

(1) For Model BAe 146-100A airplanes: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 30,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 6,000 landings.

(2) For Model BAe 146-200A airplanes, and for Model BAe 146-300A airplanes other than those airplanes identified in paragraph (a)(3) of this AD: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 24,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 6,000 landings.

(3) For Model BAe 146-300A airplanes having serial numbers E3207, E3212, E3214, E3216, E3218, E3219, and E3222: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 13,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 4,000 landings.

(b) If any cracking is found during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(c) Accomplishment of the modification of each affected bolt position in accordance with Avro International Aerospace Inspection Service Bulletin S.B. 53-130, dated May 10, 1994, prior to the embodiment times shown in Table 'A' of that service bulletin, constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

**Note 2:** Repair Instruction Leaflet (RIL) HC536H9159 provides detailed instructions for modification of all bolt positions in the affected areas of frame 29.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 14, 1995.

**John J. Hickey,**

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.  
[FR Doc. 95-9770 Filed 4-19-95; 8:45 am]

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Housing-Federal Housing Commissioner

#### 24 CFR Part 811

[Docket No. R-95-1779; FR-3692-P-01]

RIN 2502-AG33

### Refunding of Tax-Exempt Obligations Issued to Finance Section 8 Housing

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the Department's regulations to provide the policy and procedural guidelines for Section 8 bond refundings under which local agency issuers of Section 11(b) tax-exempt bonds are encouraged to refinance projects at lower interest rates.

**DATES:** Comments due date June 19, 1995.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410. Facsimile (FAX) are not acceptable. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

**FOR FURTHER INFORMATION CONTACT:** James B. Mitchell, Director, Financial Services Division, Department of Housing and Urban Development, 470 L'Enfant Plaza East, room 3120, Washington, DC 20024; telephone (202) 755-7450, ext. 125 (TDD number for the hearing- and speech-impaired (202) 708-4594).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Since May 1989, the Department has conducted on an ad hoc basis a program of Section 8 assisted housing bond refundings, under which local agency issuers of Section 11(b) tax-exempt bonds (24 CFR part 811, subpart A) are encouraged to refinance projects at lower interest rates to reduce Section 8 subsidy. To date, over 400 bond refunding transactions have closed in which bonds issued during the interest rate peak years of 1980-1983 are prepaid by a new bond issue at substantially lower interest cost,

resulting in subsidy recapture of over \$500 million.

The Section 11(b) regulations under which HUD issues its Notification of Tax Exemption were designed for the original financing of new construction or substantial rehabilitation of 100 percent or partially subsidized Section 8 rental housing. These rules do not in all particulars fit a refinancing transaction where construction funding is not an element. Therefore, each refunding closing transaction has required that bond counsel for the issuing agency obtain from the Assistant Secretary for Housing-FHA Commissioner a Notification of Tax Exemption that waives several sections of 24 CFR part 811, subpart A. This waiver process elevates to the Assistant Secretary level a programmatic approval that has become routine and perfunctory in recent years. In addition, an Office of Inspector General finding (Interim Audit Report 93-HQ-119-0004) has criticized the excessive reliance on regulatory waivers to accomplish bond refundings.

In view of the relatively low interest rate environment that has prevailed since 1987, HUD has determined that bond refundings should be treated as an operational program, rather than a temporary market intervention dependent upon the economic cycle. The proposed rule would codify the policy and procedural guidelines that have governed Section 8 bond refundings since 1989, and would provide a self-contained refunding regulation intended to dispense with the need for most waivers.

##### II. Other Matters

###### A. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 50.20(k) of the HUD regulations, the policies and procedures contained in this proposed rule relate only to HUD administrative procedures and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

###### B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this proposed rule will not have federalism implications and, thus, are not subject to review under that order.

###### C. Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has

determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this proposed rule, as those policies and programs relate to family concerns.

#### *D. Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act has reviewed and approved this proposed rule, and in so doing certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are not any unusual procedures that would need to be complied with by small entities.

#### *E. Regulatory Agenda*

This proposed rule was listed as sequence number 1779 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57634) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

#### **List of Subjects in 24 CFR Part 811**

Public housing, Securities, Taxes.

