationships with real estate associations and other appropriate groups (see § 887.109); explain program procedures to owners, including those who have been approached by housing voucher holders; obtain and verify Social Security Numbers submitted by families, as provided by 24 CFR part 750; obtain signed consent forms from families for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760; comply with equal opportunity requirements, including efforts to provide opportunities for recipients to seek housing outside areas of economic and racial concentration.

* * * * *

56. In § 887.355, paragraph (a) is revised to read as follows:

§ 887.355 Regular reexamination of family income and composition.

(a) The PHA must reexamine family income and family size and composition at least annually, and in accordance with part 813 of this chapter. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

* * * * *

57. Section 887.357 is revised to read as follows:

§ 887.357 Interim reexamination of family income and composition.

A family may request a redetermination of the housing assistance payment at any time, based on a change in the family's income, adjusted income, size or composition. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

* * * * *

58. In section 887.401, paragraph (a)(1) is revised to read as follows:

§ 887.401 Family responsibilities.

(a) A family must:

(1) Supply any certificate, release, information, or documentation that the PHA or HUD determines to be necessary in the administration of the program (including the disclosure and verification of Social Security Numbers (as provided by 24 CFR part 750) and the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 760)), and other information required for use by the PHA in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements;

* * * * *

59. In § 887.403, a new paragraph (d) is added to read as follows:

§ 887.403 Grounds for PHA denial or termination of assistance.

* * * * *

(d) *Requirement to sign consent forms.* The PHA must deny eligibility of applicant's admission to participate in the Housing Voucher program, if the applicant, or any member of the applicant's family, does not sign and submit the consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760. With respect to a current participant a PHA may terminate housing voucher assistance payments,

refuse to issue another housing voucher for a move to another unit, approve a new lease, or execute a new housing voucher contract, if the participant, or any member of the participant's family, fails to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

PART 900—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

60. The authority citation for part 900 continues to read as follows:

Authority: Sec. 10(b), United States Housing Act of 1937 (42 U.S.C. 1410(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

61. In § 900.103, paragraph (i) and (j) are revised to read as follows:

§ 900.103 Basic policies.

* * * * *

(i) *Responsibilities of the LHA.* The LHA is responsible for determining family eligibility for assistance in accordance with provisions of parts 912 and 913, and family eligibility and continuing eligibility for assistance in accordance with 24 CFR parts 750 and 760; determining the amount of adjusted income, the amount of rent payable by the family, and housing assistance payments in accordance with part 913; issuing Certificates of Family Participation to eligible families; notifying families determined eligible; approving owner-family leases; making housing assistance payments on behalf of eligible families; reexamining family eligibility at least annually; inspecting units before leasing, and at least annually thereafter, to determine that the units are maintained in decent, safe and sanitary condition (failure to do so shall constitute a Substantial Default by the LHA under the Annual Contributions Contract); authorizing evictions; and complying with equal opportunity requirements. The LHA must provide advice and guidance to eligible families in finding suitable housing, including advice and guidance to families experiencing discrimination, in an affirmative manner to further the policies of title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968 and Executive Order 11063.

(j) *Responsibilities of the family.* A family receiving housing assistance under this program is responsible for fulfilling all its obligations under both the lease with the o vner and the Certificate of Family Participation issued to it by the LHA: for cooperating with reexamination requirements; for disclosing and verifying Social Security Numbers, as provided by 24 CFR part 750; and for signing and submitting consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

* * * * *

62. In § 900.202, paragraphs (d)(3) and (f)(2)(iii) are revised to read as follows:

§ 900.202 Project operation.

* * * * *

(d) * * *

(3) That the request cannot be approved because the family is not eligible (including ineligibility caused by the family's failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760), or the dwelling unit or the proposed lease does not meet program requirements.

* * * * *

(f) *Continued family participation.* * * *

(2) * * *

(iii) The LHA determines that the family continues to be eligible for such assistance (including continued eligibility under 24 CFR parts 750 and 760).

* * * * * *

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

63. The authority citation for part 904 continues to read as follows:

Authority: United States Housing Act of 1937 (42 U.S.C. 1437–1437ee; sec. 7(d)), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

64. In § 904.104, paragraph (c) is revised to read as follows:

§ 904.104 Eligibility and selection of homebuyers.

* * * * * *

(c) *Determination of eligibility and preparation of list.* The LHA, without participation of a recommending committee (see paragraph (e)(1) of this section), must determine the eligibility of each applicant family in respect to the income limits for the development (including the requirement that the applicant family disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760), and must then assign each eligible applicant its appropriate place on a waiting list for the development, in sequence based upon the date of the application, suitable type or size of unit, qualification for a Federal preference in accordance with § 904.122, and factors affecting preference or priority established by the LHA's regulations. Notwithstanding the fact that the LHA may not be accepting additional applications because of the length of the waiting list, the LHA may not refuse to place an applicant on the waiting list if the applicant is otherwise eligible for participation and claims that he or she qualifies for a Federal preference as provided in § 904.122(c)(2), unless the LHA determines, on the basis of the number of applicants who are already on the waiting list and who claim a Federal preference, and the anticipated number of admissions to housing under Turnkey III, that—

(1) There is an adequate pool of applicants who are likely to qualify for a Federal preference, and

(2) It is unlikely that, on the basis of the LHA's system for applying the Federal preferences, the preference or preferences that the applicant claims, and the preferences claimed by applicants on the waiting list, the applicant would qualify for admission before other applicants on the waiting list.

