

as sole Receiver for the Association on March 27, 1992.

Dated: April 17, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-9327 Filed 4-21-92; 8:45 am]

BILLING CODE 6720-01-M

Security First Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Security First Federal Savings and Loan Association, Daytona Beach, Florida, OTS No. 3121, on April 10, 1992.

Dated: April 17, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-9333 Filed 4-21-92; 8:45 am]

BILLING CODE 6720-01-M

Sentry Federal Savings Association, Norfolk, Virginia; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Sentry Federal Savings Association, Norfolk, Virginia ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on March 20, 1992.

Dated: April 17, 1992.

By the Office of Thrift Supervision

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-9330 Filed 4-21-92; 8:45 am]

BILLING CODE 6720-01-M

State Savings, FSB; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for State Savings, FSB, Jackson Heights, New York ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on March 27, 1992.

Dated: April 17, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-9326 Filed 4-21-92; 8:45 am]

BILLING CODE 6720-01-M

United Federal Savings Bank, Smyrna, GA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for United Federal Savings Bank, Smyrna, Georgia ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on March 27, 1992.

Dated: April 17, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-9343 Filed 4-21-92; 8:45 am]

BILLING CODE 6720-01-M

Valley Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Valley Federal Savings and Loan Association, Van Nuys, California, Docket No. 7443, on April 10, 1992.

Dated: April 17, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-9332 Filed 3-21-92; 8:45 am]

BILLING CODE 6720-01-M

Westerleigh Federal Savings and Loan Association; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Westerleigh Federal Savings and Loan Association, Staten Island, New York ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on March 27, 1992.

Dated: April 17, 1992.

By the Office of Thrift Supervision

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-9325 Filed 4-21-92; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register

Vol. 57, No. 78

Wednesday, April 22, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, April 23, 1992.

PLACE: Room, 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Southern Ohio Coal Co.*, Docket No. WEVA 90-141. (Issues include whether the judge erred in concluding that Southern Ohio Coal Co. violated 30 CFR § 75.1725(c).)

Any person attending this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

TIME AND DATE: Immediately following oral argument.

STATUS: Closed [Pursuant to 5 U.S.C. § 522b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Southern Ohio Coal Co.*, Docket No. WEVA 90-141. (See Oral Argument Listing)

It was determined by unanimous vote of Commissioners that this meeting be held in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Dated: April 16, 1992.
[FR Doc. 92-9483 Filed 4-20-92; 10:12 am]
BILLING CODE 6735-01-M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 7, 1992.

PLACE: Room 410, 1825 K Street, NW., Washington, DC 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Oral Argument before the Commission in —
Simpson, Gumpertz and Heger, Inc.
OSHRC Docket No. 89-1300

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller, (202) 634-4015

Dated: April 16, 1992.
Earl R. Ohman, Jr.,
General Counsel.
[FR Doc. 92-9484 Filed 4-20-92; 10:13 am]
BILLING CODE 7600-01-M

U.S. RAILROAD RETIREMENT BOARD Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on April 28, 1992, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844

North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

- (1) Office of Quality and Compliance Proposal.
- (2) Correspondence with OPM Director.
- (3) District Office Hours of Operation.
- (4) Backlog Reductions (Task Force Report/Administrative Finality).
- (5) Update from IRS Working Group.
- (6) All Regulations pending before the Board.
- (7) All claimant/beneficiary appeals pending before the Board.
- (8) Final Rule—Part 255, Recovery of Overpayments.
- (9) All Coverage Determinations pending before the Board.
- (10) (Incavo) Change in Policy.
- (11) Relocation Expenses.
- (12) Medical Fee Schedule.
- (13) Medical Consultant's Contracts (internal and external).
- (14) Performance Appraisal Plans.
- (15) Notification of Waivers Over \$500 by Bureaus of RSP and H&A.
- (16) Pay reform policies.
- (17) Medicare Part B Contract.
- (18) Publications submitted to the Board for approval.
- (19) Agency Appraisal and Compensation Plan for SES Members.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 386-4920.

Dated: April 17, 1992.
Beatrice Ezerski,
Secretary to the Board.
[FR Doc. 92-9541 Filed 4-20-92; 3:25 pm]
BILLING CODE 7905-01-M

Corrections

Federal Register

Vol. 57, No. 78

Wednesday, April 22, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0126]

Drug Export; Anti-Human Globulin Reagent (Rabbit and Murine Monoclonal)(Green) anti-IGG,—C3D; Polyspecific, Ortho Biovue™ System

Correction

In notice document 92-5983 appearing on page 8879 in the issue of Friday, March 13, 1992, make the following correction:

In the first column, in the **SUMMARY**, in the sixth line, after "Globulin" insert "Reagent".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-28-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped With General Electric CF6-45/50 Series Engines

