

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**Office of the Secretary**

**24 CFR Part 888**

[Docket No. FR-3694-F-02]

RIN 2501-AB76

**Fair Market Rents for Section 8  
Existing Housing; Amendments to  
Method of Calculating**

**AGENCY:** Office of the Secretary, HUD.  
**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Department's regulations at 24 CFR part 888 governing the method of calculating Fair Market Rents (FMRs) for Section 8 Existing housing programs including the Section 8 Rental Certificate program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs which use the Section 8 FMRs.

HUD is changing the definition from the 45th percentile of the rental distribution of standard quality rental housing units to the 40th percentile as a cost saving measure. On average, FMRs will be 3.3 percent less than if they were set at the 45th percentile level. This change will not significantly affect September 8 program operations. Families will continue to have an adequate choice of good housing and neighborhoods at the 40th percentile FMR.

**EFFECTIVE DATE:** September 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Gerald J. Benoit, Rental Assistance Division, Office of Public and Indian Housing; telephone (202) 708-0477 or (202) 708-0850 (TDD for speech- or hearing-impaired), for questions relating to the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs;

Barbara Hunter, Program Planning Division, Office of Multifamily Housing Management; telephone (202) 708-3944 or (202) 708-4594 (TDD for speech- or hearing-impaired), for questions relating to all other Section 8 programs.

David Pollack, Office of Community Planning and Development; telephone (202) 708-1234 or (202) 708-2565 (TDD for speech- or hearing-impaired), for questions relating to Moderate Rehabilitation, Single Room Occupancy (SRO).

Michael Allard, Office of Policy Development and Research, (202) 708-

0577 or 708-1455 (TDD for speech- or hearing-impaired), for questions relating to measurement of rent levels.

Mailing address for above persons: Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. (Telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 8 of the U. S. Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid low-income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) established by HUD, or by payment standards based on the FMRs established by public housing agencies for the Rental Voucher program. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately-owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Under section 8(c) of the Act, the Secretary of HUD is directed to establish FMRs periodically, but not less frequently than annually. HUD publishes proposed FMRs each year, and after a period of public comment, publishes the final FMRs. The method used to calculate FMRs is described in 24 CFR part 888, subpart A. This rule amends the regulations:

(1) To change the FMR rent standard from the 45th to 40th percentile rent of the rent distribution of rental housing units;

(2) To authorize the Secretary to establish FMR areas that differ from the OMB definitions of metropolitan areas where the OMB definitions are determined by HUD to be larger than housing market areas;

(3) To identify Random Digit Dialing (RDD) telephone surveys as a data source used to establish FMRs for selected individual areas and to develop rent-change factors for updating FMRs;

(4) To state the requirement that, in order to be considered as a basis for revising the FMRs, public comments on proposed FMRs must contain statistically valid rental housing survey data justifying the requested changes; and

(5) To provide that the FMR for a manufactured home space in the tenant-based certificate program is 30 percent of the FMR for a two-bedroom housing unit.

The amendments to the method of calculating FMRs in this final rule apply to the following Section 8 Housing

Assistance Payments programs: the Rental Certificate program, including space rentals by owners of manufactured homes; the Moderate Rehabilitation SRO Program; the loan management program for projects with HUD-insured or HUD-held mortgages, as well as the Property Disposition program; and any other HUD programs which use these FMRs (e.g., programs to assist the homeless). In addition, the rule amends the regulations to reflect use of FMRs to establish payment standards for the Rental Voucher program. The rule applies to public housing agencies (PHAs) and Indian Housing Authorities (IHAs), which are collectively referred to as housing authorities (HAs).

**II. Public Comments on Proposed Rule**

On March 2, 1995 (60 FR 11626), HUD published its proposed rule that would amend the Department's regulations at 24 CFR part 888 governing the method of calculating FMRs for the Section 8 Rental Certificate Programs discussed above. The Department received 628 comments on the proposed regulation.

The following presents the major issues raised in the public comments and HUD's responses to these issues.

1. *Comment:* Many commenters contended that the reduction to the 40th percentile rent standard would result in a shortage of units available to the Section 8 program and that participants would be limited in their housing choices and, therefore, trapped in poor neighborhoods where units are of marginal quality. Some HAs are claiming that the reduction will kill the program in rural areas.

*Response:* The proposed rule would have HUD set the FMR standard at the 40th percentile rent level of the distribution of standard quality rental housing units occupied by recent movers. Because the rents of recent movers are almost always higher than the rents of stayers, more than 40 percent of the standard quality rental housing units in each FMR area have rents that would make them available to program participants.

A HUD analysis of Census data shows that, contrary to the perception of most of the commenters, rent-eligible units are actually widely dispersed throughout FMR areas. An analysis of a representative sample of 13 metropolitan areas revealed that, on average, 85 percent of census tract neighborhoods with 10 or more two-bedroom rental units had at least 30 percent of the two-bedroom units below the FMRs. The variation among these areas was not great. All areas had high