

Dated: November 20, 2008.

**Todd A. Stevenson,**

Secretary, Consumer Product Safety  
Commission.

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**24 CFR Parts 5, 91, 880, 882, 883, 884,  
886, 891, 903, 960, 982, and 983**

[Docket No. FR-5056-I-01]

RIN 2577-AC65

### HUD Programs: Violence Against Women Act Conforming Amendments

**AGENCY:** Office of the Secretary.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule conforms HUD's regulations to the self-implementing provisions of the statutory protections for victims of domestic violence, dating violence, sexual assault, and stalking provided by the Violence Against Women Act (VAWA), as recently amended. These new protections apply to families applying for or receiving rental assistance under HUD's public housing and tenant-based and project-based Section 8 programs. The primary objectives of VAWA are to reduce violence against women and to protect the safety and confidentiality of victims of domestic violence and abuse.

**DATES:** *Effective Date:* December 29, 2008.

*Comments Due Date:* January 27, 2009.

**ADDRESSES:** Interested persons are invited to submit comments regarding this interim 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 7th 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 [www.regulations.gov](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 [www.regulations.gov](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 the 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 Federal Information Relay Service at 1-800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** For information about HUD's Public Housing program, please contact Nicole Faison, Director, Office of Public Housing Programs, Office of Public and Indian Housing, Room 4226, telephone number 202-708-0744. For information about the Office of Public and Indian Housing's Section 8 Tenant-Based program, please contact Danielle Bastarache, Director, Housing Voucher Management and Operations, Office of Public and Indian Housing, Room 4210, telephone number 202-402-5264. For information about the Office of Housing's Section 8 Project-Based program, please contact Gail Williamson, Director, Housing Assistance Policy Division, Office of Housing, Room 6138, telephone number 202-402-2473. The address for all of the above offices is the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. The above-listed telephone numbers are not toll-free numbers. Persons with hearing or speech impairments may access the numbers through TTY by calling the toll-free

Federal Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Violence Against Women Act of 1994 (VAWA 1994) was enacted as Title IV of the Violent Crime Control and Enforcement Act of 1994 (Pub. L. 103-322, approved September 13, 1994), codified at 42 U.S.C. 13931 *et seq.* VAWA 1994 was not applicable to HUD programs. VAWA 1994 was applicable to other federal agencies and authorized grants to prevent crime in public transportation and assist victims of sexual assault, and included provisions to maintain the confidentiality of domestic violence shelters and addresses of abused persons.

On January 5, 2006, President Bush signed into law the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162), and, on August 28, 2006, the President signed into law technical corrections to the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-271) (collectively, "VAWA 2005"). Except as provided in Section 4 of the technical corrections law, VAWA 2005 became effective upon enactment of the law on January 5, 2006. Section 4 of the technical corrections law delayed the effectiveness of certain provisions to the commencement of Fiscal Year (FY) 2007, none of which are directly applicable to this rule.

VAWA 2005 reauthorizes and substantially amends VAWA 1994 for FYs 2007 through 2011, and, among other things, consolidates major law enforcement grant programs, makes amendments to criminal and immigration laws, and makes amendments to other statutes, including certain HUD statutes, to support and strengthen efforts to combat domestic violence and other forms of violence against women. The provisions of VAWA 2005, as amended in 2006, that are applicable to HUD programs are found in Title VI entitled "Housing Opportunities and Safety for Battered Women and Children." Section 601 of VAWA 2005 amends VAWA 1994 to add a new Subtitle N to VAWA 1994 entitled "Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking."

The VAWA 2005 amendments that are applicable to HUD public housing and tenant-based and project-based Section 8 programs are self-implementing. Accordingly, this rule makes conforming amendments to those programs to keep HUD's regulations

current, create consistency, and avoid confusion.

Following enactment of the new law, HUD's Office of Public and Indian Housing (PIH) issued, on June 23, 2006, a direct notice on VAWA 2005, PIH 2006-23. In that notice, PIH advised public housing agencies (PHAs) that the statutory provisions of VAWA 2005 were effective the date the law was enacted (January 5, 2006). This notice can be found at <http://www.hud.gov/offices/pih/publications/notices/06/pih2006-23.pdf>. In addition, PIH Notice 2007-5 explains the VAWA provisions that are incorporated into the Housing Choice Voucher Housing Assistance Payments contract and tenancy addendum. This notice can be found at <http://www.hud.gov/offices/adm/hudclips/notices/pih/07pihnotices.cfm>. PIH Notice 2006-42 transmits the certification form for use by tenants claiming protection under VAWA and can be found at <http://www.hud.gov/offices/adm/hudclips/notices/pih/06pihnotices.cfm>.

The Department followed the PIH direct notice with a **Federal Register** notice that addressed the applicability of VAWA 2005 to all HUD programs. This notice, published on March 16, 2007 (72 FR 12696), provided an overview of the key VAWA provisions that affect HUD programs, and advised program participants concerning compliance with VAWA. The notice described those provisions of VAWA that are self-implementing and their effect on HUD programs. This notice also advised that HUD would be amending its regulations to conform existing regulations to the VAWA requirements. This interim rule presents those conforming amendments.

## II. This Interim Rule

For the convenience of the reader and for better understanding of conforming changes to HUD's regulations, this preamble provides an overview of VAWA provisions applicable to HUD and identifies where this interim rule makes conforming amendments to HUD's codified regulations.

### *Consolidated Plan Amendments*

Section 604 of VAWA 2005 amends section 105(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(1)) by including "victims of domestic violence, dating violence, sexual assault, and stalking" among the jurisdiction's estimated housing needs. Accordingly, this interim rule amends 24 CFR 91.205(b) and 91.305(b) to conform the regulations to this statutory amendment.

