

3. In § 210.13, redesignate paragraph (c) as paragraph (d), and add a new paragraph (c) to read as follows:

§ 210.13 Facilities management.

* * * * *

(c) *Food safety program.* The school food authority must develop a written food safety program for each of its food preparation and service facilities that meets the requirements in paragraph (c)(1) or paragraph (c)(2) of this section.

(1) A school food authority with a food safety program based on traditional hazard analysis and critical control point (HACCP) principles must:

- (i) Perform a hazard analysis;
- (ii) Decide on critical control points;
- (iii) Determine the critical limits;
- (iv) Establish procedures to monitor critical control points;
- (v) Establish corrective actions;
- (vi) Establish verification procedures; and
- (vii) Establish a recordkeeping system.

(2) A school food authority with a food safety program based on the process approach to HACCP must ensure that its program includes:

- (i) Standard operating procedures to provide a food safety foundation;
- (ii) Menu items grouped according to process categories;
- (iii) Critical control points and critical limits;
- (iv) Monitoring procedures;
- (v) Corrective action procedures;
- (vi) Recordkeeping procedures; and
- (vii) Periodic program review and revision.

* * * * *

- 4. In § 210.15,
 - a. Revise the introductory text in paragraph (b); and
 - b. Revise paragraph (b)(5).
 The revisions read as follows:

§ 210.15 Reporting and recordkeeping.

* * * * *

(b) *Recordkeeping summary.* In order to participate in the Program, a school food authority or a school, as applicable, must maintain records to demonstrate compliance with Program requirements. These records include but are not limited to:

* * * * *

(5) Records from the food safety program for the current and prior school year to demonstrate compliance with § 210.13(c), and records from the most recent food safety inspection to demonstrate compliance with § 210.13(b).

5. In § 210.18, add a new paragraph (h)(6) to read as follows:

§ 210.18 Administrative reviews.

* * * * *

(h) * * *

(6) *Food safety.* The State Agency must examine records to confirm that each school food authority under its jurisdiction meets the food safety requirements of § 210.13.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for 7 CFR part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

2. In § 220.7:

- a. Add a new paragraph (a)(3); and
- b. Revise paragraph (e)(8).

The addition and revision read as follows:

§ 220.7 Requirements for participation.

(a) * * *

(3) A school food authority must implement a food safety program meeting the requirements of part 210 of this chapter at each of the food preparation and service facilities under its jurisdiction.

* * * * *

(e) * * *

(8) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations, and comply with the food safety requirements in paragraph (a)(2) and paragraph (a)(3) of this section;

* * * * *

Dated: July 28, 2008.

Kate Houston,

Acting Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. E8-17941 Filed 8-4-08; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 24

[Docket No. USCBP 2007-0111]

RIN 1505-AB97

Electronic Payment and Refund of Quarterly Harbor Maintenance Fees

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend title 19 of the Code of Federal Regulations by prescribing alternative procedures by which payers of the quarterly harbor maintenance fee (HMF) may submit their payments or refund requests to Customs and Border Protection (CBP) electronically via an Internet account established by the payer and located at <http://www.pay.gov>. CBP will continue to accept quarterly HMF payments or refund requests via mail. It is also proposed to clarify the regulations to state that each HMF quarterly payment, whether paper or electronic, must be accompanied by a CBP Form 349 (HMF Quarterly Summary Report). The changes proposed in this document are intended to provide the trade with expanded electronic payment/refund options for quarterly HMFs and to modernize and enhance CBP's port use fee collection efforts.

DATES: Comments must be received on or before October 6, 2008.

ADDRESSES: You may submit comments, identified by *docket number*, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP 2007-0111.

- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT:

Deborah Thompson, Office of Finance, Revenue Division, Collections, Refunds and Analysis Branch, (317) 614-4511.

SUPPLEMENTARY INFORMATION:**Public Participation**

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Background*Harbor Maintenance Fee (HMF)*

The harbor maintenance fee (HMF) was created by the Water Resources Development Act of 1986 (Pub. L. 99-622, 26 U.S.C. 4461 *et seq.*). The purpose of the fee is to require those who benefit from the maintenance of U.S. ports and harbors to share in the associated costs of such maintenance. The HMF is assessed based on 0.125 percent of the value of commercial cargo loaded or unloaded at certain identified ports or, in the case of passengers, on the value of the actual charge paid for the transportation.

