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CHAPTER 10 HOUSING QUALITY STANDARDS

10.1 CHAPTER OVERVIEW

The goal of the housing choice voucher program is to provide “decent, safe and sanitary” housing at an affordable cost to low-income families. To accomplish this, program regulations set forth basic housing quality standards (HQS) which all units must meet before assistance can be paid on behalf of a family and at least annually throughout the term of the assisted tenancy. HQS defines “standard housing” and establishes the minimum criteria necessary for the health and safety of program participants.

HQS regulations provide performance requirements and acceptability criteria to meet each performance requirement. HQS includes requirements for all housing types, including single and multi-family dwelling units, as well as specific requirements for special housing types such as manufactured homes, congregate housing, single room occupancy (SROs), shared housing and group residences (GRs). Requirements for Special Housing Types are discussed in Chapter 17.

The HUD Housing Inspection Manual for Section 8 Housing, available through the HUD user at 800-245-2691, and the HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD 52580-A (9/00), available through HUDCLIPS website: www.hudclips.org, provide guidance to PHAs in interpreting the standards, as well as HUD regulations.

10.2 HOUSING QUALITY STANDARDS GENERAL REQUIREMENTS

At least annually, it is the responsibility of the PHA to conduct inspections of units to determine compliance with HQS prior to the execution of the entire term of the assisted lease. Inspections may be completed by PHA staff or by contract personnel. HQS consists of the following thirteen (13) performance requirements:

- Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Lead-based paint;
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke Detectors.

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Acceptability criteria for each performance requirement help PHAs determine if the unit meets mandatory minimum standards. For some standard, specific guidance is provided to PHAs, but PHA's must rely upon inspector judgement in the areas. In some instances, family preference should be considered in the determination of acceptability.

HUD may grant approval for a PHA to use acceptability criteria variations which apply standards contained in local housing codes or other codes adopted by the PHA or because of local climatic or geographic conditions.

Acceptability criteria variations may only be approved by HUD, if the variation meets or exceeds the performance requirement and does not unduly limit the amount and type of rental, housing available at or below the fair market rent . HUD will not approve variations if the change is likely to adversely affect the health or safety of participant families or severely restrict housing choice.

PHAs should strive to ensure consistency among staff in areas requiring judgment. Not all areas of HQS are exactly defined while acceptability criteria specifically state the minimum standards necessary to meet HQS, inspector judgment or tenant preference may also need to be considered in determining whether the unit meets minimum standards or desirable. Staff can receive the tools to make sound decisions through training, access to written policy and procedures, and consistent written and oral instruction.

Potential safety hazards that are not specifically addressed in the acceptability criteria, such as damaged kitchen cabinet hardware, may present a cutting hazard to small children is an example of an area that requires judgement. Less than optimal conditions, such as a water heater with a small capacity, is another example. A good practice is to assess potential hazards based on the family residing in the unit. Some potential hazards may only apply when small children are in occupancy. Some less than perfect conditions, such as a water heater that appears too small for optimal use by the tenant, should be discussed with the tenant, but should not lead to denial of program assistance if the family is willing to accept the existing condition.

In order to keep assisted units from having to meet higher standard than units in the unassisted market, PHAs should be cautious and thoughtful when requesting HUD approval of a standard higher standard than HQS. Though adopted into local law, local codes, are often not consistently enforced among all units, or are enforced only when complaints are made. Sometimes, certain aspects of a local code are not enforced at all. If the PHA adopts local code requirements, housing choice may be restricted in these instances.

The PHA administrative plan should include any HUD-approved variations to HQS acceptability criteria that will be used to judge the condition of the unit. This practice formalizes the PHA's inspection standards for inspection staff, as well as for owners and tenants. For example, if the PHA has received HUD approval to require that assisted units must have deadbolt locks on all doors leading from the unit to the exterior or public areas, the requirement should be included in

the PHA administrative plan as an addition to HQS standards.

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10.3 PERFORMANCE REQUIREMENTS AND ACCEPTABILITY STANDARDS

Each of the 13 HQS performance requirements and acceptability criteria is identified below. A discussion of how PHAs should interpret the requirements and tenant preference options follows. Refer to the inspection checklists contained in Form HUD-52580 and Form HUD-52580-A and the Housing Inspection Manual for the Section 8 Existing Housing Program for more detailed explanation and guidance.