### *Public Housing Agency Plan Amendments*

Section 603 of VAWA 2005 amends section 5A of the U.S. Housing Act of 1937, which requires the submission of annual and 5-year plans by PHAs. This amendment requires PHAs to begin including in their 5-year plans a statement about goals, activities, objectives, policies, or programs that will enable a PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

The statutory amendment requires the annual plan to include a description of any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; and any activities, services, or programs provided or offered that help child and adult victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing; and any activities, services, or programs provided or offered to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

This interim rule includes a conforming amendment to HUD's PHA plan regulations at 24 CFR 903.6 and 903.7 to include the additional information required by VAWA 2005 in the annual and 5-year PHA plans.

### *Section 8 and Public Housing Program Amendments*

Sections 606 and 607 of VAWA 2005, respectively, amend HUD's Section 8 program (codified at section 8 of the 1937 Act, 42 U.S.C. 1437f) (Section 8) and section 6 of the U.S. Housing Act of 1937 (codified at section 6 of the 1937 Act, 42 U.S.C. 1437d), governing HUD's public housing program requirements.

*Admission, Occupancy, and Termination of Assistance Policies.* With respect to admission, occupancy, and termination of assistance policies, sections 606 and 607 of VAWA 2005 provide that being a victim of domestic violence, dating violence, or stalking, as these terms are defined in the law, is not a basis for denial of assistance or admission to public or Section 8 assisted housing, if the applicant otherwise qualifies for assistance or admission.

These provisions also provide that incidents or threats of abuse will not be construed as serious or repeated violations of the lease or as other "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of abuse.

Additionally, the provisions state that criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that abuse.

*Rights and Responsibilities of PHAs, Owners, and Management Agents.* With respect to the rights and responsibilities of PHAs, owners, and management agents, VAWA 2005 provides that these protective policies are not to interfere with certain rights and responsibilities of PHAs, owners, and management agents regarding criminal activity or acts of violence against family members or others. Specifically, VAWA 2005 provides that:

(1) The provision protecting victims of domestic violence, dating violence, or stalking engaged in by a member of the household, may not be construed to limit a PHA, owner, or management agent, when notified, from honoring various court orders issued to either protect the victim or address the distribution of property in case a family breaks up;

(2) The provision in VAWA 2005 protecting victims of domestic violence, dating violence, or stalking engaged in by a member of the household, may not be construed to limit the authority of a PHA, owner, or management agent to terminate assistance to individuals who engage in criminal acts of physical violence against family members or others, or if the PHA, owner, or management agent so chooses, to bifurcate a lease (that is, divide into separate leases by operation of law) in order to: Evict, remove, or terminate a household member from the lease, without regard to whether a household member is a signatory to the lease; evict, remove, terminate occupancy rights; or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without penalizing the victim of such violence who is also a tenant or lawful occupant;

(3) The provision in VAWA 2005 protecting victims of domestic violence, dating violence, or stalking engaged in by a member of the household does not limit any otherwise available authority of an owner or management agent to evict or of the PHA to terminate the assistance to a tenant for any lease violation not premised on the act of violence in question against the tenant or member of the tenant's household, provided that the PHA, owner, or

management agent does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants, in determining whether to evict or terminate assistance;

(4) The provision in VAWA 2005 protecting victims of domestic violence, dating violence, or stalking engaged in by a member of the household, may not be construed to limit the authority of a PHA, owner, or management agent to terminate the assistance of, or evict, any occupant who can be demonstrated to pose an actual or imminent threat to other tenants or the property's employees; and

(5) The statute shall not be construed to supersede any provisions of federal, state, or local laws that provide greater protection for victims of abuse.

With respect to these rights and responsibilities, under the housing choice voucher program, PHAs may be able to use their existing authority under § 982.552(c)(2)(ii) to terminate voucher assistance for certain family members for criminal activity while permitting other members of a participant family to continue receiving assistance (provided that the culpable family member will no longer reside in the unit). A PHA's right to exercise this administrative discretion under § 982.552(c)(2)(ii) is not dependent on a bifurcated lease or other eviction action by the owner against an individual family member.

VAWA 2005 also provides that such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.

This interim rule conforms HUD's existing regulations to these effective legal requirements. Since these are cross-cutting requirements affecting HUD's tenant-based and project-based Section 8 and public housing programs, this rule organizes these items in a new subpart L of 24 CFR part 5. Also, because section 604 of VAWA applies to Consolidated Plan requirements, conforming amendments are made to 24 CFR part 91. For clarification purposes only, cross-references are included at 24 CFR parts 880, 882, 883, 884, 886, 891, 960, 982, and 983. However, as provided in the March 16, 2007, **Federal Register** notice, VAWA 2005 is effective and applicable to HUD's Public Housing and tenant-based and project-based Section 8 programs, regardless of whether a specific reference is included. It should be noted that with respect to

part 891, VAWA applies to projects for the elderly or handicapped with Section 8 assistance under §§ 891.520 through 891.650.

**Certification of Abuse.** Sections 606 and 607 of VAWA 2005 add certification and confidentiality provisions. Under these provisions, owners, management agents, and PHAs may request an individual claiming VAWA protection to certify, by means of a HUD-approved certification form, that the individual is a victim of abuse and that the incidences of abuse are bona fide. The certification must include the name of the perpetrator. The victim has 14 business days after the request to provide the certification. (See 42 U.S.C. 1437f(ee)(1)(A); 42 U.S.C. 1437d(u)(1)(A).) The owner, management agent, or PHA may extend this time period at its discretion. (See 42 U.S.C. 1437f(ee)(1)(B); 42 U.S.C. 1437d(u)(1)(B).)

