the project with respect to subpart B of this part, or a person or organization that has been formally designated or retained by an organization of the project's tenants to represent the tenants with respect to subpart B of this part.

Termination of Low Income Affordability Restrictions. The elimination of low income affordability restrictions under the regulatory agreement through termination of mortgage insurance or prepayment of the mortgage.

Transfer Preservation Equity. The transfer preservation equity of a project is:

(1) The transfer preservation value of the project determined under § 248.111; less

(2) The outstanding balance of the federally-assisted mortgage(s) for the project.

Transfer Preservation Rent. For purposes of receiving incentives pursuant to a sale of the project, transfer preservation rent shall be the gross income for the project that would be required to support:

(1) Debt service on the loan for acquisition of the project;

(2) Debt service on any rehabilitation loan for the project;

(3) Debt service on the federally-assisted mortgage(s) for the housing;

(4) Project operating expenses; and

(5) Adequate reserves.

Transfer Preservation Value. The fair market value of the project based on its highest and best use.

Very Low Income Families. Families or persons whose incomes do not exceed the level established for very low income families under part 5 of this title.

Voluntary Termination of Mortgage Insurance. The termination of all rights under the mortgage insurance contract and of all obligations to pay future insurance premiums.

[57 FR 12041, Apr. 8, 1992, as amended at 57 FR 57314, Dec. 3, 1992; 58 FR 37814, July 13, 1993; 59 FR 14369, Mar. 28, 1994; 64 FR 26639, May 14, 1999]

§ 248.103 General prepayment limitation.

(a) *Prepayment.* An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such project only in accordance with a plan of action approved by the Commissioner.

(b) *Termination.* A mortgage insurance contract with respect to eligible low income housing may be terminated pursuant to § 207.253 of this chapter only in accordance with a plan of action approved by the Commissioner.

(c) *Foreclosure.* A mortgagee of a mortgage insured by the Commissioner may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low income housing only if the mortgagee also conveys title to the project to the Commissioner in connection with a claim for insurance benefits.

(d) *Effect of unauthorized prepayment.* A mortgagee's acceptance of a prepayment in violation of paragraph (a) of this section, or the voluntary termination of a mortgage insurance contract in violation of paragraph (b) of this section, shall be null and void and any low income affordability restrictions on the project shall continue to apply to the project.

(e) *Remedies for unauthorized prepayment.* A mortgagee's acceptance of a prepayment in violation of paragraph (a) of this section, or attempt to obtain voluntary termination of a mortgage insurance contract in violation of paragraph (b) of this section, is grounds for administrative action under parts 24 and 25 of this title, in addition to any other remedies available by law, including rescission of the prepayment or reinstatement of the insurance contract.

§ 248.105 Notice of intent.

(a) *Eligibility for filing.* An owner of eligible low income housing intending to prepay the mortgage or voluntarily terminate the mortgage insurance contract pursuant to § 248.141, extend the low income affordability restrictions of the housing in accordance with § 248.153, or transfer the housing to a qualified purchaser under § 248.157, may file a notice of intent unless the mortgage covering the project—

(1) Continued in default or fell into default on or after the November 28, 1990, and the mortgage has been assigned to the Commissioner as a result of such default;

(2) Continued in default or fell into default on or after November 28, 1990, while the mortgage was held by the Commissioner;

(3) Fell into default prior to November 28, 1990, if the owner entered into a workout agreement prior to that date, and on or after that date, the owner has defaulted under the workout agreement (and, if the agreement was with an insured mortgagee, the mortgage has been assigned to the Commissioner as a result of the default under the workout agreement); or

(4) Fell into default prior to November 28, 1990, but has been current since that date and the owner has not agreed to recompense the appropriate insurance fund for losses sustained by the fund as a result of any work-out or other arrangement agreed to by the Commissioner and the owner with respect to the defaulted mortgage.

(b) *Filing with the Commissioner.* The notice of intent shall be filed with the HUD Field Office in whose jurisdiction the project is located. The notice of intent shall identify the project by name, project number and location. It shall contain a statement indicating whether the owner intends to extend the affordability restrictions on the project by retaining ownership of the project or transferring it to a qualified purchaser, or whether the owner intends to terminate the affordability restrictions on the project through prepayment of the mortgage or termination of the mortgage insurance contract. The notice of intent shall also request the tenants to notify the owner, the Commissioner, and the State or local officer identified in the notice of intent of any individual or organization that has been designated or retained by the tenants to represent the tenants with respect to the actions to be taken under subpart B of this part.

(c) *Filing with the State or local government and tenants.* The owner simultaneously shall file the notice of intent with the chief executive officer of the appropriate State or local government in which the project is located, or any officer designated by executive order or State or local law to receive such information, and with the mortgagee. In addition, the owner shall deliver a copy of the notice of intent to each occupied unit in the project and to any tenant representative, if any, known to the owner, and shall post a copy of the notice of intent in readily accessible locations within each affected building of the project. The copies of the notice of intent delivered to the tenants and the tenant representative shall include a summary of possible outcomes of the filing which shall be furnished by the Commissioner. Upon the request of any non-English speaking tenants residing in the affected project, the owner shall tabulate the number and type of translations needed by the tenants and request the local HUD field office to provide the appropriate translations. The owner shall deliver a copy of the translated notice of intent to all of the tenants who requested such translation. The failure of an owner to comply with any non-federal notice requirements shall not invalidate the notice of intent.

§ 248.111 Appraisal and preservation value of eligible low income housing.

(a) *Appraisal.* Upon receiving a notice of intent indicating an intent to extend the low income affordability restrictions under § 248.153 or transfer the project under § 248.157, the Commissioner shall provide for determination of the preservation values of the project pursuant to this section.

(b) *Notice.* Within 30 days after the filing of a notice of intent to extend the income restrictions or to transfer the project, the Commissioner shall provide the owner with written notice of—

(1) The need for, and the rules and guidelines governing, an appraisal of the project;

(2) The filing deadline for submission of the appraisal;

(3) The need for an appraiser retained by the Commissioner to inspect the project and the project's financial records; and

(4) Any delegation to an appropriate State agency, if any, by the Commissioner of responsibilities regarding the performance of an appraisal pursuant to this section.

(c) *Appraisers.* The Commissioner and the owner shall each select and compensate an appraiser who shall: