severed from the remainder of the rule, FDA may adopt as final those provisions of the rule that are not the subject of a significant adverse comment.

If FDA withdraws the direct final rule, all comments received will be considered under the proposed rule in developing a final rule in accordance with usual Administrative Procedure Act notice-and-comment procedures.

If FDA receives no significant adverse comment during the specified comment period, FDA intends to publish a confirmation document within 30 days after the comment period ends confirming the effective date.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impact of this direct final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this direct final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, this direct final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The direct final rule amends the existing hearing aid regulation to refer to the updated consensus standard that is used to determine the technical data in hearing aid labeling. Communications from manufacturers to FDA show that they are prepared to be in compliance with this standard immediately. The agency, therefore, certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This direct final rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any one year.

V. Paperwork Reduction Act of 1995

This direct final rule contains no collection of information. Therefore clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is no required.

VI. Request for Comments

Interested persons may, on or before January 17, 2000, submit to the Docket Management Branch (address above) written comments regarding this direct final rule. The comment period runs concurrently with the comment period for the companion proposed rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. All comments received will be considered as comments regarding the companion proposed rule and this direct final rule. In the event the direct final rule is withdrawn, all comments received regarding the companion proposed rule and this direct final rule will be considered comments on the proposed rule.

List of Subjects in 21 CFR Part 801

Hearing aids, Incorporation by reference, Medical devices, Professional and patient labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 801 is amended as follows:

PART 801—LABELING

1. The authority section for 21 CFR part 801 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 360i, 360j, 371, 374.

2. Section 801.420 is amended by revising the second and third sentences in paragraph (c)(4) to read as follows:

§ 801.420 Hearing aid devices; professional and patient labeling.

* * * * *

(c) * * *

(4) * * * The determination of technical data values for the hearing aid labeling shall be conducted in accordance with the test procedures of the American National Standard ''Specification of Hearing Aid Characteristics,'' ANSI S3.22–1996 (ASA 70–1996) (Revision of ANSI S3.22–1987), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Standards Secretariat of the Acoustical Society of America, 120 Wall St., New York, NY 10005–3993, or are available for inspection at the Regulations Staff, CDRH (HFZ–215), FDA, 1350 Piccard Dr., rm. 240, Rockville, MD 20850, and at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC. * * *

* * * * *

Dated: October 19, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–28209 Filed 11–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–4428–F–05]

RIN 2577–AB91

Housing Choice Voucher Program; Amendment

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

ACTION: Final rule.

SUMMARY: On October 21, 1999, HUD published a final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs. This rule makes an amendment to the October 21, 1998 final rule concerning the 40 percent of adjusted monthly income initial rent burden limit. HUD is making this change based upon its reconsideration of the statutory language and legislative history regarding this requirement.

DATES: Effective Date: December 3, 1999.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477. (This is not a toll-free number.) Hearing or speech-impaired individuals may access this number via TTY by calling

the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 1999 (64 FR 56894), HUD published a final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs. The October 21, 1999 final rule implemented section 545 of the Quality Housing and Work Responsibility Act of 1998 (Title V of the FY 1999 HUD Appropriations Act; Pub. L. 105–276, approved October 21, 1998) (referred to as the ''Public Housing Reform Act''). The new tenant-based program (known as the Housing Choice Voucher program) has features of the previously authorized certificate and voucher programs, plus new features. Interested persons should consult the preamble to the October 21, 1999 final rule for additional details. This final rule makes an amendment to new Housing Choice Voucher Program regulations at 24 CFR part 982.

The Public Housing Reform Act provides that at the time a family initially receives tenant based assistance under the Housing Choice Voucher Program with respect to any dwelling unit:

> [T]he total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family. (42 U.S.C. 1437f(o)(3), as amended by section 545 of the Public Housing Reform Act)

This statutory provision is currently implemented by § 982.508.

This final rule provides that the initial rent burden restriction at § 982.508 applies only to a family who leases a unit at a gross rent which exceeds the applicable payment standard for the family. This final rule provides that at the time the Public Housing Agency (PHA) approves a tenancy for initial occupancy of a dwelling unit by a family with assistance under the voucher program, *and where the gross rent of the unit exceeds the applicable payment standard for the family,* the family share of gross rent must not exceed 40 percent of the family's monthly adjusted income. Under this final rule, the initial rent burden restriction will not apply to a family that rents a unit for a gross rent (rent to owner plus tenant-paid utilities) at or below the payment standard for the family.

In the Housing Choice Voucher Program, the monthly assistance payment for a family that rents for a gross rent below the payment standard for the family is the gross rent minus the total tenant payment (TTP), as computed by a statutory formula. The TTP is *the highest of:*

1. 30 percent of monthly adjusted income;
2. 10 percent of monthly income;
3. In ''as-paid'' States (where the welfare housing grant is adjusted in accordance with actual housing cost), the portion of welfare assistance designated for housing; or
4. The PHA's minimum rent (from $0 to $50, as determined by the PHA).

Under the last three branches of this formula, the TTP (which is not covered by the voucher subsidy payment) for a family may exceed 40 percent of adjusted monthly income. HUD previously advised that such families may not rent a unit for a gross rent that exceeds the 40 percent initial rent burden limit.

On reconsideration of the statute and legislative history, HUD believes that the statute is only intended to place a restriction on the rent burden of a family who chooses to lease a unit for a rent that exceeds the payment standard applicable to the family.

