§ 41.113 Procedures in issuing visas.

(a) Visa evidenced by stamp placed in passport. Except as provided in paragraphs (b) of this section, a nonimmigrant visa shall be evidenced by a visa stamp placed in the alien's passport. The appropriate symbol as prescribed in 41.12 , showing the classification of the alien, shall be entered on the visa.

(b) Cases in which visa not placed in passport. In the following cases the visa shall be placed on the prescribed Form OF–232. In issuing such a visa, a notation shall be made on the Form OF–232 on which the visa is placed specifying the pertinent subparagraph of this paragraph under which the action is taken.

(1) The alien's passport was issued by a government with which the United States does not have formal diplomatic relations, unless the Department has specifically authorized the placing of the visa in such passport;

(2) The alien's passport does not provide sufficient space for the visa;

(3) The passport requirement has been waived; or

(4) In other cases as authorized by the Department.

(c) Visa stamp. A machine-readable nonimmigrant visa foil, or other indicia as directed by the Department, shall constitute a visa ''stamp,'' and shall be in a format designated by the Department, and contain, at a minimum, the following data:

(1) Full name of the applicant;

(2) Visa type/class;

(3) Location of the visa issuing office;

(4) Passport number;

(5) Sex;

(6) Date of birth;

(7) Nationality;

(8) Number of applications for admission or the letter ''M'' for multiple entries;

(9) Date of issuance;

(10) Date of expiration;

(11) Visa control number.

(d) Insertion of name; petition and derivative status notation. (1) The surname and given name of the visa recipient shall be shown on the visa in the space provided.

(2) If the visa is being issued upon the basis of a petition approved by the Attorney General, the number of the petition, if any, the period for which the alien's admission has been authorized, and the name of the petitioner shall be reflected in the annotation field on the visa.

(3) In the case of an alien who derives status from a principal alien, the name and position of the principal alien shall be reflected in the annotation field of the visa.

(e) Period of validity. If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the letter ''M'' shall be shown under the word ''entries''. Otherwise the number of permitted applications for admission shall be identified numerically. The date of issuance and the date of expiration of the visa shall be shown at the appropriate places in the visa by day, month and year in that order. The standard three letter abbreviation for the month shall be used in all cases.

(f) Restriction to specified port of entry. If a nonimmigrant visa is valid for admission only at one or more specified ports of entry, the names of those ports shall be entered in the annotation field. In cases where there is insufficient room to list the ports of entry, they shall be listed by hand on a clean passport page. Reference shall be made in the visa's annotation field citing the passport page upon which the ports are listed.

(g) Delivery of visa and disposition of Form OF–156. In issuing a nonimmigrant visa, the consular officer shall deliver the visaed passport, or the prescribed Form OF–232, which bears the visa, to the alien or, if personal appearance has been waived, to the authorized representative. The executed Form OF–156, Nonimmigrant Visa Application, and any additional evidence furnished by the alien in accordance with 41.103(b) shall be retained in the consular files.

(h) Disposition of supporting documents. Original supporting documents furnished by the alien shall be returned for presentation, if necessary, to the immigration authorities at the port of entry, and a notation to that effect shall be made on the Form OF–156. Duplicate copies may be retained in the consular files.

Dated: April 22, 1997.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 97–11519 Filed 5–2–97; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 2537]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Visa Fees

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This publication finalizes the Department's interim rule [59 FR 25325] published May 16, 1994 authorizing the Department to collect a processing fee for machine-readable nonimmigrant visas and machine-readable combined border crossing cards.

EFFECTIVE DATE: May 16, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Washington, D.C., (202) 663–1203.

SUPPLEMENTARY INFORMATION: Section 140 of Pub. L. 103–236, the State Department Authorization Bill for Fiscal Years 1994 and 1995, signed by the President on April 30, 1994, authorized the Secretary of State to collect a processing fee for machine-readable nonimmigrant visas and machine-readable border crossing cards. The surcharge is independent of any reciprocity fees otherwise prescribed pursuant to section 281 of the Immigration and Nationality Act (INA).

Final Rule

The interim rule amended the Department's regulations at 22 CFR 41.107 to provide for a visa processing surcharge for costs associated with the production of machine-readable nonimmigrant visas and machine-readable border crossing cards, and invited interested persons to submit comments. As no comments were received, the interim rule is incorporated herein as a final rule.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passport and Visas, Fees, Surcharge.

Accordingly, the interim rule amending 22 CFR part 41 which was published at 59 FR 25325 on May 16, 1994 is adopted as a final rule without change.