Correction

In proposed rule document 92-7099 beginning on page 10617 in the issue of Friday, March 27, 1992, make the following correction:

§ 39.13 [Corrected]

On page 10618, in the first column, in § 39.13(a), in the third line, "60" should read "600".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-43-AD; Amendment 39-8195; AD 92-06-15]

Airworthiness Directives; McDonnell Douglas Model DC-3 Series Airplanes, Including Those Modified for Turbo-Propeller Power

Correction

In rule document 92-6741 beginning on page 10131 in the issue of Tuesday, March 24, 1992, make the following correction:

§ 39.13 [Corrected]

On page 10132, in the second column, in § 39.13(a)(1)(i), in the fifth line, "SR0357802" should read "SR03578002".

BILLING CODE 1505-01-D

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Federal Register

Wednesday
April 22, 1992

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 70, et al.

**Use of Volunteers on Projects Subject to
Davis-Bacon and HUD-Determined Wage
Rates; Interim Rule**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 70, 221, 231, 232, 242, 570, 880, 881, 882, 883, 884, 885, 886, 889, 890, 905, 941, 961, and 968

[Docket No. R-92-1583; FR-2995-I-01]

RIN-2501-AB33

Use of Volunteers on Projects Subject to Davis-Bacon and HUD-Determined Wage Rates

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This rule implements statutory provisions, enacted as part of the National Affordable Housing Act (NAHA), that exempt volunteers from the requirement that workers be paid Davis-Bacon or HUD-determined prevailing wages under certain specified HUD programs. The provisions in the rule will also apply to additional HUD programs that have statutory provisions that permit HUD waiver of Davis-Bacon requirements where volunteers are employed.

DATES: Effective date: May 22, 1992.

Comment due date: June 22, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: Richard S. Allan, Office of Labor Relations, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-0370, TDD (202) 708-4340. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Information Collections

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980.

The annual public reporting burden of these requirements, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, is stated in the chart

below. Send comments regarding burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to the Department of Housing and Urban Development Rules Docket Clerk, at the address stated above, and to the Office of Information and Regulatory Affairs, room 3001, Office of Management and Budget, Washington, DC 20503. Attention: Jennifer Main, Desk Officer for HUD. The Department may amend the information collection requirements set out in this rule to reflect public comments or OMB comments received concerning the information collections.

ANNUAL REPORTING AND RECORDKEEPING BURDEN

Description	Respondents	Estimated annual hours	Total annual hours
PIH.....	300	.5	150
CDBG.....	1000	.5	500
Housing.....	100	.5	50
Total.....	1400		700

II. Background

Section 955 of the National Affordable Housing Act (NAHA) (Pub. L. 101-625, November 28, 1990) provides an exemption from Davis-Bacon and HUD-determined prevailing wage requirements for volunteers under various programs of the Department of Housing and Urban Development (HUD). Specifically, section 955 provides exemptions from the Davis-Bacon prevailing wage rate requirements in section 110 of the Housing and Community Development Act of 1974 (Community Development Block Grant Program, section 108 loan guarantees and Urban Development Action Grant Program); the Davis-Bacon and HUD-determined prevailing wage rate requirements in section 12 of the United States Housing Act of 1937 (public housing and section 8 assistance); and the Davis-Bacon requirements in section 202(c)(3) of the Housing Act of 1959, as in effect prior to its amendment by section 801 of NAHA (elderly and handicapped housing). In addition, NAHA includes similar exemptions for volunteers in the HOME program (in section 286 of NAHA) and the section 202 program for supportive housing for the elderly (as revised in section 801 of NAHA).

Provisions allowing the Secretary of HUD to waive Davis-Bacon requirements where labor is "donated" by volunteers not otherwise employed at any time during construction had

previously been enacted in section 212(a) of the National Housing Act covering housing insured under section 221 (d)(3) and (d)(4), 221(h)(1), 235(j)(1), 231, 232, 236 and 242 of that Act. In addition, section 402 of the Housing Act of 1950, which applies to the college housing program as well as to rehabilitation under section 312 of the Housing Act of 1964 contains a similar waiver provision. Finally, section 811 of NAHA contains a similar waiver provision for the program for supportive housing for persons with disabilities. The Department believes it desirable, as much as possible, to administer these waiver provisions in the same way it will be administering the new section 955 provisions. The major way in which the waiver provisions differ from the newer exemption provisions is that the waiver provisions require a HUD waiver in each case and also require a HUD finding that the amounts saved through the use of the donated labor are fully credited to the entity undertaking the construction. These requirements are reflected in those portions of the rule concerning waivers.