Sanitary Facilities

Performance Requirement

-

The dwelling unit must include sanitary facilities within the unit.

-

The sanitary facilities must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

-

The sanitary facilities must be usable in privacy.

Acceptability Criteria

-

The bathroom must be located in a separate room and have a flush toilet in proper operating condition.

-

The unit must have a fixed basin (lavatory) with a sink trap and hot and cold running water in proper operating condition.

-

The unit must have a shower or tub with hot and cold running water in proper operating condition.

-

The facilities must utilize an approved public or private disposal system, including a locally approved septic system.

The bathroom must be contained within the dwelling unit, afford privacy (usually meaning a door, although no lock is required), and be for the exclusive use of the occupants.

All public or private waste disposal systems servicing the unit or facilities must be either state or local agency approved.

The tub/shower, toilet, and basin/lavatory must have a proper sewer trap, drain, and vents to prevent the escape of sewer gases or severe leakage of water. Drains must not be clogged and the toilet must flush. Hot and cold water must be available at the tub, shower, and lavatory taps. The definition of hot water (temperature) required at the lavatory, tub, or shower should be determined from local health standards or applicable local code.

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The PHA must determine if the bathroom facilities are free of hazards which may endanger the occupants such as damaged or broken fixtures and plumbing leaks. Conditions which do not affect the acceptability of the bathroom include tenant preference items (listed below) and minor faucets drips.

EXAMPLE:

What are bathroom hazards that may endanger occupants?

-

Broken ceramic, metal, or glass fixtures that may pose a hazard. This includes towel racks, soap dishes, medicine cabinets, and mirrors as well

-

A leaking hot water faucet may pose a scalding threat.

Only one bathroom is required to meet HQS. Additional bathrooms do not have to contain all plumbing fixtures (tub/shower, toilet or lavatory), but if present, they must not create any unsanitary conditions, be properly plumbed, and be free of sewer gases.

Other room standards that apply to bathroom facilities, such as illumination and electricity, are discussed under those performance requirements.

Tenant Preference

The tenant may determine acceptability of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower, condition of faucets, minor leaks, scratches, or worn enamel on fixtures, and the location of the sanitary facilities within the dwelling unit.

Food Preparation and Refuse Disposal

Performance Requirement

-

The dwelling unit must have suitable space and equipment to store, prepare, and serve food in a sanitary manner.

Acceptability Criteria

-

The dwelling unit must have an oven and a stove or range. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished to both subsidized and unsubsidized tenants in the same building or premises.

-

The dwelling unit must have a refrigerator of appropriate size for the family.

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-

All required equipment must be in proper operating condition. According to the lease, equipment may be supplied by either the owner or the family.

-

The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approved public or private system.

-

The dwelling unit must have space for storage, preparation, and serving of food.

-

Facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary, are required.

Hot plates are not acceptable substitutes for stoves or ranges. The oven must heat and all burners on the stove or range must work. All stove or range knobs must be present.

The stove or range must be free of hazardous gas hook-ups, gas leaks, or electrical hazards.

The refrigerator must be of adequate size for the family and capable of maintaining a temperature

low enough to keep food from spoiling. The PHA may reject the size of the refrigerator only if it clearly cannot serve the needs of the family. For example, a counter-top or compact type would not meet the needs of a family of four. The freezer space must be present and working, and the equipment must present an electrical hazard.

EXAMPLE:

What temperature must a refrigerator maintain to keep food from spoiling?

-

Above 32° F, but generally below 40° F.

-

Consider how often the refrigerator will be opened. Proper temperatures are difficult to maintain if the refrigerator is frequently opened during warm weather, door seals are removed or broken, or the door sits open.

The sink must have hot and cold running water from the faucets and a proper working sink drain with gas trap. It must also be hooked to an approved water and sewer system. The definition of hot water should be determined by the local health department or applicable local code.

Space for storage, preparation, and serving of food must be present. Built-in space, equipment, table(s), or portable storage facilities are acceptable.

Waste and refuse storage facilities are determined by local practice and may include trash cans or dumpster facilities.