The statute allows, but does not require, the victim to self-certify, in order to be afforded protection under VAWA 2005. Forms HUD-50066, for use by PHAs, and HUD-90066, for use by owners and management agents, have been developed for the purpose of the optional certification. They are standard forms and collect limited, relevant information from the victim. It is not mandatory that the victim provide the HUD form, and the PHA, owner, or management agent may not require the victim to provide the form. A victim may also provide documentation from a third-party source. PHAs, owners, and management agents may, at their discretion, provide benefits under VAWA 2005 based solely on the statement of the individual.

Form HUD-50066 is currently available on HUD's Web site at <http://www.hud.gov/offices/adm/hudclips/forms/files/50066.doc>. Form HUD-90066 is available on HUD's HUDCLIPS Web site upon receipt of OMB approval. These forms are designed as uniform tenant declaration forms to be completed by the victim or by a family member on behalf of the victim. The forms are not intended as third-party verification forms.

The certification provision may be satisfied with third-party documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking or the effects of the abuse in which the professional attests, under penalty of perjury (28 U.S.C. 1746), to the professional's belief that the incident or incidents in question are

bona fide incidents of abuse, and that the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation. (See 42 U.S.C. 1437f(ee)(1)(C)(i); 42 U.S.C. 1437d(u)(1)(C)(i).) The statute also allows for the certification requirement to be satisfied by producing a federal, state, tribal, territorial, or local police or court record. (See 42 U.S.C. 1437f(ee)(1)(C)(ii); 42 U.S.C. 1437d(u)(1)(C)(ii).) If the individual does not provide the certification within 14 days as required, the PHA, owner, or management agent has the authority to evict the individual if the individual has committed violations of the lease. The PHA, owner, or management agent may extend the 14-day deadline at their discretion. (See 42 U.S.C. 1437f(ee)(1)(B); 42 U.S.C. 1437d(u)(1)(B).)

All information provided in the certification of abuse is confidential, by statute (42 U.S.C. 1437f(ee)(2)(A); 42 U.S.C. 1437d(u)(2)(A)). The statute makes three exceptions: (1) Disclosure is consented to or requested by the individual in writing; (2) disclosure is required for an eviction proceeding; or (3) disclosure is otherwise required by applicable law. The interim rule codifies the certification and confidentiality requirements at 24 CFR 5.2007. PHAs must provide notice of VAWA rights, including the right to confidentiality, to tenants. (See 42 U.S.C. 1437f(ee)(2)(B); 42 U.S.C. 1437d(u)(2)(B).)

**Portability in the Housing Choice Voucher Program.** VAWA 2005 amended section 8(r) of the U.S. Housing Act (42 U.S.C. 1437f(r)), by providing an exception to the prohibition against a family moving under the portability provisions in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease under the portability procedures, if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

This special portability provision for victims of domestic violence, dating violence, and stalking is found at 24 CFR 982.353(b) of this interim rule.

**PHA Notification to Section 8 Program Participants and Public Housing Residents.** VAWA 2005 further requires that PHAs must provide notice

to tenants assisted under Section 8 of the U.S. Housing Act of 1937 of their rights, and notice to owners and management agents of their rights and obligations, under section 8 as amended by VAWA 2005. Specifically, the notice must cover rights and obligations under sections 42 U.S.C. 1437f(c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), (r)(5), and (ee) (these sections reference the basic VAWA protections for Section 8 program applicants and participants, the special portability provision, and the certification provision). VAWA 2005 also requires that a PHA must provide notice to public housing residents of their rights under section 6 of the U.S. Housing Act of 1937, as amended by VAWA 2005. Specifically, the notice must cover rights under sections 42 U.S.C. 1437d(l)(5), (6)(l)(6), and (6)(u) (the VAWA protections and certification provision for the public housing program), including their rights to confidentiality and the limits thereof. This interim rule provides for PHA notification to public housing tenants, Section 8 tenants, owners, and management agents of these rights and obligations at 24 CFR 5.2007(a)(3).

While the statute at 42 U.S.C. 1437f(ee)(2)(B) only requires PHAs to provide notification to tenants of their rights and protections under VAWA, those owners and management agents administering an Office of Housing project-based Section 8 program will also be required to provide tenant notification. The Office of Housing will be issuing a notice that provides administrative guidance for implementation of the notification requirements.

**Definitions.** VAWA 2005 adds a number of new definitions to the U.S. Housing Act of 1937. Sections 606 and 607 of VAWA 2005 add 42 U.S.C. 1437d(u)(3) and 1437f(f)(8), (9), (10), and (11), respectively, to add definitions of “domestic violence,” “dating violence,” “stalking,” and “immediate family member.” Specifically, VAWA 2005 inserted definitions of the terms “stalking” and “immediate family member” into Section 8(f) of the U.S. Housing Act of 1937, along with references to the definitions of “domestic violence” and “dating violence,” as stated in the new section 40002 of VAWA, which was added to VAWA 1994.

Conforming definitions are added to 24 CFR 5.2003 where HUD believes they will be useful to the public in understanding new VAWA-related material added to those parts. In addition, the interim rule at 24 CFR part 5 defines additional terms that are used

in the rule and for which HUD believes clarification is helpful. The term “bifurcate,” which is used in the rule in the context of leases, is defined.