Prior to the enactment of section 955, it was not generally possible to utilize volunteers on typical projects funded under the Community Development Block Grant (CDBG) program where construction covered by Davis-Bacon prevailing wage provisions was involved because there were no specific provisions that allowed for use of volunteers, even though there was no express prohibition. In the absence of such a provision, Davis-Bacon regulatory and legal interpretations had the practical effect of precluding volunteers because all those employed on the worksite (other than those employed by State or local governments) were required to receive prevailing wage rates irrespective of whether or not some workers were bona fide volunteers. Community-based groups, service organizations, and even building trades unions were effectively precluded from contributing free labor to CDBG-assisted construction. Section 955 was enacted to allow for use of such bona fide volunteers by specifying an exemption. Further, the language in section 955 was based on language found in the Fair Labor Standards Act (FLSA) Amendments of 1985 (Pub. L. 99-150) and related regulations at 29 CFR part 553, which describes how volunteers may be defined. The definitions for volunteers in this rulemaking are based on the FLSA approach.

In order to ensure that the use of volunteer labor on HUD-assisted and

insured construction involves bona fide volunteer labor, this rule establishes a simple procedure for providing a determination that an exemption from Davis-Bacon prevailing wage rates is bona fide in those instances where a payment or payments are made for expenses, reasonable benefits, or nominal fees to volunteers. This determination will be made by the Department of Housing and Urban Development upon request by any agency or private party which is involved in the proposed use of such volunteers. Where no payments to volunteers are involved, no HUD determination will be required, and a simple record-keeping and reporting procedure will be used.

These determinations are required along with record-keeping and reporting under this rule as a means of administratively assuring that the volunteers used in Davis-Bacon work are bona fide and to distinguish them from paid workers, and not to proscribe their use in any way. Many agencies and nonprofit organizations already maintain the information that will be required for record-keeping in order to meet requirements for matching grants. This information is required to enable HUD (and the Department of Labor) to carry out Davis-Bacon and HUD wage rate enforcement responsibilities by being able to distinguish between properly exempt volunteers and employees who are required to be paid prevailing wages.

This interim rule establishes a new part 70 in title 24 of the CFR. The new part sets out requirements with respect to both exemptions and waivers of prevailing wage requirements for volunteers. The new part is applicable to all HUD programs that have a statutory exemption or waiver provision for volunteers, with the exception of the provision in section 20 of the United States Housing Act of 1937 for waiver of labor standards to permit public housing residents in paid employment on the project to volunteer a portion of their labor. Section 20 will continue to be implemented by 24 CFR 964.41. Section 20 applies to volunteering residents that are otherwise employed on the project and it does not fit neatly into a rule concerning volunteers that are not otherwise employed on the work in question. The interim rule also does not cover the contribution of labor by a family on a Mutual Help Homeownership Opportunity program for Indian families under section 202 of the United States Housing Act of 1937, since such labor is credited as a

contribution to the project and is not considered "volunteer" work.

The interim rule makes conforming amendments to other parts of the CFR containing labor standards provisions in order to reference the new part 70.

III. Justification for Interim Rulemaking

Section 955(d) of NAHA provides that the exemptions contained in section 955 apply to any volunteer services provided before, on or after the date of the enactment of NAHA, except that section 955 may not be construed to require the repayment of any wages paid before the date of the enactment of NAHA for services provided before the date of enactment. Thus section 955 is already in effect by its own terms, and the Department has been receiving numerous requests for guidance on these exemptions. For this reason, the Department finds that there is good cause to publish this rule for immediate effect. However, the Department is requesting public comments on this interim rule and will take these comments into consideration in preparing the final rule. The Department intends to publish a final rule by no later than December 31, 1992.

IV. Findings and Certifications

Environmental Review. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Impact on the Economy. This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. 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.

Impact on Small Entities. In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial

number of small entities. The rule permits, subject to certain requirements, the use of volunteers rather than employees who otherwise would be required to be paid prevailing wage rates, and for whom documentation of payment of wages would otherwise have to be submitted on a weekly basis.

Regulatory Agenda. This rule was listed in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (57 FR 53380, 53393) pursuant to Executive Order 12291 and the Regulatory Flexibility Act as sequence number 1334.

Federalism Impact. 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 will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule does not significantly change existing roles and relationships between Federal, State and local governments in any of the programs it applies to.

The Family. The General Counsel, as the designated official under Executive Order 12806, *The Family*, has determined that this rule would not have significant impact on family formation, maintenance, and general well-being. By authorizing and encouraging the use of volunteer labor the rule will help reduce construction and other program costs. Indirectly, at least, this will prove beneficial to the low and moderate income families these programs are designed to serve.

List of Subjects

24 CFR Part 70

Volunteers, Davis-Bacon, HUD-determined wage rates, Waiver of prevailing wage rates.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 231

Aged, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

24 CFR Part 242

Hospitals, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—housing and community development, Grant programs—education, Guam, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands, Student aid.