Other room standards apply to the food preparation area and are discussed under those specific requirements below.

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Tenant Preference

The family selects a unit with the size and type of equipment it finds acceptable and may choose to accept a microwave oven in place of a conventional oven, stove, or range if the oven/stove/range are tenant supplied or if microwaves are furnished in both subsidized and unsubsidized units in the building or premises. The amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.

Space and Security

Performance Requirement

-

The dwelling unit must provide adequate space and security for the family.

Acceptability Criteria

-

At a minimum, the dwelling unit must have a living room, a kitchen and a bathroom.

-

The dwelling unit must have a least one bedroom or living/sleeping room for every two persons. Other than very young children, children of opposite sex, may not be required to occupy the same bedroom or living/sleeping room.

-

Dwelling unit windows that are accessible from the outside must be lockable.

-

Exterior doors to the unit must be lockable.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space.

Unit windows located on the first floor, at the basement level, on a fire escape, porch, or other outside space that can be reached from the ground and that are designed to be opened must have a locking device. (Windows with sills less than six feet off the ground are considered accessible.) Traditional window locks, those provided by storm/screen combination windows, window pins, and nails are acceptable. Windows leading to a fire escape or required to meet ventilation requirements may not be permanently nailed shut.

Doors leading to the outside and common hallways, fire escapes, and porches or otherwise accessible from the ground must have locks. No specific type of lock is required.

Window and door surfaces (including the door frame) must be in sufficient condition to support the installation and proper operation of window and door locks.

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Tenant Preference

The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.

Thermal Environment

Performance Requirement

-

The dwelling unit must be able to provide a thermal environment that is healthy for the human body.

Acceptability Criteria

-

There must be a safe system for heating the dwelling unit, such as electric baseboard, radiator, or forced air systems. In order to ensure a healthy living environment appropriate for the climate the system must be able to provide adequate heat either directly or indirectly to each room.

-

If present, the air conditioning system or evaporative cooler, must safely provide adequate cooling to each room.

-

The heating and/or air conditioning system must be in proper operating condition.

-

The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

The PHA must define “a healthy living environment” for the local climate. Local or state codes will help the PHA determine when and how much heat is adequate. For example, a PHA may define a heating system capable of maintaining an interior temperature of 65° between October 1 and May 1 as adequate.

Adequate heat is required in all rooms used for living; the heat source does not have to be located in each room as long as the heat can pass to the appropriate space and meet the definition of adequate. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Improper operating conditions, including all conditions that may be unsafe, such as broken or damaged source vents, flues, exhausts, gas or oil lines that create a potential fire hazard or threats to health and safety are not permitted. Heating unit safety devices must be present, and the heating equipment must have proper clearance from combustible materials and location of oil storage tanks. There must be proper gas and oil connections. Local plumbing, fire, or

mechanical codes are instructive in providing details about acceptable materials for furnace and water heater hookups and required clearances appropriate to the jurisdiction where units are

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located. Seek assistance from local code enforcement offices to determine health and safety standards for equipment hook-up and clearance requirements.

Heating system inspections are often required by local or state authorities especially for large multi-family buildings. If the heating system has passed inspection from the inspecting authority within the past two years, the PHA may accept this as proof of heating equipment safety.

Working cooling equipment refers to a central ventilation system, evaporative cooling system, room or central air conditioning. These systems are not required by HQS, but if present, must be operating safely so as not to create a potential fire hazard or other threat to health and safety.

Tenant Preference

The PHA has no control over energy conservation measures, such as dwelling insulation or installation of storm windows and doors. The family must assess whether a dwelling without these items is acceptable; the family must take into account the cost of utilities billed to the family and personal feelings about adequate heat. Dwellings that are poorly insulated or lack storm windows are generally drafty and more difficult to heat and cool.

Illumination and Electricity

-

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants.

-

The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances.

-

Electrical fixtures and wiring must not pose a fire hazard.

Acceptability Criteria

-

There must be at least one window in both the living room and each sleeping room.

-

The kitchen area and the bathroom must have a permanent ceiling or wall-mounted fixture in proper operating condition.

-

The kitchen must have at least one electrical outlet in proper operating condition.