Dated: April 22, 1997.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 97–11520 Filed 5–2–97; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 950

[Docket No. FR–4080–F–02]

RIN 2577–AB66

Optional Earned Income Exclusions

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as final the amendments to HUD's regulations for

the definition of ''annual income'' applicable to Public Housing Agencies and Indian Housing Authorities in the operation of public housing and Indian housing programs that were issued as an interim rule in August 1996. The rule is necessary to encourage HAs to take action to further the efforts of applicants and tenants to seek employment and to increase their earned income. The intended effect is to permit HAs to adopt an exclusion for earned income, tailored to their own circumstances, to support the efforts of working families.

EFFECTIVE DATE: June 4, 1997.

FOR FURTHER INFORMATION CONTACT: For the public housing program, contact Linda Campbell, Director, Marketing and Leasing Management Division, Office of Public and Assisted Housing Operations, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC. 20410, telephone (voice): (202) 708–0744, extension 4020. (This is not a toll-free number.) For hearing- and speech-impaired persons, this number may be accessed via text telephone by dialing the Federal Information Relay Service at 1–800–877–8339.

For the Indian housing programs, contact Deborah Lalancette, Director, Housing Management Division, Office of Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Box 90, Denver, CO 80202, telephone (voice): (303) 675–1600, extension 3300. (This is not a toll-free number.) For hearing- and speech-impaired persons, this number may be accessed via text telephone by dialing the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. The August 30, 1996 Interim Rule

An interim rule was published on August 30, 1996 (61 FR 46344), amending regulations for the public housing and Indian housing programs to permit Public Housing Agencies and Indian Housing Authorities (collectively Housing Agencies, or ''HAs'') to adopt an exclusion for earned income. The rule was based on the authority of the Secretary to define ''income'' (section 3(b)(4) of the United States Housing Act of 1937, 42 U.S.C. 1437a(b)(4)), and it was related to a 1996 statutory enactment that specifically authorized housing agencies to allow earned income adjustments, as long as HUD's operating subsidy obligation was not affected.

That rule added to the definitions of ''annual income'' in the regulations governing the public housing and Indian housing programs an option for HAs to adopt additional exclusions for earned income pursuant to an established written policy. Eleven types of exclusions were stated, and HAs were to choose from among those types and variations of those types if they adopted an earned income exclusion. The rule stated that if an HA experienced a loss in rental income as a result of adopting such an exclusion, it would have to absorb the loss since there is no provision for an adjustment to its operating subsidy from HUD under the Performance Funding System. Similarly, an HA that receives greater rental income as a result of adoption of such an exclusion does not suffer any reduction in income as a result of the rule.

II. Changes to the Interim Rule

The Department is making no substantive changes to the rule. The public comments received are discussed in greater detail in section IV of this preamble. The primary concerns expressed dealt with a desire for increases in operating subsidy to offset HA losses in rental income from adopting earned income exclusions and with administrative burden associated with calculating rental income both with and without the earned income exclusion. HUD is not in a position to provide additional operating subsidy, because of Congressional funding constraints, and the administrative burden is not actually as great as feared by the HAs who submitted comments.

III. Background

A. Statutory

The 1996 statutory enactment that dealt with earned income adjustments was the Balanced Budget Downpayment Act I, enacted on January 26, 1996 (Pub. L. No. 104–99), which was also known as the Continuing Resolution or ''CR''. The CR permitted housing agencies to take actions to attract and retain working families in occupancy such as the adoption of ceiling rents and the adoption of earned income deductions that would ease the impact on working tenants. The Act also repealed Federal admissions preferences, permitting HAs to use preferences for working families to greater advantage.

The CR was enacted by Congress for effect during Federal Fiscal Year 1996. Now its provisions have been extended to be effective for Federal Fiscal Year 1997, as well, by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204, September 26, 1996, 110 Stat. 2882). Unlike the CR provisions that allow a deduction from a family's income for earned income, this rule provides for an exclusion from a family's initial determination of income. (See the preamble to the interim rule for a more detailed discussion of this subject.) This rule is intended to promote the same objectives, however, as the CR.

B. Regulatory

When the interim rule was published, on August 30, 1996, the amendments were made to 24 CFR parts 913 and 950, which were the regulatory provisions then in effect with respect to income definitions for the public housing and Indian housing programs. Since that time, the definition of ''annual income'' governing the public housing program was moved from 24 CFR part 913 to 24 CFR 5.609 by a final rule published on October 18, 1996 (61 FR 54492). That rule incorporated in § 5.609(d) (at 61 FR 54502), the provisions stated in § 913.106(d) of the August 1996 interim rule, making a minor modification to add a title limiting its applicability to the public housing program. (Unlike part 913, part 5 applies to programs other than public housing, so the title was needed to limit the effect of the provision to public housing.) That rule noted in the preamble, 61 FR 54497, that the provision included at § 5.609(d) was still an interim provision on which public comments were welcome through October 29, 1996. Part 950 was left unchanged by that rule.