### III. Findings and Certifications

#### *Justification for Interim Rulemaking*

As required by its regulations on rulemaking at 24 CFR part 10, HUD ordinarily publishes its rules for advance public comment. Notice and public procedure are omitted, however, if HUD determines that, in a particular case or class of cases, notice and public procedure are “impracticable, unnecessary, or contrary to the public interest.” (See 24 CFR 10.1.) In this case, HUD is simply conforming its existing regulations to statutory provisions that are legally effective. In doing so, HUD is not exercising agency discretion, but rather merely following the statutory mandate. Because this is a conforming regulation, advance public notice and comment is unnecessary. However, while HUD found the statutory language to be clear as to meaning and intent and has incorporated the language without change, PHAs, owners, management agents, tenants, or interested members of the public may not find the language as helpful as is, and may need further clarification. HUD specifically welcomes comments on the clarity of the conforming amendments, as well as on any other aspect of the rule. HUD will consider all comments submitted by the public in the final rule that follows this interim rule.

#### *Paperwork Reduction Act*

The information collection requirements contained in 24 CFR part 5, subpart L that are applicable to PHAs have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2577–0249. The information collection requirements contained in 24 CFR part 5, subpart L, that are applicable to owners and management agents have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2502–0204. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid control number.

#### *Impact on Small Entities*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory

flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule applies primarily to PHAs, owners, and management agents and is limited to amending HUD’s regulations to incorporate statutory requirements that are already applicable to PHAs, owners, and management agents, because they are self-implementing statutory provisions.

Notwithstanding HUD’s determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD’s objectives, as described in this preamble.

#### *Environmental Impact*

This interim rule involves a policy document that, with the exception of the amendments to 24 CFR part 903, sets out nondiscrimination standards. The amendments to 24 CFR part 903 do not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(3) and (1), respectively, this interim rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

#### *Executive Order 13132, Federalism*

Section 6(c) of Executive Order 13132 (entitled “Federalism”) requires an agency that is publishing a regulation that has federalism implications and that preempts state law to follow certain procedures. Regulations that have federalism implications, according to section 1(a) of the Order, are those that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

This interim rule incorporates the statutory language that provides for bifurcation of leases to protect victims of domestic violence, notwithstanding state law. In addition, the rule, consistent with statute, provides that incidents of, or criminal acts connected

to domestic violence cannot be the basis for termination of assistance or tenancy.

HUD finds that this statutory provision has only minor effects on the states and therefore, this rule, by incorporating this provision in HUD's regulation, does not meet the definition of rules with "federalism implications." First, any preemptive effect of this provision is limited to Section 8 and public housing, which together are only a small portion of the total housing market. Second, the possible effect appears limited to only those eviction actions where the tenant to be evicted has a valid claim of protection as a victim of domestic violence, or where lease bifurcation is sought because of domestic violence. The rule does not, for example, involve the preemption of a whole field of state law as is the case in other situations in which preemption occurs, but rather merely requires a small adjustment to any existing laws that do not already offer greater protection to victims of domestic violence. Therefore, HUD has determined that this rule, by directly incorporating the statutory provision on bifurcation of lease, will not have substantial direct effects on states or their political subdivisions, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government, and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (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 interim rule does not impose any federal mandates on any state, local, or tribal government, or the private sector within the meaning of UMRA.

#### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance numbers applicable to the programs that would be affected by this rule are: 14.195, 14.850, 14.856, and 14.871.

#### **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, Individuals with disabilities, Loan programs—housing and community development, Low- and moderate-income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

##### *24 CFR Part 91*

Grant programs—housing and community development, Low- and moderate-income housing, Reporting and recordkeeping requirements.

##### *24 CFR Part 880*

Grant programs—housing and community development, Loan programs—housing and community development, Low- and moderate-income housing, Rent subsidies.

##### *24 CFR Part 882*

Grant programs—housing and community development, Housing, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

##### *24 CFR Part 883*

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

##### *24 CFR Part 884*

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements, rural areas.

##### *24 CFR Part 886*

Grant programs—housing and community development, Lead poisoning, Rent subsidies, Reporting and recordkeeping requirements.

##### *24 CFR Part 891*

Aged, Capital advance programs, Civil rights, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low- and moderate-income housing, Mental health programs, Rent subsidies, Reporting and recordkeeping requirements.

##### *24 CFR Part 903*

Grant programs, Civil rights, Public housing agency plans, Public housing.

##### *24 CFR Part 960*

Aged, Grant programs—housing and community development, Individuals with disabilities, Pets, Public housing.

##### *24 CFR Part 982*

Grant programs—housing and community development, Housing,

Low- and moderate-income housing, Rent subsidies, Reporting and recordkeeping requirements.

##### *24 CFR Part 983*

Grant programs—housing and community development, Housing, Low- and moderate-income housing, Rent subsidies, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR parts 5, 91, 880, 882, 883, 884, 886, 891, 903, 960, 982, and 983, as follows.

## **PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS**

■ 1. The authority citation for part 5 is revised to read as follows:

**Authority:** 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, 3535(d), Sec. 327, Pub. L. 109–115, 119 Stat. 2936, and Sec. 607, Pub. L. 109–162, 119 Stat. 3051.

■ 2. Add subpart L to read as follows:

### **Subpart L—Protection for Victims of Domestic Violence in Public and Section 8 Housing**

Sec.

5.2001 Applicability.

5.2003 Definitions.

5.2005 Protection of victims of domestic violence, dating violence, and stalking in public and Section 8 housing.

5.2007 Certification of status and confidentiality.

5.2009 Effect on other laws.

### **Subpart L—Protection for Victims of Domestic Violence in Public and Section 8 Housing**

#### **§ 5.2001 Applicability.**

This subpart addresses the protections for victims of domestic violence residing in public and Section 8 housing, as provided in the 1937 Act, as amended by the Violence Against Women Act (VAWA) (42 U.S.C. 1437f and 42 U.S.C. 1437d). This subpart applies to the Housing Choice Voucher program under 24 CFR part 982; the project-based voucher and certificate programs under 24 CFR part 983, the public housing admission and occupancy requirements under 24 CFR part 960, and renewed funding or leases under 24 CFR parts 880, 882, 883, 884, 886, and 891.