-

The living room and each sleeping space must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

The PHA must be satisfied that the electrical system is free of hazardous conditions, including:

exposed, uninsulated, or frayed wires, improper connections, improper insulation or grounding of

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any component of the system, overloading of capacity, or wires lying in or located near standing water or other unsafe places.

Outlets must be properly installed in the baseboard, wall, or floor. Hanging light fixtures or outlets from electric wiring, missing cover plates on switches and outlets, badly cracked outlets or cover plates, exposed fuse box connections and, overloaded circuits are unacceptable.

Tenant Preference

The family may determine whether the location and the number of outlets and fixtures (over and above those required for acceptability standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

Structure and Materials

Performance Requirement

-

The dwelling unit must be structurally sound.

-

The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

Acceptability Criteria

-

Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.

-

The roof must be structurally sound and weather-proof.

-

The foundation and exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.

-

The condition and equipment of interior and exterior stairs, halls, porches, and walkways must not present the danger of tripping and falling.

-

Elevators must be working safely.

The PHA must examine each of the elements listed in the acceptability criteria to determine that each is structurally sound, will not collapse, and does not present a danger to residents through falling or missing parts, or tripping hazards. The PHA must determine that the unit is free from water, excessive air, and vermin infiltration.

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Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches off the ground.

The elevator servicing the unit must be working. A current city or state inspection certificate suffices to determine working condition of the elevator.

Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Tenant Preference

Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

Interior Air Quality

Performance Requirement

-

The dwelling unit must be free of air pollutant levels that threaten the occupants' health.
Acceptability Criteria

-

The dwelling unit must be free from dangerous air pollution levels from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.

-

There must be adequate air circulation in the dwelling unit.

-

Bathroom areas must have one openable window or other adequate ventilation.

-

Any sleeping room must have at least one window. If the window was designed to be opened, it must be in proper working order.

The PHA must be satisfied that air pollutants such as gas leaks, industrial outputs, and heavy traffic would not present a health hazard.

Air circulation should be checked to determine adequate ventilation. Air conditioning (A/C) provides adequate circulation as do ceiling and vent fans.

The windows must adequately protect the unit's interior from the weather. Windows designed to open must not be painted or nailed shut. The ventilating bathroom fan in the bathroom must operate as intended.

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Tenant Preference

Tenants may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet personal needs.

Water Supply

Performance Requirement

-

The water supply must be free of contamination.

Acceptability Criteria

-

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination.

The PHA should be satisfied that the water supply is approved by the State or local jurisdiction.

Clean water must be distributed to all unit fixtures and waste water must leave the unit to an approved area without presence of sewer gas and backups.

Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Water-heating equipment must be installed safely and must not any present safety hazards to families. All water heaters must be free of leaks, have temperature/pressure relief valves, and a discharge line. Unless safety dividers or shields are installed water heaters must not be located in bedrooms or living areas where safety hazards may exist. Fuel burning equipment must have proper clearance from combustible materials and be properly vented.

Tenant Preference

The family may decide if the water heater has a large enough capacity for personal family use.

Lead-Based Paint

-

The Lead-Based Paint Poisoning Prevention Act as amended (42 U.S.C. 4821 - 4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 and implementing regulations 24 CFR Part 35 Subparts A, B, M, and R apply to the housing choice voucher program.

Acceptability Criteria

-

The requirements apply to dwelling units built prior to 1978 that are occupied or can be

occupied by families with children under six years of age, excluding zero bedroom dwellings.
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-

During initial and annual inspections of pre-1978 units that are occupied or will be occupied by families with children under 6 years of age, the inspector must conduct a visual assessment for deteriorated paint surfaces and the owner must stabilize deteriorated surfaces. Applicable areas include painted surfaces within the dwelling unit, exterior painted surfaces associated with the dwelling unit, and common areas of the building through which residents must pass to gain access to the unit and areas frequented by resident children under six years of age, including play areas and child care facilities.

-

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA), and the owner must complete hazard reduction activities if lead hazards are identified during the risk assessment.

Section 10.4 of this Chapter discusses all PHA responsibilities.

Tenant Preference

Families with children under 6 years of age have no decision-making authority related to the presence of lead-based paint.

Access

-

Use and maintenance of the unit must be possible without unauthorized use of other private properties.

