

drug-related criminal activity on or near such premises; or any drug-related criminal activity on or near such premises, engaged in by a resident, any member of the resident's household, or any guest or other person under the resident's control shall be grounds for termination of tenancy.

[56 FR 7541, Feb. 22, 1991, as amended at 60 FR 14845, Mar. 20, 1995; 61 FR 13594, Mar. 27, 1996; 61 FR 47382, Sept. 6, 1996]

§ 884.217 Maintenance, operation and inspections.

(a) *Maintenance and operation.* The Owner shall maintain and operate the project so as to provide Decent, Safe, and Sanitary housing and he shall provide all the services, maintenance and utilities which he agrees to provide under the Contract, subject to abatement of housing assistance payments or other applicable remedies if he fails to meet these obligations.

(b) *Inspection prior to occupancy.* Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on forms prescribed by HUD, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed forms. Copies of these reports shall be kept on file by the Owner for at least three years.

(c) *Periodic inspections.* HUD (or the PHA, as appropriate) will inspect or cause to be inspected each Contract unit and related facilities at least annually and at such other times (including prior to initial occupancy and re-renting of any unit) as HUD (or the PHA) may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. HUD (or the PHA) will take into account complaints by occupants and any other information coming to its attention in scheduling inspections and shall notify the Owner and the Family of its determination.

(d) *Units not decent, safe, and sanitary.* If HUD (or the PHA, as appropriate) notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action

within the time prescribed in the notice, HUD (or the PHA) may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with Section 8 assistance and HUD (or the PHA) does not have other Section 8 funds for such purposes, HUD (or the PHA) may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if:

(1) The unit is restored to Decent, Safe, and Sanitary condition;

(2) The Family is willing to and does move back to the restored dwelling unit; and

(3) A deduction is made for the expenses incurred by the Family for both moves.

§ 884.218 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 5. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5. At the first regular reexamination after June 19, 1995, the owner shall follow the requirements of 24 CFR part 5 concerning obtaining and processing

evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the owner shall follow the requirements of 24 CFR part 5 concerning verification of the immigration status of any new family member.

(b) *Interim reexaminations.* The family must comply with provisions of its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5. At any interim reexamination after June 19, 1995 when there is a new family member, the owner shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of the new family member.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent, or until the family loses eligibility for continued occupancy under Farmer's Home Administration regulations. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection

Agencies, as provided by 24 CFR part 5. For provisions requiring termination of assistance for failure to establish citizenship or eligible immigration status, see 24 CFR part 5 and also for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

[56 FR 7541, Feb. 22, 1991, as amended at 60 FR 14845, Mar. 20, 1995; 61 FR 13594, Mar. 27, 1996]

§ 884.219 Overcrowded and underoccupied units.

If HUD or the PHA, as the case may be, determines that a Contract unit assisted under this part is not Decent, Safe, and Sanitary by reason of increase in Family size, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, HUD (or the PHA) will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of § 884.106(c)(1).

§ 884.220 Adjustment of utility allowances.

In connection with annual and special adjustments of contract rents, the owner must submit an analysis of the project's Utility Allowances. Such data as changes in utility rates and other facts affecting utility consumption should be provided as part of this analysis to permit appropriate adjustments in the Utility Allowances. In addition, when approval of a utility rate change would result in a cumulative increase of 10 percent or more in the most recently approved Utility Allowances,