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 882

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

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

24 CFR Part 885

Aged, Handicapped, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 886

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

21 CFR Part 889

Aged, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income

housing, Rent subsidies, Reporting and recordkeeping requirements.

21 CFR Part 890

Civil rights, Grant programs—housing and community development, Handicapped, Loan programs—housing and community development, Low and moderate income housing, Mental health programs, Reporting and recordkeeping requirements.

21 CFR Part 905

Grant programs—Indians, Low and moderate income housing, Aged, Grant programs—housing and community development, Handicapped, Indians, Loan programs—housing and community development, Loan programs—Indians, Public housing, Reporting and recordkeeping requirements.

21 CFR Part 941

Grant programs—housing and community development, Loan programs—housing and community development, Public housing.

21 CFR Part 961

Drug abuse, Drug traffic control, Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

21 CFR Part 968

Grant programs—housing and community development, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

The Catalog of Federal Domestic Assistance Numbers are: 14.120, 14.128, 14.122, 14.129, 14.138, 14.218, 14.219, 14.228, 14.156, 14.182.

Accordingly title 24 of the Code of Federal Regulations is amended to read as follows:

1. A new part 70, consisting of §§ 70.1 through 70.5, is added to 24 CFR to read as follows:

PART 70—USE OF VOLUNTEERS ON PROJECTS SUBJECT TO DAVIS-BACON AND HUD-DETERMINED WAGE RATES

Sec.

70.1 Purpose and authority.

70.2 Applicability.

70.3 Definitions.

70.4 Procedures for implementing prevailing wage exemptions for volunteers.

70.5 Procedures for obtaining HUD waiver of prevailing wage rates for volunteers.

Authority: Sec. 955, Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437(j)), 5310 and 12 U.S.C. 1701q(c)(3); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 70.1 Purpose and authority.

(a) This part implements section 955 of the National Affordable Housing Act (NAHA), which provides an exemption from the requirement to pay prevailing wage rates determined under the Davis-Bacon Act or (in the case of laborers and mechanics employed in the operation of public housing projects, and architects, technical engineers, draftsmen and technicians employed in the development of public housing projects) determined or adopted by HUD, for volunteers employed on projects that are subject to prevailing wage rates under Title I of the Housing and Community Development Act of 1974 (including Community Development Block Grants, section 108 loan guarantees, and Urban Development Action Grants), under section 12 of the United States Housing Act of 1937 (public housing development and operation and section 8 projects), and under section 202 of the Housing Act of 1959 for elderly and handicapped housing projects prior to the effective date of the amendment of section 202 by section 801 of NAHA. This part also implements other provisions that provide an exemption for volunteers, including section 286 of NAHA (the HOME program), section 202 of the House Act of 1959, as amended by NAHA (supportive housing for the elderly), and any later-enacted exemptions.

(b) This part is also applicable to all HUD programs for which there is a statutory provision allowing HUD to waive Davis-Bacon wage rates for volunteers that are not otherwise employed at any time on the work for which the individual volunteers. These programs include section 811 of NAHA (supportive housing for persons with disabilities), FHA mortgage insurance programs under sections 221(d)(3) and (d)(4) (each with respect to cooperative housing projects only), 221(h)(1) (but only where a nonprofit organization undertakes the construction), 235(j)(1) (but only where a nonprofit organization undertakes the construction), 231, 232, 236 and 242 of the National Housing Act, rehabilitation under section 312 of the Housing Act of 1964 and college housing under section 402 of the Housing Act of 1950.

(c) This part provides definitions and procedures for determining allowable payments to volunteers, determining who is a bona fide volunteer, and otherwise implementing exemptions from and waivers of prevailing wage requirements where volunteers are employed.

§ 70.2 Applicability.

This part applies to all HUD programs for which there is a statutory exemption from Davis-Bacon or HUD-determined prevailing wage rates for volunteers or a statutory provision allowing HUD waiver of Davis-Bacon prevailing wage rates for volunteers. The programs to which this part applies include the programs listed in section 70.1(a) and (b) and any other program for which a statutory exemption or HUD waiver provision for volunteers is enacted. This part does not, however, apply to HUD waivers of prevailing wage requirements under section 20 of the United States Housing Act of 1937 for public housing residents who volunteer a portion of their labor (see 24 CFR 964.41). This part also does not apply to the contribution of labor by an eligible family under the Mutual Help Homeownership Opportunity Program for Indian families under section 202 of the United States Housing Act of 1937.

§ 70.3 Definitions.

(a) A *volunteer*, for purposes of this part, is an individual who performs service for a public or private entity for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered, on a HUD-assisted or insured project which is subject to a requirement to pay prevailing wage rates.

(1) Individuals shall be considered volunteers only where their services are offered freely and without pressure and coercion, direct or implied, from an employer.

(2) An individual shall not be considered a volunteer if the individual is otherwise employed at any time in the construction or maintenance work for which the individual volunteers.

(b) *Expenses, reasonable benefits, or nominal fees* may be provided to volunteers without the status of the volunteer being lost but only after a determination is made by HUD on a case-by-case basis by examining the total amount of payments made (expenses, benefits, fees) in the context of the economic realities of the particular situation. Subject to this determination:

(1) A payment for an *expense* may be received by a volunteer for items such as uniform allowances or reimbursement for reasonable cleaning expenses or wear and tear on personal clothing worn while performing the volunteer work. Additionally, reimbursement for approximate out-of-pocket expenses for the cost of meals and transportation expenses may be made.

(2) *Reasonable benefits* may constitute inclusion of individual volunteers in group insurance plans (such as liability, health, life, disability, workers' compensation) or pension plan or length of service awards.

(3) A *nominal fee* is not a substitute for compensation and must not be tied to productivity. The decision as to what constitutes "nominal" must be made on a case-by-case basis and in the context of the economic realities of the situation.

(4) The phrase *economic realities* means that in determining whether the fee described in paragraph (b)(3) of this section may be deemed "nominal", the amount of the fee must be judged in the context of what paid workers doing the same work would earn in the particular locality involved. For example, a "payment" made to a "homeless" volunteer in an amount which covers basic necessities but nonetheless represents an insignificant amount when compared with local cost of living and real wages may be determined to be nominal for purposes of qualifying as a volunteer, provided the payment is not in fact a substitute for compensation and is not tied in any way to productivity.

(c) *Prevailing wage rates*, for purposes of this part, means:

(1) Wage rates required to be paid to laborers and mechanics employed in the construction (including rehabilitation) of a project (or in the case of public housing, the development of the project), as determined by the Secretary of Labor under the Davis-Bacon Act;

(2) Wage rates required to be paid to laborers and mechanics employed in the operation of a public housing project, as determined or adopted by the Secretary of HUD; and

(3) Wage rates required to be paid to architects, technical engineers, draftsmen and technicians employed in the development of a public housing project, as determined or adopted by the Secretary of HUD.

§ 70.4 Procedure for implementing prevailing wage exemptions for volunteers.

(a) This section applies to those HUD programs for which there is a statutory exemption for volunteers, as referenced in § 70.1(a).

(b) Local or State agencies or private parties whose employees are otherwise subject to Davis-Bacon or HUD-determined prevailing wage rates which propose to use volunteers and wish to pay the volunteers' expenses, reasonable benefits, or nominal fees shall request a determination from HUD that these payments meet the criteria in § 70.3(b). A written determination shall be provided to the requester by the

Department within ten days of receipt by the Department of sufficient information to allow for the determination.

(c) A determination under paragraph (b) shall not be construed in any way as limiting the use of bona fide volunteers on HUD-assisted construction, but rather is required to ensure that the Department performs its appropriate responsibilities under Reorganization Plan No. 14 of 1950 and related Department of Labor Regulations in title 29 CFR part 5, regarding the administration and enforcement of the Davis-Bacon and Related Acts, and its responsibility for the administration and enforcement of HUD-determined or adopted wage rates in the operation of public housing assisted under the United States Housing Act of 1937.

(d) For a project covered by prevailing wage rate requirements in which all the work is to be done by volunteers and there are no paid construction employees, the local or State funding agency (or, if none, the entity that employs the volunteers) shall record in the pertinent project file the name and address of the agency sponsoring the project, a description of the project (location, cost, nature of the work), and the number of volunteers and the hours of work they performed. The entity responsible for recording this information shall also provide a copy of this information to HUD.

(e) For a project covered by prevailing wage rate requirements in which there is to be a mix of paid workers and volunteers, the local or State funding agency (or, if none, the entity responsible for generating certified payrolls) shall provide HUD the information in paragraph (d) of this section, along with the names of the volunteers.

(f) Volunteers who receive no expenses, benefits or fees described in (c) and are otherwise bona fide shall be recorded as in (d) or (e).

§ 70.5 Procedure for obtaining HUD waiver of prevailing wage rates for volunteers.

(a) This section applies to those HUD programs under which HUD is statutorily authorized to waive prevailing wage requirements for volunteers, as referenced in § 70.1(b).

(b) Local or State agencies or private parties whose employees are otherwise subject to prevailing wage rates and which wish to use volunteers shall request a waiver of prevailing wage requirements from HUD for the volunteers. A request for waiver shall indicate that the proposed volunteers are volunteering their services for the

purposes of lowering the costs of construction. The request shall include information sufficient for HUD to make a determination, as required by statute, that any amounts saved through the use of volunteers are fully credited to the corporation, cooperative, or public body or agency undertaking the construction and a determination that any payments to volunteers meet the criteria in section 70.3(b). Information regarding the crediting of amounts saved is required in order to insure that the statutorily prescribed purpose of lowering the costs of construction is fulfilled by passing savings from the use of volunteers on to the sponsor or other body or agency undertaking the construction, rather than permitting the retention of any savings as a windfall by a contractor or subcontractor. A written waiver shall be provided to the requestor by the Department within ten days of receipt by the Department of sufficient information to meet the requirements for a waiver.

(c) For a project covered by prevailing wage rate requirements in which all the work is to be done by volunteers and there are no paid construction employees, the local or State funding agency (or, if none, the entity that employs the volunteers) shall record in the pertinent project file the name and address of the agency sponsoring the project, the name, location, and HUD project number (if any) of the project, the number of volunteers, and type of work and hours of work they performed. The entity responsible for recording this information shall provide a copy of the information to HUD.

(d) For a project covered by prevailing wage rate requirements in which there is to be a mix of paid workers and volunteers, the local or State funding agency (or, if none, the entity responsible for generating certified payrolls) shall provide HUD the information in (c) of this section, along with the names of the proposed volunteers.

2. Appendix A to subtitle A of title 24 of the CFR is amended by revising section 535 to read as follows:

Appendix A to Subtitle A—Hope for Public and Indian Housing Homeownership Program

Section 535. Labor Standards.

Pursuant to section 12 of the 1937 Act, Davis-Bacon or HUD-determined prevailing wage rates (or both) shall apply to activities under the HOPE 1 program, except that these wage rate requirements do not apply to volunteers

under the conditions set out in 24 CFR part 70. In addition, if other Federal programs are used in connection with the HOPE 1 homeownership program, labor standards requirements apply to the extent required by such other Federal programs. For example, if the Public and Indian Housing Modernization or CDBG program is used in connection with the program, the labor standards requirements of those programs would apply to the extent required by them.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

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

Authority: Secs. 211, 221, National Housing Act (12 U.S.C. 1715b, 1715f), 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)).

4. In § 221.538, paragraph (b)(2) is revised to read as follows:

§ 221.538 Applicability of prevailing wage requirements.

(b) * * *

(2) Where, in connection with the construction of a project involving a cooperative, investor-sponsor, or rehabilitation sales mortgage, the requirements have been waived for voluntarily donated labor under 24 CFR part 70.

PART 231—HOUSING MORTGAGE INSURANCE FOR THE ELDERLY

5. The authority citation for part 231 continues to read as follows:

Authority: Secs. 211, 231, National Housing Act (12 U.S.C. 1715b, 1715v); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

6. In § 231.8, paragraph (b)(2) is revised to read as follows:

§ 231.8 Supervision of Mortgagees.

(b) *Private Mortgage-Nonprofit.* All of the provisions of § 207.19 of this chapter apply to mortgages executed by a Private Mortgage-Nonprofit except that:

(2) In connection with a Private Mortgage-Nonprofit the provisions of § 207.19(d) of this chapter (Labor standards and prevailing wage requirements) apply except when waived for voluntarily donated labor

under 24 CFR part 70. No charge shall be made by a Private Mortgage-Nonprofit for accommodations, facilities or services offered by the project except those charges approved by the Commissioner.

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES

7. The authority citation for part 232 continues to read as follows:

Authority: Secs. 211, 232, National Housing Act (12 U.S.C. 1715b, 1715w); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

8. Sections 232.70 and 232.73 are revised to read as follows:

§ 232.70 Labor Standards.

Any contract, subcontract, or building loan agreement executed for the performance of construction of the project shall comply with all applicable standards and provisions of the regulations under 29 CFR part 5, except to the extent that such standards and provisions are waived for voluntarily donated labor under 24 CFR part 70.

§ 232.73 Wage certificate.

No advance under the mortgage shall be eligible for insurance unless there is filed with the application for such advance a certificate as required by the Commissioner, certifying that (except to the extent waived for voluntarily donated labor under 24 CFR part 70) the laborers and mechanics employed in the construction of the project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor prior to the beginning of construction and after the date of filing of the application for insurance.

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

9. The authority citation for part 242 continues to read as follows:

Authority: Secs. 211, 233(f), 242, National Housing Act, (12 U.S.C. 1715b, 1715n(f), 1715z-7); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

10. In § 242.67, paragraph (b) is revised to read as follows:

§ 242.67 Labor standards.

* * *

(b) *Waiver of compliance with contract requirements in cases of voluntarily donated labor—public mortgagor or private nonprofit mortgagor.* In the case of a public mortgagor or a private nonprofit mortgagor, the requirement for compliance with the contract provisions prescribed in paragraph (a) of this section may be waived under 24 CFR part 70.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

11. The authority citation for part 570 continues to read as follows:

Authority: Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5300–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

12. Paragraph (c) of § 570.496 is revised to read as follows:

§ 570.496 Program requirements.