Accordingly, 24 CFR part 811 would be amended as follows:

#### **PART 811—TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS**

1. The authority citation for 24 CFR part 811 would be revised to read as follows:

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

2. A new § 811.119 would be added to subpart A, to read as follows:

#### **§ 811.119 Refunding of obligations issued to finance Section 8 projects.**

(a) This section states the terms and conditions under which HUD will approve tax-exempt financing or defeasance of outstanding permanent obligations issued under Section 11(b) of the Act or the Internal Revenue Code to refund outstanding permanent obligations which financed new construction or substantial rehabilitation of Section 8 projects, including fully and partially assisted projects.

(b) Other sections of part 811, subpart A, shall not apply to bond refundings except that compliance with the

following is required: §§ 811.101, 811.102, 811.103, 811.104, 811.105, 811.106(d), 811.108(a)(2)(ii), 811.108(a)(2)(iii), 811.108(b)(3)(ii), 811.108(b)(3)(iii), and 811.114(d), except as applicable provisions are modified in this section.

(c) Compliance with §§ 811.104 and 811.105 shall not be required for refunding obligations which derive tax exemption from authority other than Section 11(b) of the Act. In the case of bonds issued by State Agencies qualified under 24 CFR part 883 to refund bonds which financed projects assisted pursuant to 24 CFR part 883, compliance with the provisions of 24 CFR part 883 shall be required to the extent bond counsel finds such provisions applicable to a bond refunding transaction, as distinguished from requirements related to original financing of new construction or substantial rehabilitation of Section 8 housing. HUD requires compliance with the prohibition on duplicative fees contained in § 883.606 of this chapter.

(d) No agency shall issue obligations to refund outstanding 11(b) obligations until the Office of the Assistant Secretary for Housing sends the financing agency a Notification of Tax Exemption based on approval of the proposed refunding's terms and conditions as conforming to this subpart A's requirements, including continued operation of the project as housing for low-income families, and where possible, reduction of Section 8 assistance payments through lower contract rents or equivalent means. The agency shall submit such documentation as HUD determines is necessary for review and approval of the refunding transaction. Upon conclusion of the sale of refunding bonds, the results must be certified to HUD by bond counsel, including a schedule of the specific amount of savings in Section 8 assistance where applicable, and a final statement of Sources and Uses.

(e) (1) HUD approval of the terms and conditions of a Section 8 refunding proposal requires evaluation by HUD Central Office of the reasonableness of the terms of the Agency's proposed financing plan, including projected reductions in project debt service where warranted by market conditions and bond yields. This evaluation shall determine that the proposed amount of refunding obligations is the amount needed to pay off outstanding bonds, fund a debt service reserve to the extent required by bond rating agencies which rate the credit quality of the refunding bonds, pay credit enhancement fees acceptable to HUD and pay transaction

costs as approved by HUD according to a sliding scale ceiling based on par amount of refunding bond principal. Exceptions may be approved by HUD, if consistent with applicable statutes, in the event that an additional issue amount is required for project purposes.

(2) The repayment term of the refunding bonds may not exceed the remaining term of the project mortgage, or in the absence of a mortgage, the remaining term of the Housing Assistance Payments Contract (the "HAPC").

(3) The bond yield may not exceed by more than 75 basis points the 20 Bond General Obligation Index published by the Daily Bond Buyer for the week immediately preceding the sale of the bonds. An amount not to exceed one-fourth of one percent annually of the bonds may be allowed for servicing and trustee fees.

(f) For projects placed under HAPC between January 1, 1979, and December 31, 1984 (otherwise known as "McKinney Act Projects"), for which a State or local agency initiates a refunding, the Secretary shall make available to an eligible issuing agency 50 percent of the Section 8 savings of a refunding, as determined by HUD on a project-by-project basis, to be used by the agency in accordance with the terms of a Refunding Agreement executed by the Agency and HUD which incorporates the Agency's Housing Plan for use of savings to provide decent, safe, and sanitary housing for very low-income households. The Housing Plans submitted for HUD review and approval shall address the physical condition of the projects participating in the refunding which generate the McKinney Act savings and, if necessary, provide for correction of existing deficiencies which cannot be funded completely by existing project replacement reserves and/or by a portion of refunding bond proceeds (including reserves released from the refunded bond's indenture), as approved by HUD.