Existing HMF Regulations

The HMF implementing regulations are set forth in § 24.24 of title 19 of the Code of Federal Regulations (19 CFR 24.24). Section 24.24(e) sets forth the procedures applicable to HMF collections, supplemental payments, and refunds. Generally, this provision requires accumulated HMFs to be paid on a quarterly basis by mailing a check or money order to a specified CBP address, accompanied by a CBP Form 349 (HMF Quarterly Summary Report). See 19 CFR 24.24(e)(1)(ii), (2)(iii), and (3)(ii). A supplemental HMF payment or refund request must be accompanied by a CBP Form 350 (HMF Amended Quarterly Summary Report), along with a copy of the CBP Form 349. See 19 CFR 24.24(e)(4)(i) and (iii). Section 24.24(f) provides that all quarterly payments required by this section be received no later than 31 days after the close of the quarter being paid.

Proposed Amendments to the HMF Regulations

Most of the changes proposed in this document affect 19 CFR 24.24(e) which, as noted above, sets forth the procedures applicable to HMF payments and refunds. Specifically, this document proposes new alternative procedures that would permit the electronic payment of quarterly HMFs using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov>. Requests for HMF refunds may also be made through <http://www.pay.gov>. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive refund payments via mail. As these proposed electronic procedures are voluntary, CBP will continue to accept HMF payments and refund requests sent via mail.

Pay.gov is a secure Internet payment platform provided by the Financial Management Service (FMS) for payments to federal agencies. CBP has migrated payment of certain fees and taxes to the pay.gov platform through the use of ACH debit transactions. CBP will distribute a user-guide to HMF payers that provides information regarding account set-up and related issues.

This document also proposes to clarify 19 CFR 24.24(e) to require that, for both paper and electronic payments of the quarterly HMF, a CBP Form 349 must accompany *each* HMF payment. All three provisions of the existing HMF payment regulations set forth at 19 CFR 24.24(e)(1)(ii), (2)(iii), and (3)(ii) require the payer to pay *all fees* for which he is liable *for the quarter* by *mailing a check or money order* payable to CBP and a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349. Based on the existing terms of these provisions, a payer is required to remit a single quarterly payment to CBP accompanied by a single CBP Form 349. In practice, however, CBP has received HMF payments by methods that do not follow the regulations. For example, CBP has received several HMF payments from a single payer for a quarter or, in the alternative, a single HMF payment that is accompanied by several CBP Form 349s. In a purely paper environment, CBP was able to process these submissions. In the context of an electronic paperless environment, however, it is proposed to require that a single CBP Form be submitted with *each* HMF payment to support the transactional requirements of <http://www.pay.gov> and to promote

consistency and harmonization of HMF collection procedures.

These proposed changes, other than those involving non-substantive editorial changes, are discussed below in more detail.

Explanation of Amendments

It is proposed to amend 19 CFR 24.24 to set forth alternative expanded procedures for the electronic payment and refund of quarterly HMFs. It is also proposed to amend this section to require that each HMF quarterly payment or refund request, whether paper or electronic, be accompanied by a CBP Form 349 or 350, as appropriate.

Section 24.24(c)(8)(i)

Section 24.24(c) describes the types of commercial cargo that are exempt from the HMF. Within this provision, paragraph (c)(8)(i) specifies donated cargo that is certified by CBP as intended for use in humanitarian or development assistance overseas, including contiguous countries, as exempt from the HMF. The existing regulations direct that a request for a refund made pursuant to this provision should be made on a CBP Form 350 and sent to the Office of Finance located at CBP Headquarters in Washington, DC, along with a CBP Form 349 for each quarter for which a refund is requested and supporting evidence that establishes that the entity donating the cargo is a nonprofit organization or cooperative and that the cargo was intended for humanitarian or development assistance overseas.