#### **§ 5.2003 Definitions.**

The definitions of *1937 Act*, *PHA*, *HUD*, *household*, *responsible entity*, and *other person under the tenant's control* are defined in subpart A of this part. As used in this subpart L:

*Bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such

that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

*Dating violence* means violence committed by a person: Who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

*Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

*Immediate family member* means, with respect to a person: A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or any other person living in the household of that person and related to that person by blood or marriage.

*Stalking* means: To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to that person, a member of the immediate family of that person, or the spouse or intimate partner of that person.

**§ 5.2005 Protection of victims of domestic violence, dating violence, and stalking in public and Section 8 housing.**

(a) *Domestic violence, dating violence, or stalking.* An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated lease violation by the victim or threatened victim of the domestic violence, dating violence, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim. Admission to

the program shall not be denied on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking, if the applicant otherwise qualifies for assistance or admission;

(b) *Criminal activity related to domestic violence, dating violence, or stalking.* Criminal activity directly related to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights of, or assistance to the victim, if the tenant or immediate family member of the tenant is the victim. Nothing in this paragraph limits the authority of the PHA, owner, or management agent to evict a tenant for a lease violation unrelated to domestic violence, provided that the PHA, owner, or management agent does not subject such a tenant to a more demanding standard than other tenants, in making the determination whether to evict or terminate tenancy or occupancy rights;

(c) *Lease bifurcation.* Notwithstanding paragraph (a) of this section or any federal, state, or local law to the contrary, a PHA, owner, or management agent may bifurcate a lease, or remove a household member from a lease without regard to whether the household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, or local law for termination of assistance or leases under the relevant public or Section 8 housing assistance program;

(d) *Court orders.* Nothing in paragraph (a) of this section may be construed to limit the authority of a PHA, owner, or management agent, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and to address the distribution of property among household members in a case where a family breaks up;

(e) *Threat to others.* Nothing in paragraph (a) of this section may be construed to limit the authority of a PHA, owner, or management agent to evict or terminate assistance to any

tenant or lawful occupant if the PHA, owner, or management agent can demonstrate an actual or imminent threat to other tenants or those employed at or providing service to the public housing or Section 8 assisted property if that tenant or lawful occupant is not terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an "imminent threat" if a reasonable person, considering all of the relevant circumstances, would have a well-grounded fear of death or bodily harm as a result.

**§ 5.2007 Certification of status and confidentiality.**

(a)(1) A PHA, owner, or management agent presented with a claim for continued tenancy based on status as a victim of domestic violence or criminal activity related to domestic violence may request that the tenant making the claim certify in a form approved by HUD that the tenant is a victim of domestic violence, dating violence, or stalking, within 14 business days after the date that the tenant receives the request or such longer time as the PHA, owner, or management agent may at its discretion allow. The certification:

(i) May be based solely on the personal signed attestation of the victim under penalties for perjury, as provided in section 1746 of title 28, Judiciary and Judicial Procedure, of the United States Code (28 U.S.C. 1746); or

(ii) May be based on or supported by a federal, state, tribal, territorial, or local police or court record; or

(iii) May be based on or supported by documentation signed by an employee, agent, volunteer of a victim service provider, an attorney, or medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or in addressing the effects of abuse, in which the professional attests under penalty of perjury under 28 U.S.C. 1746 to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; and

(iv) Shall include the name of the perpetrator or alleged perpetrator, if known.

(v) Shall be kept confidential by the PHA, owner, or management agent. The PHA, owner, or management agent shall not enter the information contained in the certification into any shared database or provide it to any other

entity, except to the extent that disclosure is:

(A) Requested or consented to by the tenant making the certification, in writing;

(B) Required for use in an eviction proceeding, or

(C) Otherwise required by applicable law.

(2) If the tenant does not provide the certification under paragraph (a)(1) of this section within 14 business days from the date of receipt of the PHA, owner, or management agent's request, or such longer time as the PHA, owner, or management agent at their discretion may allow, the PHA, owner, or management agent may evict the tenant or a family member that commits lease violations that otherwise would constitute good cause to evict;

(3) PHAs must provide notice:

(i) To public housing and Section 8 tenants of their rights under VAWA and this regulation, including the right to confidentiality and the exceptions; and

(ii) To owners and management agents of assisted housing, of their rights and obligations under VAWA and this regulation.

(b) A PHA's, owner's, or management agent's compliance with this section, whether based solely on the tenant's statement or on other corroborating evidence, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by a PHA, PHA employee, owner, or employee or agent of the owner.

#### **§ 5.2009 Effect on other laws.**

Nothing in this subpart shall be construed to supersede any provision of any federal, state, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

#### **PART 91—CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS**

■ 3. The authority citation for part 91 continues to read as follows:

**Authority:** 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912.

■ 3A. Amend § 91.205 to revise the first sentence of paragraph (b)(1) to read as follows:

#### **§ 91.205 Housing and homeless needs assessment.**

\* \* \* \* \*

(b) \* \* \*

(1) The plan shall estimate the number and type of families in need of housing assistance for extremely low-

income, low-income, moderate-income, and middle-income families, for renters and owners, for elderly persons, for single persons, for large families, for public housing residents, for families on the public housing and section 8 tenant-based waiting list, for persons with HIV/AIDS and their families, for victims of domestic violence, dating violence, sexual assault, and stalking, and for persons with disabilities. \* \* \*

\* \* \* \* \*

■ 4. Amend § 91.305 to revise the first sentence of paragraph (b)(1) to read as follows:

#### **§ 91.305 Housing and homeless needs assessment.**

\* \* \* \* \*

(b) \* \* \*

(1) The plan shall estimate the number and type of families in need of housing assistance for extremely low-income, low-income, moderate-income, and middle-income families, for renters and owners, for elderly persons, for single persons, for large families, for persons with HIV/AIDS and their families, for victims of domestic violence, dating violence, sexual assault, and stalking, and for persons with disabilities. \* \* \*

\* \* \* \* \*

#### **PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENT PROGRAM FOR NEW CONSTRUCTION**

■ 5. The authority citation for part 880 continues to read as follows:

**Authority:** 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

■ 6. Amend § 880.504 to add paragraph (f) to read as follows:

#### **§ 880.504 Leasing to eligible families.**

\* \* \* \* \*

(f) Subpart L of 24 CFR part 5 applies to selection of tenants and occupancy requirements in cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

■ 7. Amend § 880.607 to add paragraph (c)(5) to read as follows:

#### **§ 880.607 Termination of tenancy and modification of lease.**

\* \* \* \* \*

(c) \* \* \*

(5) In actions or potential actions to terminate tenancy, the Owner shall follow 24 CFR part 5, subpart L, in all cases where domestic violence, dating violence, stalking, or criminal activity directly related to domestic violence,

dating violence, or stalking is involved or claimed to be involved.

\* \* \* \* \*

#### **PART 882—SECTION 8 MODERATE REHABILITATION PROGRAMS**

■ 8. The authority citation for part 882 continues to read as follows:

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

■ 9. Revise § 882.407 to read as follows:

#### **§ 882.407 Other federal requirements.**

The moderate rehabilitation program is subject to applicable federal requirements in 24 CFR 5.105 and to the requirements for protection for victims of domestic violence, dating violence, and stalking in 24 CFR part 5, subpart L.

■ 10. Amend § 882.511 to add paragraph (g) to read as follows:

#### **§ 882.511 Lease and termination of tenancy.**

\* \* \* \* \*

(g) In actions or potential actions to terminate tenancy, the Owner shall follow 24 CFR part 5, subpart L, in all cases where domestic violence, dating violence, or stalking, or criminal activity directly related to domestic violence, dating violence, or stalking is involved or claimed to be involved.

■ 11. Amend § 882.514 to revise the second sentence of paragraph (c) to read as follows:

#### **§ 882.514 Family participation.**

\* \* \* \* \*

(c) *Owner selection of families.* \* \* \* Since the Owner is responsible for tenant selection, the Owner may refuse any family, provided that the Owner does not unlawfully discriminate, except that the fact that an applicant is or has been a victim of dating violence, domestic violence, or stalking is not an appropriate basis for denial of program assistance or admission if the applicant otherwise qualifies for assistance or admission. \* \* \*

\* \* \* \* \*

#### **PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS—STATE HOUSING AGENCIES**

■ 12. The authority citation for part 883 continues to read as follows:

**Authority:** 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

■ 13. Revise § 883.605 to read as follows:



**§ 883.605 Leasing to eligible families.**

The provisions of 24 CFR 880.504, including subpart L of 24 CFR part 5 pertaining to the selection of tenants and occupancy requirements in cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking apply, subject to the requirements of § 883.105.

**PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING**

- 14. The authority citation for part 884 continues to read as follows:

**Authority:** 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

- 15. Amend § 884.216 to add paragraph (c) to read as follows:

**§ 884.216 Termination of tenancy.**

\* \* \* \* \*

(c) In actions or potential actions to terminate tenancy, the Owner shall follow 24 CFR part 5, subpart L in all cases where domestic violence, dating violence, stalking, or criminal activity directly related to domestic violence, dating violence, or stalking is involved or claimed to be involved.

- 16. Amend § 884.223 to add paragraph (f) to read as follows:

**§ 884.223 Leasing to eligible families.**

\* \* \* \* \*

(f) Subpart L of 24 CFR part 5 applies to selection of tenants and occupancy requirements in cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

**PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS**

- 17. The authority citation for part 886 continues to read as follows:

**Authority:** 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

- 18. Revise § 886.128 to read as follows:

**§ 886.128 Termination of tenancy.**

Part 247 of this title (24 CFR part 247) applies to the termination of tenancy and eviction of a family assisted under this subpart. For cases involving termination of tenancy because of a failure to establish citizenship or eligible immigration status, the procedures of 24 CFR parts 247 and 5 shall apply. For cases where domestic

violence, dating violence, stalking, or criminal activity directly relating to domestic violence, dating violence, or stalking is involved or claimed to be involved, the provisions of 24 CFR part 5, subpart L, apply. The provisions of 24 CFR part 5, subpart E, of this title 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 concerning deferral of termination of assistance also shall apply.

- 19. Revise § 886.132 to read as follows:

**§ 886.132 Tenant selection.**

Subpart F of 24 CFR part 5 governs selection of tenants and occupancy requirements applicable under this subpart A of part 886. Subpart L of 24 CFR part 5 applies to selection of tenants and occupancy requirements in cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

- 20. Revise § 886.328 to read as follows:

**§ 886.328 Termination of tenancy.**

Part 247 of this title (24 CFR part 247) applies to the termination of tenancy and eviction of a family assisted under this subpart. For cases involving termination of tenancy because of a failure to establish citizenship or eligible immigration status, the procedures of 24 CFR part 247 and 24 CFR part 5 shall apply. For cases where domestic violence, dating violence, stalking, or criminal activity directly relating to domestic violence, dating violence, or stalking is involved or claimed to be involved, the provisions of 24 CFR part 5, subpart L, apply. The provisions of 24 CFR part 5, subpart E, 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 concerning deferral of termination of assistance, also shall apply.