(c) *Labor standards.* Section 110(a) of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). By reason of the foregoing requirement, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units. In accordance with section 110(b) of the Act, the labor standards requirements of this paragraph are inapplicable to individuals who volunteer their services under the conditions set out in 24 CFR part 70.

13. Section 570.603 is revised to read as follows:

§ 570.603 Labor standards.

(a) Section 110(a) of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). By reason of the

foregoing requirement, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units. With respect to the labor standards specified in this section, the Secretary of Labor has the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 1332–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(b) Under section 110(b) of the Act, the requirements set out in paragraph (a) of this section are inapplicable to individuals who volunteer their services under certain circumstances. Grantees, subrecipients, contractors and subcontractors shall comply with 24 CFR part 70, which sets out the circumstances under which volunteers may be used.

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

14. The authority citation for 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 HUD Act, (42 U.S.C. 3535(d)).

15. Paragraph (d) of § 880.210 is revised to read as follows:

§ 880.210 Other Federal requirements.

(d) *Davis-Bacon and related Acts.* Participation in this program requires that payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), be paid to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the development of any project with nine or more assisted units and compliance with all other related rules, regulations and requirements.

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

16. The authority citation for part 881 continues to read as follows:

Authority: Secs. 3, 5, 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)).

17. Paragraph (d) of § 881.210 is revised to read as follows:

§ 881.210 Other Federal requirements.

(d) *Davis-Bacon and related Acts.* Participation in this program requires payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the development of any project with nine or more assisted units and compliance with all other related rules, regulations and requirements.

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

18. The authority citation for part 882 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)).

19. Paragraph (c)(6) of § 882.407 is revised to read as follows:

§ 882.407 Other Federal requirements.

(c) * * *

(6) The following labor standards provisions (for Agreements covering 9 or more assisted units):

(i) Provisions of section 12 of the United States Housing Act of 1937 requiring payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the rehabilitation of the project;

(ii) Contract Work Hours and Safety Standards Act;

(iii) Copeland Act; and

(iv) Department of Labor regulations in 29 CFR part 5 and other implementing regulations.

20. Paragraph (c)(7) of § 882.713 is revised to read as follows:

§ 882.713 Other Federal requirements.

(c) * * *

(7) Payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in

the construction or rehabilitation of the project under an Agreement covering nine or more assisted units, and compliance with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other Federal laws and regulations pertaining to labor standards applicable to such an Agreement.

21. Paragraph (c)(1) of § 882.804 is revised to read as follows:

§ 882.804 Other Federal requirements.

(c) * * *

(1) Not less than the wages prevailing in the locality, as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a-276a-5), must be paid to all laborers and mechanics employed in the development of the project, other than volunteers under the conditions set out in 24 CFR part 70;

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

22. The authority citation for 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)).

23. Paragraph (d) of § 883.312 is revised to read as follows:

§ 883.312 Other Federal requirements.

(d) *Davis-Bacon and related Acts.* Participation in this program requires that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), be paid to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the development of any new construction or substantial rehabilitation project with nine or more assisted units, and requires compliance with all related rules, regulations and requirements.

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

24. 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)).

25. Paragraph (d) of § 884.113 is revised to read as follows:

§ 884.113 Other Federal requirements.

(d) *Davis-Bacon wage rates.* Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), shall be paid to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the development of any new construction project with nine or more assisted units.

26. Paragraph (b)(5) of § 884.207 is revised to read as follows:

§ 884.207 Submission of acceptance of notification and certification of compliance.

(b) * * *

(5) Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), will be paid to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the development of any new construction project with nine or more assisted units;

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

27. The authority citation for 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)).

28. Paragraphs (d)(1) (i) and (ii) of § 885.740 are revised to read as follows:

§ 885.740 Other Federal requirements.

(d) * * *

(1) * * *

(i) Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), shall be paid to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the construction or rehabilitation of the project.

(ii) Contracts involving employment of laborers and mechanics shall be subject to the provisions of the Contract Work

Hours and Safety Standards Act (40 U.S.C. 327-333).

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

29. The authority citation for 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); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

30. Paragraph (c)(2) of § 886.313 is revised to read as follows:

§ 886.313 Other Federal requirements.

(c) * * *

(2) Where the property contains nine or more units to be assisted, the requirement to pay not less than the wage rates prevailing in the locality, as predetermined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a-276a-5) to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the rehabilitation work, and the labor standards provisions contained in the Contract Work Hours and Safety Standards Act, Copeland Anti-Kickback Act, and implementing regulations of the Department of Labor.