-

The building must provide an alternate means of exit in case of fire.

Acceptability Criteria

-

The unit must have private access.

-

In case of fire, the building must contain an alternate means of exit such as fire stairs, or windows, including use of a ladder for windows above the second floor.

The PHA must determine that the unit has private access without unauthorized passage through another dwelling unit or private property.

The emergency (alternate) exit from the building (not the unit) may consist of fire stairs, a second door, fire ladders, or exit through windows. The emergency exit must not be blocked. It must be appropriate for the family and considered adequate by local officials. Guidance from the local fire agency is advisable.

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Tenant Preference

The tenant should assist the PHA in determining if the type of emergency exit is acceptable.

Site and Neighborhood

Performance Requirement

-

The site and neighborhood must be reasonably free from disturbing noises and reverberations or other dangers to the health, safety, and general welfare of the occupants.

Acceptability Criteria

-

The site and neighborhood may not be subject to serious adverse natural or manmade environmental conditions, such as dangerous walks or steps, instability, flooding, poor drainage, septic tank back-ups or sewer hazards, mudslides, abnormal air pollution, smoke or dust, excessive noise, vibration, or vehicular traffic, excessive accumulations of trash, vermin, or rodent infestation, or fire hazards.

The PHA determines whether any of the above conditions seriously and continually affect the health or safety of the residents. PHAs should be careful not to restrict housing choice in deciding acceptability. Failing a unit because the neighborhood is considered “bad” is not appropriate. Take into account whether private unassisted residents are living in the same neighborhood.

Tenant Preference

Taking into consideration the type of neighborhood, presence of drug activity, commercial enterprises, and convenience to shopping and other facilities, the family selects a unit.

Sanitary Condition

Performance Requirement

-

The dwelling unit and its equipment must be in sanitary condition.

Acceptability Criteria

-

The dwelling unit and its equipment must be free of vermin and rodent infestation.

The PHA must ensure that the unit is free of rodents and heavy accumulations of trash, garbage, or other debris that may harbor vermin. Infestation by mice, roaches, or other vermin particular to the climate must also be considered. The unit must have adequate barriers to prevent

infestation.

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EXAMPLE:

What is infestation of rodents or vermin?

-

By definition infestation means more than one bug or mouse. It is easily identified by observing mouse and/or rodent droppings or gnaw marks. If no visible evidence exists, there is probably no infestation. Based on the type of pest, PHAs must decide for themselves what the limits are for determining infestation and be consistent. Is one rat or roach too much?

Tenant Preference

Provided the minimum standards required by the acceptability criteria have been met, the tenant must determine whether the unit is in an adequate sanitary condition. Occasional mice and roaches may be acceptable to the tenant.

Smoke Detectors

-

On each level of the dwelling unit including basements, but excluding spaces and unfinished attics at least one battery-operated or hard-wired smoke detector in proper operating condition must be present.

-

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standards (NFPA) 74 or its successor standards.

-

If a hearing-impaired person is occupying the dwelling unit, the smoke detectors must have an alarm system designed for hearing-impaired persons as specified in NFPA 74.

Acceptability Criteria

The PHA must insure that the location of smoke detectors conforms with local and/or State Fire Marshall's requirements.

The PHA must determine that smoke detectors are located and installed in accordance with NFPA Standards. All smoke detectors must be in operating condition.

Local codes, such as housing or fire codes, often address responsibilities between owners and tenants for installation and maintenance of smoke detector batteries. At initial, inspection smoke detectors must have good batteries and be operable. PHAs may follow local codes to determine if missing or dead smoke detector batteries constitute a tenant or owner-caused failure in occupied units.

Consultation with the local fire officials is recommended regarding acceptable types and location

of smoke detectors.

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Tenant Preference

The family is not permitted to exercise any tenant preference regarding smoke detector requirements.

10.4 LEAD-BASED PAINT REQUIREMENTS AND RESPONSIBILITIES

Regulation Background

Lead-based paint requirements were originally written to implement Section 302 of the Lead-based Paint Poisoning and Prevention Act. In the late 1970s, Code of Federal Regulations, Title 24, Part 35 was promulgated, setting forth the general procedures for inspection and treatment of defective paint surfaces in HUD assisted housing.