(g) For refundings of Section 8 projects other than McKinney Act Projects, and for all transactions which substitute collateral for, but do not redeem, outstanding obligations, the Office of Housing in consultation with HUD Field Office Counsel will review the HAPC, the Trust Indenture for the outstanding obligations, and the applicable part 811 Regulations to determine what HUD approvals are required. In particular, HUD approval must be obtained for the release of reserves from the trust indenture of the bonds that are being refunded, defeased, or pre-paid. If the proposal contemplates distribution to a non-

Federal entity of benefits of the refinancing, such as debt service savings and/or balances in reserves held under the original Trust Indenture, such proposal shall be referred to the Office of the Assistant Secretary for Housing for further review. HUD will consent to release reserves, as provided by the Trust Indenture, in an amount remaining after correction of project physical deficiencies and/or replenishment of replacement reserves, where needed, upon execution by the project owner of a use agreement, and amendment of a regulatory agreement, if applicable, to extend low-income tenant occupancy for ten years after expiration of the HAPC. Proposed use of benefits shall be consistent with applicable appropriations law, the HAPC, and other requirements applicable to the original project financing, and the proposed financing terms must be reasonable in relation to bond market yields and transaction fees, as approved by HUD Central Office.

(h) Agencies shall have wide latitude in the design of specific delivery vehicles for use of McKinney Act savings, subject to HUD audit of each Agency's performance in serving the targeted income eligible population. Savings shall be used for shelter costs of providing housing, rental, or owner-occupied, to very low-income households through new construction, rehabilitation, repairs, and acquisition with or without rehab, including assistance to very low-income units in mixed-income developments. Self-sufficiency services in support of very low-income housing are also eligible, specifically, homeownership counseling, additional security measures in high-crime areas, construction job training for residents' repair of housing units occupied by very low-income families, and empowerment activities designed to support formation and growth of resident entities. Except for the cost of providing third-party program audit reports to HUD, eligible costs exclude consultant fees or reimbursement of Agency staff expenses, even though the services may involve programs of assistance to very low-income families.

(i) Refunding bonds, including interest thereon, approved under this Section shall be exempt from all taxation now or hereafter imposed by the United States, and the notification of approval of tax exemption shall not be subject to revocation by HUD. Such bonds shall be prepaid during the HAPC term only under such conditions as HUD shall require.

Dated: March 20, 1995.

**Nicolas P. Retsinas,**

*Assistant Secretary for Housing-Federal Housing Commissioner.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 913

[IL-091]

#### Illinois Abandoned Mine Land Reclamation Plan

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Illinois Abandoned Mine Land Reclamation Plan (hereinafter referred to as the "Illinois plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to the merger of the Illinois Abandoned Mined Lands Reclamation Council into the newly created Illinois Department of Natural Resources, Office of Mines and Minerals. The Amendment is intended to provide formal notification to OSM of this pending reorganization.

**DATES:** Written comments must be received by 4:00 p.m., C.D.T., May 22, 1995. If requested, a public hearing on the proposed amendment will be held on May 15, 1995. Requests to speak at the hearing must be received by 4:00 p.m., C.D.T., on May 5, 1995.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to James F. Fulton, Director, at the addresses listed below.

Copies of the Illinois plan, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Springfield Field Office.

James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 511

West Capitol, Suite 202, Springfield, Illinois 62704, Telephone: (217) 492-4495.

Illinois Abandoned Mined Lands Reclamation Council, 928 South Spring Street, Springfield, Illinois 62704, Telephone: (217) 782-0588.

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Director, Springfield Field Office, Telephone: (217) 492-4495.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Illinois Plan

Title IV of SMCRA established an Abandoned Mine Land Reclamation (AMLR) program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. As enacted in 1977, lands and waters eligible for reclamation were those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which they were no continuing reclamation responsibility under State or Federal law. The AMLR Reclamation Act of 1990 (Pub. L. 101-508, Title VI, Subtitle A, Nov. 5, 1990, effective Oct. 1, 1991) amended SMCRA, 30 U.S.C. 1231 *et seq.*, to provide changes in the eligibility of project sites for abandoned mine land expenditures. Title IV of SMCRA now provides for reclamation of certain mine sites where the mining occurred after August 3, 1977. These include interim program sites where bond forfeiture proceeds were insufficient for adequate reclamation and sites affected any time between August 4, 1977, and November 5, 1990, for which there were insufficient funds for adequate reclamation due to the insolvency of the bond surety. Title IV provides that a State with an approved AMLR plan has the responsibility and primary authority to implement the program.

On June 1, 1982, the Secretary of the Interior approved the Illinois plan. Background information on the Illinois plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the June 1, 1982, **Federal Register** (47 FR 23886). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 913.25.

The Secretary adopted regulations at 30 CFR Part 884 that specify the content requirements of a State reclamation plan and the criteria for plan approval. The regulations provide that a State may submit to the Director proposed amendments or revisions to the