- 21. Amend § 886.329 to add paragraph (f) to read as follows:

**§ 886.329 Leasing to eligible families.**

\* \* \* \* \*

(f) Subpart L of 24 CFR part 5 applies to selection of tenants and occupancy requirements in cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

**PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES**

- 22. The authority citation for part 891 continues to read as follows:

**Authority:** 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

- 23. Amend § 891.575 to add paragraph (f) to read as follows:

**§ 891.575 Leasing to eligible families.**

\* \* \* \* \*

(f) Subpart L of 24 CFR part 5 applies to selection of tenants and occupancy requirements in cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

- 24. Revise § 891.610(c) to read as follows:

**§ 891.610 Selection and admission of tenants.**

\* \* \* \* \*

(c) *Determination of eligibility and selection of tenants.* The Borrower is responsible for determining whether applicants are eligible for admission and for selection of families. To be eligible for admission, an applicant must be an elderly or handicapped family as defined in § 891.505; meet any project occupancy requirements approved by HUD; meet the disclosure and verification requirement for Social Security Numbers and sign and submit consent forms for obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, subpart B; and, if applying for an assisted unit, be eligible for admission under subpart F of 24 CFR part 5 governing selection of tenants and occupancy requirements. For cases where domestic violence, dating violence, stalking, or criminal activity directly relating to domestic violence, dating violence, or stalking is involved or claimed to be involved, the provisions of 24 CFR part 5, subpart L, apply.

\* \* \* \* \*

- 25. Amend § 891.630 to add a new paragraph (c) to read as follows:

**§ 891.630 Denial of admission, termination of tenancy, and modification of lease.**

\* \* \* \* \*

(c) In actions or potential actions to terminate tenancy, the Owner shall follow 24 CFR part 5, subpart L, in all cases where domestic violence, dating violence, stalking, or criminal activity directly related to domestic violence, dating violence, or stalking is involved or claimed to be involved.



## PART 903—PUBLIC HOUSING AGENCY PLANS

■ 26. The authority citation for part 903 continues to read as follows:

**Authority:** 42 U.S.C. 1437c; 42 U.S.C. 3535(d).

■ 27. Amend § 903.6 to add paragraph (a)(3) to read as follows:

### § 903.6 What information must a PHA provide in the 5-Year Plan?

(a) \* \* \*

(3) A statement about goals, activities, objectives, policies, or programs that will enable a PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

\* \* \* \* \*

■ 28. Amend § 903.7 to add a new paragraph (m)(5) to read as follows:

### § 903.7 What information must a PHA provide in an annual plan?

\* \* \* \* \*

(m) \* \* \*

(5) A statement of any domestic violence, dating violence, sexual assault, and stalking prevention programs:

(i) A description of any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

(ii) Any activities, services, or programs provided or offered that help child and adult victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing; and

(iii) Any activities, services, or programs provided or offered to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

\* \* \* \* \*

## PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

■ 29. The authority citation for part 960 continues to read as follows:

**Authority:** 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z–3, and 3535(d).

■ 30. Amend § 960.103 to revise the section heading and add paragraph (d) to read as follows:

### § 960.103 Equal opportunity requirements and protection for victims of domestic violence.

\* \* \* \* \*

(d) *Protection for victims of domestic violence, dating violence, and stalking.* The PHA must apply 24 CFR part 5, subpart L in all applicable cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, and stalking.

■ 31. Amend § 960.200 to add paragraph (b)(8) to read as follows:

### § 960.200 Purpose.

\* \* \* \* \*

(b) \* \* \*

(8) Protection for victims of domestic violence, dating violence, and stalking, 24 CFR part 5, subpart L.

■ 32. Amend § 960.203 to add paragraph (c)(4) to read as follows:

### § 960.203 Standards for PHA tenant selection criteria.

\* \* \* \* \*

(c) \* \* \*

(4) PHA tenant selection criteria are subject to 24 CFR part 5, subpart L, protections for victims of domestic violence, dating violence, and stalking.

\* \* \* \* \*

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

■ 33. The authority citation for part 982 continues to read as follows:

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

■ 34. Amend § 982.53 to revise the section heading and add paragraph (e) to read as follows:

### § 982.53 Equal opportunity requirements and protection for victims of domestic violence.

\* \* \* \* \*

(e) *Protection for victims of domestic violence, dating violence, and stalking.* The PHA must apply 24 CFR part 5, subpart L, in all applicable cases where there is involved incidents of, or criminal activity related to, domestic violence, dating violence, and stalking.

■ 35. Amend § 982.201 to revise paragraph (a), to read as follows:

### § 982.201 Eligibility and targeting.

(a) When applicant is eligible: General. The PHA may admit only eligible families to the program. To be eligible, an applicant must be a “family;” must be income-eligible in accordance with paragraph (b) of this section and 24 CFR part 5, subpart F; and must be a citizen or a noncitizen who has eligible immigration status as determined in accordance with 24 CFR part 5, subpart E. If the applicant is a victim of domestic violence, dating

violence, or stalking, 24 CFR part 5, subpart L, applies.

\* \* \* \* \*

■ 36. Revise § 982.202(d) to read as follows:

### § 982.202 How applicants are selected: General requirements.

\* \* \* \* \*

(d) *Admission policy.* The PHA must admit applicants for participation in accordance with HUD regulations and other requirements, including but not limited to 24 CFR part 5, subpart L, protection for victims of domestic violence, dating violence, and stalking, and with PHA policies stated in the PHA administrative plan and the PHA plan. The PHA admission policy must state the system of admission preferences that the PHA uses to select applicants from the waiting list, including any residency preference or other local preference.

\* \* \* \* \*

■ 37. Amend § 982.307 to add paragraph (b)(4) to read as follows:

### § 982.307 Tenant screening.

\* \* \* \* \*

(b) \* \* \*

(4) In cases involving a victim of domestic violence, dating violence, and stalking, 24 CFR part 5, subpart L, applies.