It is proposed to amend this provision to clarify that HMF refund requests must be submitted to CBP on a Harbor Maintenance Fee Amended Quarterly Summary Report, CBP Form 350, and to provide that the form may either be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, 6650 Telecom Drive, Indianapolis, Indiana 46278, or it may be submitted electronically to CBP via an Internet account established by the payer and located at <http://www.pay.gov>. Upon request by CBP, the party requesting the refund must also submit to CBP, via mail, the Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349, for the quarter covering the payment to which the refund request relates as well as any supporting documentation deemed necessary by CBP to certify that the entity donating the cargo is a nonprofit organization or cooperative and that the cargo was intended for humanitarian or development assistance overseas (including contiguous countries). Approved HMF refund payments will

be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

Section 24.24(e)

Section 24.24(e) sets forth the procedures applicable to HMF collections, supplemental payments and refunds. Section 24.24(e)(1)(ii) prescribes the method by which the shipper whose name appears on the Vessel Operation Report must pay the HMF for domestic vessel movements. Specifically, this provision directs that the shipper pay the accumulated fees on a quarterly basis by mailing a check or money order to CBP along with the CBP Form 349.

It is proposed to amend this provision to state that the shipper may submit the quarterly HMF payments to CBP either electronically using ACH via an Internet account established by the payer and located at <http://www.pay.gov> or by check or money order to the address specified therein. It is also proposed to clarify this provision to state that each HMF quarterly payment, whether paper or electronic, must be accompanied by a CBP Form 349.

Several other provisions within § 24.24(e) currently require the payer to submit HMF payments or refund requests on a quarterly basis by mailing a check or money order to CBP along with the CBP Form 349 or 350, as applicable.

In §§ 24.24(e)(2)(iii), 24.24(e)(3)(ii), and 24.24(e)(4)(iii), it is proposed to make changes similar to those described above to reflect that a payer may submit quarterly HMF payments to CBP either electronically using ACH via an Internet account established by the payer and located at <http://www.pay.gov> or by check or money order to the address specified therein and that each HMF payment, whether paper or electronic, must be accompanied by a CBP Form 349. Similarly, it is proposed that each HMF refund request must be submitted on a CBP Form 350 and may either be submitted to CBP electronically via an Internet account established by the payer and located at <http://www.pay.gov> or via mail. Upon request by CBP, the party requesting the refund must submit to CBP, via mail, the CBP Form 349 for the quarter covering the payment to which the refund request relates as well as any supporting documentation deemed necessary by CBP. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

Section 24.24(e)(4)(iv)(B)(4) provides that a protest may be filed for any payment not approved for a refund in a Revised Report/Certification within 90 days of the issuance of that report. As the Miscellaneous Trade and Technical Corrections Act of 2004 (Pub. L. 108–429, 118 Stat. 2593) extended the time to file and amend a protest from 90 days to 180 days, it is proposed to amend this provision accordingly.

Section 24.24(g)

Section 24.24(g) sets forth the recordkeeping requirements applicable to this section. This provision directs the parties responsible for the maintenance of records to provide certain contact information to the Director, Accounting Services in Accounts Receivable. It is proposed to amend this provision to reflect that this information be provided to the Director, Revenue Division.

The Regulatory Flexibility Act and Executive Order 12866

Because these proposed amendments implement alternative procedures that provide expanded electronic payment/refund options for quarterly HMFs and do not require small entities to change their business practices, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Further, these proposed amendments do not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

Paperwork Reduction Act

The collections of information in the current regulations have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB control number 1651–0055 (harbor maintenance fee). This rule does not involve any material change to the existing approved information collection. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Exports, Imports,

Interest, Reporting and recordkeeping requirements, Taxes, User fees, Wages.

Amendments to the Regulations

For the reasons set forth in the preamble, part 24 of title 19 of the CFR (19 CFR part 24) is proposed to be amended as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

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

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

2. In § 24.24:

a. The introductory text to paragraph (c)(8) is amended by removing the words “the U.S. Customs Service” and adding in their place the term “CBP”;

b. Paragraph (c)(8)(i) is revised;

c. Paragraph (c)(8)(ii) is amended by: Removing the word “shall” each place it appears and adding in its place the word “must”; and removing the word “Customs” and adding in its place the term “CBP”;

d. The introductory text to paragraph (d)(3) is amended by removing the word “shall” and adding in its place the word “will”;

e. Paragraph (e)(1)(ii) is revised;

f. Paragraph (e)(2)(i) is amended: In the second sentence, by removing the words “U.S. Customs” and adding in their place the term “CBP”; and in the third sentence, by removing the word “shall” and adding in its place the word “will”;