IV. Response to Public Comments

A. General

The Department received public comments from three public housing agencies. Generally, the comments expressed support for the concept of a flexible, optional exclusion for earned income. The comments did express concern, however, about the fiscal impact of the proposed rule and about administrative burdens associated with providing HUD with comparative figures for actual rental income and rental income that would have been received without the adoption of an earned income exclusion.

B. Loss in Subsidy

Comment: The HAs expressed concern that losses in HA income as a result of implementing an earned income exclusion would not be offset by increases in PFS subsidy eligibility. They indicated an expectation that families first moving to work would not produce incomes sufficient to raise rental payments if an earned income exclusion were implemented. With a

nationwide move of welfare families to employment, as a result of welfare reform legislation, they indicated that the decrease in rental income from families who are employed under an earned income exclusion would cause extreme hardship on housing agencies if HUD does not offer any compensating subsidy.

Response: The CR authorized the earned income adjustment only for the public and Indian housing programs and only based on the premise that operating subsidy obligations of the Department would not be affected. This rule follows those limits on the scope of the optional special treatment of earned income. Congress has shown no interest in increasing HA subsidy under the PFS to offset any loss to HAs resulting from implementation of this type of adjustment, so HUD does not have funding to furnish HAs to make up any such shortfall.

Comment: One HA recommended that HUD allow HAs a two-year evaluation period during which they would not absorb any loss in rental income that results from adoption of earned income exclusions.

Response: A two-year period during which an HA would not be penalized is unacceptable because it provides no restraints on the amount of the exclusions that an HA would provide. Since the amount of PFS funding is fixed by Congress, giving more operating subsidy to the HAs that provided large earned income exclusions for its tenants would result in a loss of operating subsidy by other HAs that chose not to have an earned income exclusion.

Comment: One HA indicated that the limit of the rule's applicability through Federal Fiscal Year 1998 limits a HA's ability to anticipate reaping benefits from residents' eventual higher incomes and increased rental income.

Response: Although the HUD Notice implementing the CR was limited in the length of its applicability, this rule is not so limited since it is based not on the CR but on the authority of the Secretary to define ''income.''

C. Administrative Burden

Comment: Two of the HAs indicated that they were concerned that the rule would require them to maintain two rent rolls—one for the rental income that would be received without the adoption of an earned income exclusion and one for the rental income actually realized implementing the exclusion.

Response: The Department agrees that there is somewhat more work for HAs, since an HA must know how much of the rent they are collecting comes from earnings—something they have not done—and they must calculate the rental payments both with and without an earned income exclusion. The comparison of what is received in rental income and what would have been received in the absence of an earned income exclusion only would need to be done once a year. It would not require the HA to maintain two sets of books throughout the year. (The procedure is specified in HUD Notice PIH 96–87 (HA), which was issued November 20, 1996, to implement the deductions permitted under the CR as well as the exclusions permitted under the interim rule.)

The HA uses the rent from a base month, such as April 1996 (or a later month) and then, once a year compares the rent roll from the base month with the rent roll of the month being used for the annual analysis, such as April 1997. The HA then does two things. It adds back to the base month amount in the later year the amount ''given up'' in earned income exclusions. It uses that amount to calculate the PFS subsidy eligibility amount. Secondly, it compares, on a per unit basis, the amount of rent from earnings versus other income for the base month of the earlier year with the amount of earnings versus other income for the base month of the later year. That gives the HA an opportunity to offset some of the loss, or actually make a gain. The mechanism is not two rent rolls maintained throughout the year but a comparison done once a year.

For example, an HA that has 100 units might receive a total of $50,000 in rent in April 1996, of which $20,000 represented earned income and $30,000 represented other income. Without adoption of an earned income exclusion, its rental income the following year might be $55,000, of which $35,000 represented earned income and $20,000 represented other income. If it adopted an earned income exclusion that disregarded $10,000 of the earned income, its rental income in April 1997 would be $45,000. The $15,000 difference between the rental income from earned income in April 1997 ($35,000) and in April 1996 ($20,000) would be used to offset the $10,000 in earned income exclusions. This HA would have an additional $5,000 to keep, up to 100% of its PFS funding.

Findings and Certifications

Impact on the Environment

A Finding of No Significant Impact with respect to the environment was 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, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410–0500.

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 do not have significant impact on States or their political subdivisions since the provisions of this interim rule simply add an option for housing agencies to adopt. To the extent there is an impact, it is advantageous to the HAs, which are creatures of State or local government.