The exact language later enacted as the initial rent burden restriction in the Public Housing Reform Act originated in the predecessor of the Public Housing Reform Act, as reported by the Senate Banking Committee in May, 1997 (Sen. Report 105–21, May 23, 1997). The Committee report specifies that the 40 percent rent burden limitation applies ''if the initial rent on a unit exceeds the payment standard'' (Sen. Report 105–21, page 34; see also, page 35). The Committee report also states that ''if the tenant wishes to lease a unit where the initial rent on a unit exceeds the payment standard'' tenants may pay the difference up to 40 percent of adjusted income (Sen. Report 105–21, page 56). The Committee report clearly indicates that the 40 percent rent burden limitation is not intended to apply for a family that rents below the payment standard, and whose statutory total tenant payment exceeds 40 percent of adjusted income.

Although this final rule will not take effect until December 3, 1999, PHAs are advised that the amendment made by this final rule better reflects the intent of the Congress in enacting the ''40 percent rent burden limit.'' PHAs should, therefore, immediately begin to conform their practices and procedures to the language of § 982.508, as amended by this final rule. In the meantime, pending the effective date of this rule, HUD does not anticipate imposing sanctions against PHAs that rely on the course set out here as a ''safe harbor.''

II. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure would be contrary to the public interest. This final rule amends the Housing Choice Voucher Program regulations at 24 CFR part 982 to more accurately reflect the Congressional intent regarding the ''40 percent initial rent burden.'' Upon reconsideration of the relevant statutory language and legislative history, HUD has determined that its initial interpretation (codified at § 982.505) may contradict the intent of the Congress in enacting this provision. It is necessary for this rule not to be delayed to solicit public comments in order to correct any potential confusion on the part of PHAs and assisted families regarding the scope and applicability of this statutory requirement. Accordingly, HUD is publishing this rule for effect without prior public participation.

III. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made on HUD's May 14, 1999 interim rule implementing the statutory merger of the tenant-based Section 8 certificate and voucher programs, in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). That Finding remains applicable to this final rule and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Unfunded Mandates Reform Act

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

local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this final rule and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. The final rule is exclusively concerned with public housing agencies that administer tenant-based housing assistance under Section 8 of the United States Housing Act of 1937. Specifically, the final rule would establish requirements governing tenant-based assistance for an eligible family. The final regulatory amendment would not change the amount of funding available under the Section 8 voucher program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Catalog of Domestic Assistance Numbers

The Catalog of Domestic Assistance numbers for the programs affected by this final rule are 14.855 and 14.85.

List of Subjects in 24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies.

For the reasons described in the preamble, HUD is amending 24 CFR part 982 as follows:

PART 982—SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

1. The authority citation for 24 CFR part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

2. Revise § 982.305(a)(5) to read as follows:

§ 982.305 PHA approval of assisted tenancy.

(a) * * *

(5) At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40 percent of the family's monthly adjusted income.

* * * * *

3. Revise § 982.508 to read as follows:

§ 982.508 Maximum family share at initial occupancy.

At the time the PHA approves a tenancy for initial occupancy of a dwelling unit by a family with tenant-based assistance under the program, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share must not exceed 40 percent of the family's adjusted monthly income. The determination of adjusted monthly income must be based on verification information received by the PHA no earlier than 60 days before the PHA issues a voucher to the family.

Dated: October 28, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–28790 Filed 11–1–99; 8:51 am]

BILLING CODE 4210–33–U

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Rescission Guidelines

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule; amendments.

SUMMARY: The Commission is amending its regulation regarding sanctioning of disciplinary infractions and new criminal behavior by prisoners who have applied for parole or who have received grants of parole. The amendment clarifies the Commission's longstanding policy that this regulation applies to all misconduct committed by a prisoner while confined, whether before or after the sentence is imposed. It also clarifies the applicability of the rule to parolees when they are confined for new crimes committed while on parole.

DATES: *Effective Date:* December 3, 1999. Comments must be received by December 31, 1999.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: The Commission's regulation at 28 CFR § 2.36 provides in pertinent part that the rescission guidelines contained therein ''shall apply to the sanctioning of disciplinary infractions or new criminal behavior committed by a prisoner subsequent to the commencement of his sentence and prior to his release on parole.'' 28 CFR 2.36(a). The Commission's regulation regarding guidelines for parole decisionmaking provides in pertinent part that ''for criminal behavior committed while in confinement see § 2.36.'' 28 CFR 2.20(i). The Commission's longstanding interpretation of its rescission guidelines is therefore that they apply to all misconduct and new criminal behavior committed by an offender ''in confinement''. In order to clarify the language of § 2.36(a), (which, standing alone, appears to limit rescission guidelines to conduct after a prisoner has begun service of an imposed sentence) the Commission is amending § 2.36(a). The amended rule will make clear that the rescission guidelines apply to new criminal conduct committed by any offender who is in confinement, whether as a pretrial detainee, as a prisoner serving an imposed sentence, or as a prisoner who has been transferred to another institution pending trial or sentencing on another matter. The amended rule also makes clear that the rescission guidelines apply to disciplinary infractions or further crimes committed by a parolee after he has been confined on a new criminal charge, whether before or after the Commission revokes his parole. This inclusive policy reflects the Commission's view that disciplinary infractions are always relevant to the parole decisionmaking process, and that new crimes committed while in official confinement of any type share are a significant indicant of the offender's lack of suitability for parole or reparole.

The rescission guidelines therefore apply to conduct committed while in confinement regardless of the venue of confinement; new criminal conduct in a halfway house or jail, as well as in a