g. Paragraph (e)(2)(ii) is amended: In the first sentence, by removing the word “shall” and adding in its place the word “must”, and by removing the word “Customs” and adding in its place the term “CBP”; in the second sentence, by removing the language “U.S. Customs Entry Summary Form (Customs)” and adding in its place “CBP Entry Summary Form (CBP)”; and in the third sentence, by removing the word “shall” and adding in its place the word “must”;

h. Paragraph (e)(2)(iii) is revised;

i. Paragraph (e)(3)(ii) is revised;

j. Paragraph (e)(4)(i) is amended by removing the fourth and fifth sentences;

k. Paragraph (e)(4)(ii) is amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”;

l. Paragraph (e)(4)(iii) is amended by: Removing the word “Customs” each place it appears and adding in its place

the term "CBP"; and adding after the last sentence the following language, "Supplemental payments, accompanied by the requisite CBP Form 349, must either be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, 6650 Telecom Drive, Indianapolis, Indiana 46278, with a check or money order payable to U.S. Customs and Border Protection, or submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov>. HMF refund requests must be submitted to CBP on a Harbor Maintenance Fee Amended Quarterly Summary Report, CBP Form 350, and must either be mailed to the above address or submitted electronically to CBP via an Internet account established by the payer and located at <http://www.pay.gov>. Upon request by CBP, the party requesting the refund must also submit to CBP, via mail, the CBP Form 349 for the quarter covering the payment to which the refund request relates as well as any supporting documentation deemed necessary by CBP. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail."

m. The introductory text to paragraph (e)(4)(iv) is amended by removing the word "Customs" and adding in its place the term "CBP";

n. Paragraph (e)(4)(iv)(A) is amended by adding after the last sentence the following language, "Refund requests must either be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, 6650 Telecom Drive, Indianapolis, Indiana 46278, or submitted electronically to CBP via an Internet account established by the payer and located at <http://www.pay.gov>. Approved HMF refund payments will be made using the Automated Clearinghouse (ACH) to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail."

o. Paragraphs (e)(4)(iv)(B)(1), (2), and (3) are amended by removing the word "Customs" each place it appears and adding in its place the term "CBP";

p. Paragraph (e)(4)(iv)(B)(4) is amended by: Removing the word "Customs" and adding in its place the term "CBP"; and removing the number "90" each place it appears and adding in its place the number "180";

q. Paragraph (e)(4)(iv)(B)(5) is amended: In the second sentence, by removing the words "by Customs" and adding in their place the words "by

CBP", and by removing the words "and Customs" and adding in their place the words "and CBP's"; and in the fourth and fifth sentences, by removing the word "Customs" each place it appears and adding in its place the term "CBP";

r. Paragraph (e)(4)(iv)(C) is amended by removing the word "Customs" each place it appears and adding in its place the term "CBP";

s. Paragraph (g) is amended: In the first, second, fourth, and fifth sentences, by removing the word "shall" each place it appears and adding in its place the word "must", and by removing the word "Customs" each place it appears and adding in its place the term "CBP"; and in the third sentence, by removing the language "shall advise the Director, Accounting Services—Accounts Receivable, P.O. Box 68903, Indianapolis, Indiana 46268, of the name, address, and telephone number of a responsible officer who shall be" and adding in its place the language, "must advise the Director, Revenue Division, 6650 Telecom Drive, Indianapolis, Indiana, 46278, of the name, address, e-mail and telephone number of a responsible office who is";

t. Paragraph (h)(1) is amended by removing the word "shall" each place it appears and adding in its place the word "will";

u. Paragraph (h)(2) is amended by removing the word "shall" each place it appears and adding in its place the word "must"; and

v. Paragraph (h)(3) is amended by removing the word "shall" each place it appears and adding in its place the word "will".

The revisions to § 24.24 read as follows:

§ 24.24 Harbor maintenance fee.