Under Part 35, Assistant Secretaries were given authority to develop regulations pertaining to their specific areas of responsibility, and varying program regulations were issued. The regulations have been amended several times. A major change that occurred in 1995 amended housing quality standards that applied to tenant-based programs.

New lead-based paint regulations effective September 15, 2000 have been implemented to incorporate Title X of the Housing and Community Development Act of 1992. These regulations consolidate all lead-based paint requirements under one section of the Code of Federal Regulations (24 CFR Part 35), stress identification of lead-paint hazards, notification to occupants of the existence of these hazards, and control of lead-based paint hazards to reduce lead poisoning among young children.

Housing choice voucher program units are subject to the following subparts of 24 CFR Part 35:

- Subpart A, Disclosure;
- Subpart B, General Lead-Based Paint Requirements and Definitions for All Programs;
- Subpart M, Tenant-Based Rental Assistance; and
- Subpart R, Methods and Standards for Performing Lead Hazard Evaluation and Reduction Activities.

The Section 8 moderate rehabilitation program and the project-based housing choice voucher or certificate program units are subject to requirements under 24 CFR Subparts A, B, H, and R. Those requirements are not discussed in this Guidebook.

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Exempt Units

Exempt housing includes:

-

Units built after December 31, 1977;

-

Zero (0) bedroom and SRO units;

-

Housing built for the elderly or persons with disabilities, unless a child of under age six (6) resides or is expected to reside in such housing;

-

Property for which a paint inspection was completed in accordance with the new regulations and certified to have no lead-based paint;

-

Property in which all lead-based paint was identified, was removed, and received clearance in accordance with the new regulations.

For dwellings built before January 1, 1978, and occupied or to be occupied by assisted families with one or more children under age six, lead-based paint requirements apply to:

-

The unit interior and exterior paint surfaces associated with the assisted unit; and

-

The common areas servicing the unit, including those areas through which residents must pass to gain access to the unit, and other areas frequented by resident children less than six such as play areas, and child care facilities. Common areas also include garages and fences on the assisted property.

Basic Lead-Based Paint Requirements

The PHA is the responsible party for the following activities:

-

Visual assessment for deteriorated paint (i.e., peeling, chipping, flaking) surfaces at initial and annual inspections;

-

Assuring that clearance examination is conducted when required;

-

Carrying out special requirements for children under age six who have environmental intervention blood lead levels as verified by a medical health care provider;

-

Collecting data from the local health department on program participants under age six who have identified environmental intervention blood lead levels; and

-

Record keeping.
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Unit owners have responsibilities to:

- Disclose known lead-based paint hazards to all potential residents prior to execution of a lease;
- The owner must also provide all prospective families with a copy of Protect Your Family From Lead in Your Home or other EPA approved document;
- When necessary, perform paint stabilization to correct deteriorated paint;
- Each time such an activity is performed, notify tenants about the conduct of lead hazard reduction activities and clearance (if required);
- Conduct lead hazard reduction activities when required by the PHA;
- Perform all work in accordance with HUD prescribed safe work practices and conduct clearance activities when required; and
- Perform ongoing maintenance. As part of ongoing maintenance, the owner must provide written notice to each assisted family asking occupants to report deteriorated paint. The notice must include the name, address, and phone number of the person responsible for accepting the occupant's complaint.

10.5

NOTIFICATION AND DISCLOSURE OF LEAD-BASED PAINT HAZARDS PRIOR TO OCCUPANCY

Before the execution of the lease the owner or owner's agent is required to disclose any knowledge of lead-based paint or lead-based paint hazards in housing built prior to 1978, to all prospective residents (See Exhibit 10-1, Sample Disclosure Notice.) The PHA must keep a copy of the disclosure notice executed by the owner and tenant in the tenant file. The owner should not send the PHA the original disclosure notice executed by the owner and tenant.

Visual Assessment for Deteriorated Paint

During the conduct of initial and annual inspections of pre-1978 units that are occupied or will be

occupied by families with children under 6 years of age, the PHA must conduct a visual inspection for deteriorated paint surfaces at these locations:

- All unit interior and exterior painted surfaces associated with the assisted unit; and
- Common areas such as common hallways, access and egress areas, playgrounds, child-care

facilities, or other areas including fences and garages frequented by children under age six.
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Deteriorated paint surfaces are defined as interior or exterior paint or other coating that is peeling, chipping, flaking, cracking, is otherwise damaged or has separated from the substrate of the surface or fixture.