PART 889—SUPPORTIVE HOUSING FOR THE ELDERLY

31. The authority citation for part 889 continues to read as follows:

Authority: Sec. 202, Housing Act of 1959, as amended (12 U.S.C. 1701(q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

32. Paragraph (d) of § 889.265 is revised to read as follows:

§ 889.265 Other Federal requirements

(d) *Labor standards.* (1) Any contract for the construction (including rehabilitation) of affordable housing with 12 or more units assisted with funds made available under this part shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), shall be paid to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR Part 70) who are employed in the development of

affordable housing involved, and such contracts shall also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (42 U.S.C. 327-333).

(2) Sponsors, Owners, contractors and subcontractors must comply with all related rules, regulations, and requirements.

PART 890—SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

33. The authority citation for part 890 continues to read as follows:

Authority: Sec. 811 of the National Affordable Housing Act (42 U.S.C. 8013), and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

34. Paragraphs (d) (1) and (2) of § 890.260 are revised to read as follows:

§ 890.260 Other Federal requirements.

(d) * * *

(1) Not less than the wages prevailing in the locality, as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a-276a-5), must be paid to all laborers and mechanics employed in the construction (including rehabilitation) of the project, except where HUD waives these requirements for voluntarily donated labor under 24 CFR part 70.

(2) Contracts involving employment of laborers and mechanics shall be subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).

PART 905—INDIAN HOUSING PROGRAMS

35. The authority citation for part 905 continues to read as follows:

Authority: Secs. 201, 202, 203, 205, United States Housing Act of 1937 (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)).

36. Paragraphs (c)(1) and (2) of § 905.120 are revised to read as follows:

§ 905.120 Compliance with other Federal requirements.

(c) *Wage rates for laborers and mechanics.* (1) With respect to construction work on a project, including a modernization project (except for nonroutine maintenance work, as described in paragraph (b) of the definition in § 905.102), the IHA and its contractors shall pay not less than

the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed by an IHA or its contractors for work or contracts over \$2000.

(2) With respect to all maintenance work on a project, including nonroutine maintenance work (as described in paragraph (b) of the definition in § 905.102) on a modernization project, the IHA and its contractors shall pay not less than the wages prevailing in the locality, as determined or adopted (after a determination under state, Tribal or local law) by HUD pursuant to section 12 of the United States Housing Act of 1937, to all laborers and mechanics (other than volunteers under the circumstances set out in 24 CFR part 70) who are employed by an IHA or its contractors.

PART 941—PUBLIC HOUSING DEVELOPMENT

37. The authority citation for part 941 continues to read as follows:

Authority: Secs. 4, 5, and 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437b, 1437c, and 1437g); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

37a. Paragraph (d) of § 941.208 is revised to read as follows:

§ 941.208 Other Federal requirements.

(d) *Prevailing wages.* Participation in this program requires that not less than the wages prevailing in the locality, as determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), shall be paid to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR Part 70) who are employed in the development of a project. All architects, technical engineers, draftsmen and technicians (other than volunteers under the conditions set out in 24 CFR part 70) shall be paid not less than the wages prevailing in the locality as determined or adopted by HUD (42 U.S.C. 1437j). Prevailing wages determined under State law are inapplicable under the circumstances set out in § 941.503(d).

PART 961—PUBLIC HOUSING DRUG ELIMINATION PROGRAM

38. The authority citation for part 961 continues to read as follows:

Authority: Section 5127, Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

39. In § 961.40, paragraph (a)(2) introductory text is revised and a new paragraph (a)(2)(iii) is added, as follows:

§ 961.40 Other Federal requirements.

(a) * * *

(1) * * *

(2) The provisions of paragraph (a) of this section shall not apply to labor contributed under any of the following circumstances:

(iii) Labor is performed by volunteers under the conditions set out in 24 CFR part 70.

PART 968—PUBLIC HOUSING MODERNIZATION

40. The authority citation for part 968 continues to read as follows:

Authority: Secs. 6 and 14, United States Housing Act of 1937 (42 U.S.C. 1437d and 1437l); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

41. Paragraphs (e)(1), (e)(2) and (f) of § 968.110 are revised to read as follows:

§ 968.110 Other program requirements.

(e) *Wage rates.* (1) *Davis-Bacon.* With respect to modernization work or contracts over \$2,000 (except for nonroutine maintenance work), all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed by the PHA or its contractors shall be paid not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5).

(2) *HUD-determined.* With respect to all nonroutine maintenance work or contracts, all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed by the PHA or its contractors shall be paid not less than the wages prevailing in the locality, as determined or adopted by HUD pursuant to section 12 of the United States Housing Act of 1937.

(f) *Technical wage rates.* All architects, technical engineers, draftsmen and technicians (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the development of a project shall be paid not less than the wages prevailing

in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by HUD.

Dated: April 13, 1992.

Jack Kemp,
Secretary.

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