* * * * *

(c) * * *

(8) * * *

(i) The donated cargo is required to be certified as intended for use in humanitarian or development assistance overseas by CBP. Subsequent to payment of the fee, a refund may be requested by submitting to CBP a Harbor Maintenance Fee Amended Quarterly Summary Report, CBP Form 350. The CBP Form 350 must either be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, 6650 Telecom Drive, Indianapolis, Indiana 46278, or submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov>. Upon request by CBP, the party requesting the refund must also submit to CBP, via mail, the Harbor Maintenance Fee Quarterly

Summary Report, CBP Form 349, for the quarter covering the payment to which the refund request relates as well as any supporting documentation deemed necessary by CBP to certify that the entity donating the cargo is a nonprofit organization or cooperative and that the cargo was intended for humanitarian or development assistance overseas (including contiguous countries). A description of the cargo listed in the shipping documents and a brief summary of the intended use of the goods, if such use is not reflected in the documents, are acceptable evidence for certification purposes. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail. * * *

* * * * *

(e) * * *

(1) * * *

(ii) *Fee payment.* The shipper whose name appears on the Vessel Operation Report must pay all accumulated fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, 6650 Telecom Drive, Indianapolis, Indiana 46278, with a check or money order payable to U.S. Customs and Border Protection, or the CBP Form 349 and payment must be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov>.

(2) * * *

(iii) *Foreign Trade Zones.* In cases where imported cargo is unloaded from a commercial vessel at a port within the definition of this section and admitted into a foreign trade zone, the applicant for admission (the person or corporation responsible for bringing merchandise into the zone) who becomes liable for the fee at the time of unloading pursuant to paragraph (e)(3)(i) of this section, must pay all fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, 6650 Telecom Drive, Indianapolis, Indiana 46278, with a check or money order payable to U.S. Customs and Border Protection, or the

CBP Form 349 and payment must be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov>. Fees must be paid for all shipments unloaded and admitted to the zone, or in the case of direct deliveries under §§ 146.39 and 146.40 of this chapter, unloaded and received in the zone under the bond of the foreign trade zone operator.

(3) * * *

(ii) *Fee payment.* The operator of the passenger-carrying vessel must pay the accumulated fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, 6650 Telecom Drive, Indianapolis, Indiana 46278, with a check or money order payable to U.S. Customs and Border Protection, or the CBP Form 349 and payment must be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov>.

* * * * *

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

Approved: July 31, 2008.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. E8-17967 Filed 8-4-08; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 903, 941, 945, and 966

[Docket No. FR-4990-P-01]

RIN 2577-AC59

Streamlining Public Housing Programs

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would support HUD's overall objective to streamline the regulations governing public housing programs and to facilitate the transition of public housing agencies (PHAs) to asset management. In general, this proposed rule would streamline portions of the public housing regulations, and more

closely align the regulatory framework of public housing with other federally subsidized housing programs, providing PHAs greater flexibility within the parameters of current law. This proposed rule offers general principles and basic guidelines for PHAs to follow, rather than overly prescriptive measures, thus allowing PHAs to operate projects more efficiently as PHAs move toward asset management.

DATES: *Comment Due Date:* October 6, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule. There are two methods for comments to be submitted as public comments and to be included in the public comment docket for this rule. Additionally, all submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.*

Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500.

2. *Electronic Submission of*

Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number).

Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Bessy M. Kong, Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, telephone number (202) 708-0713, extension 2548 (this is not a toll-free number). Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

On September 19, 2005, at 70 FR 54983, HUD published a final rule implementing revisions to the Public Housing Operating Fund program, providing for a new formula for distributing operating subsidy to PHAs, and establishing requirements for PHAs to convert to asset management. That final rule was based substantially on the recommendations of the congressionally funded Harvard University Graduate School of Design study on the cost of operating well-run public housing (Harvard Cost Study). Appendix H of the Harvard Cost Study included a list of requirements unique to public housing that, if alleviated or otherwise eliminated, would either make it easier for PHAs to transition to asset management or would more closely conform the public housing regulatory environment with that of other assisted housing programs. Generally, HUD agrees that streamlining the requirements and procedures included in the Harvard Cost Study would make the transition to asset management easier. Streamlining these processes would also increase PHA flexibility and reduce program costs.

This proposed rule does not, however, address all of the recommendations of the Harvard Cost Study. Specifically, while the Harvard Cost Study and other industry representatives identified the Department's regulations in the area of tenant participation, codified at 24 CFR part 964, as an area that would benefit from streamlining, the Department has chosen not to address part 964 in this rulemaking, but will consider addressing it separately.