Impact on 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. Therefore, the rule is not subject to review under the Order. The rule merely broadens the options for housing agencies in managing their public housing or Indian housing programs to encourage families to obtain employment and to increase their earnings.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant impact on a substantial number of small entities, because it makes available additional options for housing agencies but does not impose mandatory obligations.

Catalog

The Catalog of Federal Domestic Assistance number for the programs affected by this rule is 14.850.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Grant programs—low and moderate income housing, Indians, Individuals with disabilities, Intergovernmental relations, Loan programs—housing and

community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

24 CFR Part 950

Aged, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

Accordingly, the amendments to the definitions of ''Annual income'' codified at 24 CFR 950.102, as published on August 30, 1996 (61 FR 46346), is adopted as final, without change, and 24 CFR 5.609(d), published on October 18, 1996 (61 FR 54502), is reaffirmed as final.

Dated: April 23, 1997.

Andrew Cuomo,

Secretary.

[FR Doc. 97–11534 Filed 5–2–97; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 3280 and 3282

[Docket No. FR–4223–N–01]

Manufactured Housing: Statement of Policy 1997–1, State and Local Zoning Determinations Involving HUD-Code

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Statement of policy.

SUMMARY: This Statement of Policy provides notice to the public concerning HUD's application of the National Manufactured Housing Construction and Safety Standards Act of 1974 (Act) to certain zoning decisions being made by State or local government. These cases typically involve State or local actions to prohibit the siting of HUD-code manufactured housing while permitting the siting of other types of manufactured housing built to State or local building codes.

If a locality is attempting to regulate and even exclude certain manufactured homes through zoning enforcement that is based solely on a construction and safety code different than that prescribed by the Act, the locality is without authority to do so. This Statement of Policy is being provided to clarify and distribute HUD's existing policy determination concerning this matter.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th St. SW, Room 9152, Washington, D.C. 20410–8000), telephone number (202) 708–6409 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Over the last few years, HUD has received a number of questions concerning the application of the Federal preemption authority in the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) (Act) to actions by State or local government. HUD recently published a nonbinding notice of staff guidance, which it hoped would assist the public on some of these questions (62 FR 3456, January 23, 1997).

In certain cases involving questions of preemption and zoning, the State or local government is imposing more limitations on the placement of manufactured homes that are built to the Federal manufactured home construction and safety standards (24 CFR part 3282) (Federal standards) than on other types of factory-built single family housing. In the past, HUD has sent letters to various communities in such cases, where local zoning laws are in direct conflict with the Federal Act and regulations.

II. Increasing Homeownership and the Supply and Availability of Affordable Housing

The elimination of barriers to the expanded use of affordable housing, including manufactured homes, has been one of the primary objectives of the President's National Homeownership Strategy. HUD coordinates the National Partners in Homeownership, which now has over 60 national organizations participating, including State, county and local governments, and other groups, to identify and promote ways to increase homeownership and the supply of affordable housing. The Strategy includes the following goals and objectives in Action Item 27:

- The partnership should identify and promote zoning and land development policies that are more conducive to manufactured housing. As part of this initiative, partners should develop model legislation for States and localities to adopt that prohibits exclusion of manufactured housing solely on the basis of HUD certification (manufacturer certification that the home has been constructed to the Federal standards).
- The partners also should produce design and land development criteria and guidance materials for use by housing developers and local governments, to facilitate inclusion of manufactured housing in their jurisdictions. To supplement these efforts, the partnership should offer a cooperative program of education and technical assistance to encourage nationwide acceptance of the model legislation within 6 years.

HUD strongly endorses this Action Item, particularly making available sites for manufactured housing outside of parks and largely rural areas. On March 22, 1996, the Manufactured Housing Institute (MHI) and the American Planning Association (APA) convened a National Partners in Homeownership Forum to discuss zoning and other issues. The Forum drew over 100 attendees including planners, housing-advocacy organizations, and representatives from the manufactured housing industry.

The attendees reached an almost unanimous consensus that very real zoning and other regulatory barriers exist that significantly hinder the full use of manufactured housing. The Forum produced a series of recommendations to HUD and the National Partners in Homeownership, including APA and MHI.

This Statement of Policy is being issued as an initial step toward the elimination of barriers to the use of manufactured housing and in furtherance of the goals and objectives of the National Homeownership Strategy.

III. Requirements of Act and Regulations

Section 604(d) of the Act, 42 U.S.C. 5403(d), states:

> Whenever a Federal manufactured home construction and safety standard established under [the Act] is in effect, no State or political subdivision of a State shall have any authority * * * to establish, * * * with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard.

The term ''manufactured home'' is defined in section 603(6) of the Act, 42 U.S.C. 5402(6). In addition, § 3282.11(d) of the Manufactured Home Procedural and Enforcement Regulations (24 CFR part 3282) prohibits any State or locality