■ 38. Revise § 982.310(h)(4) to read as follows:

### § 982.310 Owner termination of tenancy.

\* \* \* \* \*

(h) \* \* \*

(4) *Nondiscrimination limitation and protection for victims of domestic violence.* The owner's termination of tenancy actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105, and with the provisions for protection of victims of domestic violence, dating violence, and stalking in 24 CFR part 5, subpart L.

■ 39. Revise the last sentence of § 982.353(b) to read as follows:

### § 982.353 Where family can lease a unit with tenant-based assistance.

\* \* \* \* \*

(b) \* \* \* The initial PHA must not provide such portable assistance for a participant if the family has moved out of the assisted unit in violation of the lease, except that if the family moves out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by

harm from further violence if he or she remained in the dwelling unit, and has otherwise complied with all other obligations under the Section 8 program, the family may receive a voucher from the PHA and move to another jurisdiction under the housing choice voucher program.

\* \* \* \* \*

- 40. Amend § 982.452(b)(1) to add a second sentence to read as follows:

**§ 982.452 Owner responsibilities.**

\* \* \* \* \*

(1) \* \* \* The fact that an applicant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of tenancy if the applicant otherwise qualifies for tenancy.

\* \* \* \* \*

- 41. Revise §§ 982.551(e) and 982.551(l) to read as follows:

**§ 982.551 Obligations of participant.**

\* \* \* \* \*

(e) *Violation of lease.* The family may not commit any serious or repeated violation of the lease. Under 24 CFR 5.2005(a), an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated lease violation by the victim or threatened victim of the domestic violence, dating violence, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.

\* \* \* \* \*

(l) *Crime by household members.* The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see § 982.553). Under 24 CFR 5.2005(b), criminal activity directly related to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or immediate family member of the tenant is the victim.

\* \* \* \* \*

- 42. Revise § 982.552(c)(2)(v) to read as follows:

**§ 982.552 PHA denial or termination of assistance for the family.**

\* \* \* \* \*

- (c) \* \* \*  
(2) \* \* \*

(v) *Nondiscrimination limitation and protection for victims of domestic*

*violence.* The PHA's admission and termination actions must be consistent with fair housing and equal opportunity provisions of § 5.105 of this title, and with the requirements of 24 CFR part 5, subpart L, protection for victims of domestic violence, dating violence, and stalking.

\* \* \* \* \*

- 43. Amend § 982.553 to add a new paragraph (e), to read as follows:

**§ 982.553 Denial of admission and termination of assistance for criminals and alcohol abusers.**

\* \* \* \* \*

(e) In cases of criminal activity related to domestic violence, dating violence, or stalking, the victim protections of 24 CFR part 5, subpart L, apply.

**PART 983—PROJECT-BASED VOUCHER (PBV) PROGRAM**

- 44. The authority citation for part 983 continues to read as follows:

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

- 44A. Amend § 983.4 to add a new proviso in alphabetical order as follows:

**§ 983.4 Cross-reference to other federal requirements.**

\* \* \* \* \*

*Protection for victims of domestic violence, dating violence, and stalking.* See 24 CFR part 5, subpart L.

\* \* \* \* \*

- 45. Amend § 983.251 to add paragraph (a)(3) to read as follows:

**§ 983.251 How participants are selected.**

(a) \* \* \*

(3) The protections for victims of domestic violence, dating violence, and stalking in 25 CFR part 5, subpart L, apply to admission to the project-based program.

\* \* \* \* \*

- 46. Amend § 983.255 to add paragraph (d) to read as follows:

**§ 983.255 Tenant screening.**

\* \* \* \* \*

(d) The protections for victims of domestic violence, dating violence, and stalking in 25 CFR part 5, subpart L, apply to tenant screening.

- 47. Amend § 983.257 to add a new sentence at the end of paragraph (a) to read as follows:

**§ 983.257 Owner termination of tenancy and eviction.**

(a) \* \* \* 24 CFR part 5, subpart L, on protection for victims of domestic violence, dating violence, and stalking applies to this part.

\* \* \* \* \*

Dated: October 30, 2008.

**Roy A. Bernardi,**  
*Deputy Secretary.*

[FR Doc. E8–28235 Filed 11–26–08; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[TD 9433]

RIN 1545–BH23

#### Classification of Certain Foreign Entities

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations relating to certain business entities included on the list of foreign business entities that are always classified as corporations for Federal tax purposes. The regulations are needed to make the Federal tax classification of the Bulgarian public limited liability company (aktsionerno druzhestvo) consistent with the Federal tax classification of public limited liability companies organized in other countries of the European Economic Area. The regulations will affect persons owning an interest in a Bulgarian aktsionerno druzhestvo on or after January 1, 2007.

**DATES:** *Effective Date:* These regulations are effective on November 28, 2008.

*Applicability Date:* For the dates of applicability of these regulations, see § 301.7701–2(e)(7).

**FOR FURTHER INFORMATION CONTACT:** S. James Hawes, (202) 622–3860 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 21, 2008, the IRS and Treasury Department published in the **Federal Register** temporary regulations (TD 9388, 2008–17 IRB 832, 73 FR 15064) and a notice of proposed rulemaking (REG–143468–07, 2008–17 IRB 848, 73 FR 15107) under section 7701 of the Internal Revenue Code (Code). The regulations added the Bulgarian aktsionerno druzhestvo to the list of entities in § 301.7701–2(b)(8) (the per se corporation list). For further background, see TD 9388 and Notice 2007–10 (2007–4 IRB 354).

On October 8, 2001, the Council of the European Union adopted Council Regulation 2157/2001 (2001 Official