* * * * * *

65. In § 904.107, paragraph (m)(1) is revised to read as follows:

§ 905.107 Responsibilities of homebuyer.

* * * * * *

(m) *Termination by LHA.* (1) If the homebuyer breaches the Homebuyers Ownership Opportunity Agreement by failure to make the required monthly payment within 10 days after its due date, by misrepresentation or withholding of information (including the failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or the failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760) in applying for admission or in connection with any subsequent reexamination of income and family composition, or by failure to comply with any of the other homebuyer obligations under the Agreement, the LHA may terminate the Agreement. No termination under this paragraph may occur less than 30 days after the LHA gives the homebuyer notice of its intent

to do so in accordance with paragraph (m)(3) of this section.

* * * * * *

PART 905—INDIAN HOUSING

66. The authority citation for 24 CFR part 905 continues to read as follows:

Authority: Secs. 201, 202, 203, 205, United States Housing Act of 1937, as added by the Indian Housing Act of 1988 (Pub. L. 100–358) (42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee); sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

67. In § 905.302, paragraph (a)(3) is revised to read as follows:

§ 905.302 Admission policies.

(a) * * *

(3) The IHA admission regulations also shall include policies and procedures governing:

(i) Tenant and homebuyer transfer between units, projects, and programs;

(ii) Requirements for applications and waiting lists for transfer between programs;

(iii) Other IHA priorities, if any, and a requirement that a tenant or homebuyer is not eligible for voluntary transfer unless all obligations under the current program have been met, including payment of charges to the IHA and maintenance requirements;

(iv) Compliance with 24 CFR part 750, which requires applicants and participants to disclose and verify social security numbers at the time eligibility is determined and at later income reexaminations;

(v) Compliance with 24 CFR part 760, which requires applicants and participants to sign and submit consent forms for the obtaining of wage and claims information from State Wage Information Collection Agencies; and

(vi) Determination of the successor to a unit upon the death of a homebuyer (in the event that the homebuyer has not designated a successor or the successor fails to qualify).

* * * * * *

68. In § 905.416, paragraph (d) is revised to read as follows:

§ 905.416 Selection of MH homebuyers.

* * * * *

(d) *Making the selections.* Within 30 days after HUD approval of the application for a project, the IHA must proceed with selection of as many homebuyers as there are homes in the project. Selection of homebuyers must be made from the MH waiting list in accordance with the date of application, qualification for a Federal preference in accordance with § 905.305, other pertinent factors under the IHA's admissions regulations established in accordance with § 905.301, and all admissions are subject to 24 CFR parts 750 and 760. Selection of a homebuyer will be made only after the site for that homebuyer has received final site approval by IHA certification to HUD, or, for a "high risk" IHA, by the HUD Office of Indian Programs, and the form of MH contributions to be made by that homebuyer (or donated for that homebuyer) has been determined.

* * * * *

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING AND INDIAN HOUSING PROGRAMS

69. The authority citation for part 913 is revised to read as follows:

Authority: Secs. 3, 6, 16, 201, 202, 203, 205, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437n, 1437aa, 1437bb, 1437cc, 1437ee); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

70. In § 913.109, paragraph (b) is revised to read as follows:

§ 913.109 Initial determination, verification, and reexamination of family income and composition.

* * * * *

(b) *Verification.* As a condition of admission to, or continued occupancy of, any assisted unit under the Public Housing Program, the PHA shall require the Family head and other such Family members as it designates to execute a HUD-approved release and consent (including any release and consent as required under 24 CFR part 760) authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to the PHA and to HUD such information as the PHA or HUD determines to be necessary. The PHA shall also require the Family to submit directly documentation determined to be necessary. Information or documentation shall be determined to be necessary if it is required for purposes of determining or auditing a Family's eligibility to receive housing assistance, for determining the Family's Adjusted Income or Tenant Rent, for verifying related income, or for monitoring compliance with equal opportunity requirements. The use of disclosure of information obtained from a Family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of this part or applying for assistance.

* * * * *

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

71. The authority citation for 24 CFR part 960 continues to read as follows:

Authority: Secs. 3, 5, 6, 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437d, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

72. In § 960.204, paragraph (c)(5) is revised to read as follows:

§ 960.204 PHA tenant selection policies.

* * * * *

(c) * * *

(5) Be in compliance with State, local and Federal laws and regulations, including the nondiscrimination requirements of title VI of the Civil Rights Act of 1964, the provisions of the ACC, and 24 CFR parts 750 and 760.

* * * * *

73. In § 960.206, paragraph (a) is revised to read as follows:

§ 960.206 Verification procedures.

(a) *General.* Adequate procedures must be developed to obtain and verify information with respect to each applicant. (See part 913 of this chapter and 24 CFR parts 750 and 760.) Information relative to the acceptance or rejection of an applicant or the grant or denial of a Federal preference under § 960.211 must be documented and placed in the applicant's file.

* * * * *

74. Section 960.209 is revised to read as follows:

§ 960.209 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all tenant families at least once every 12 months and determine whether the family's unit size is still appropriate. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment and Tenant Rent in accordance with part 913 of this chapter. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of

changes in income. If the PHA receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in adjustment in the Total Tenant Payment or Tenant Rent must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 760.

* * * * *

Dated: February 6, 1991.

Alfred A. Delli Bovi,

Deputy Secretary.

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