The inspection may be conducted by an HQS inspector or other party designated by the PHA, but all inspectors must be trained in visual assessment in accordance with procedures established by HUD. A visual assessment training course is available on the Office of Healthy Homes and Lead Hazard Control's website.

Stabilization of Deteriorated Paint Surfaces

When the visual inspector identifies deteriorated paint surfaces, the PHA must notify and require the owner to perform stabilization of the surfaces within thirty (30) days of notification in occupied units and before commencement of an assisted tenancy. When weather conditions prevent stabilization of deteriorated paint surfaces on exterior surfaces within 30-day period, stabilization may be delayed for a reasonable time.

Owner requirements for compliance with a PHA's paint stabilization notice differ, depending upon the amount of deteriorated paint surface to be corrected. The use of lead-safe work practices during paint stabilization activities are characterized as above or below de minimis levels. De minimis deteriorated paint surfaces are as follows:

- 20 square feet on exterior surfaces;
 - 2 square feet on an interior surface in a single room or interior space; or
 - 10 percent of individual small components (e.g., window skills) on the interior or exterior.
- Owners must perform paint stabilization on all deteriorated paint surfaces regardless of the size of the deteriorated surface. Paint stabilization is defined as:

- Repair of any physical defect in the substrate of the painted surface or building component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, missing siding, or other components not securely fastened;

- Removal of all loose paint and other loose material from the surface being treated; and

- Application of a new protective coat of paint to the stabilized surface.

If the amount of deteriorated paint is below the de minimis level, the owner must perform paint stabilization. Owners are not required to perform lead-safe work practices and clearance.

Correction of deteriorated paint above de minimis levels requires owners to perform additional activities to gain compliance with HUD lead-based paint requirements, including:

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-
- Conducting the stabilization activities with trained staff;
-
- Employing acceptable methods for preparing the surface to be treated, including wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to manufacturer's instruction;
-
- Dry sanding and dry scraping is not permitted except within one (1) square foot of electrical outlets.
-
- Protecting the occupants and their belongings from contamination;
-
- Notifying the occupants within fifteen (15) calendar days of the stabilization activity and providing the results of the clearance examination (See Exhibit 10-3, Summary Notice of Completion of Lead-Based Paint Hazard Reduction Activity); and
-
- HUD has provided funds to PHAs to cover the cost of the first clearance examination. The owner covers funds for the cost of subsequent tests.
-
- The PHA is responsible for clearance activities. Clearance examinations must be performed by persons who have EPA or state-approved training and are licensed or certified to perform clearance examinations.
- In no instance may an owner employ any paint stabilization methods that are strictly prohibited by federal, state, or local law such as:
 -
 - Open flame burning and torching;
 -
 - Machine-sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control;
 -
 - Heat guns operating above 1,100 degrees Fahrenheit;
 -
 - Abrasive blasting or sandblasting without HEPA exhaust control;
 -
 - Dry sanding and scraping except limited conditions stated above for limited areas; and
 -
 - Paint stripping in poorly ventilated space using a volatile stripper or a hazardous chemical as defined by Occupational Safety and Health Administration (OSHA).
- Failure to comply with paint stabilization requirements, regardless of the amount of deteriorated surface, results in disapproval of the tenancy, abatement of payment to the owner, and/or termination of the HAP contract. The HQS violation for paint stabilization is considered closed when the PHA receives an executed copy of the Lead Based Paint Owner's Certification. (See

Exhibit 10-2, Sample Certification.)

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Requirements for Children with Environmental Intervention Blood Lead Level

HUD has defined environmental intervention blood lead level as a confirmed concentration of lead in whole blood equal or greater than 20 ug/dL (micrograms of lead per deciliter) for a single test or 15-19 ug/dL in two tests taken at least three (3) months apart in children under age six.

Notification

A medical health care provider, public health department, the family, owner, or outside source may notify the PHA of an environmental intervention blood lead level child living in a program unit.

When information regarding an environmental intervention blood lead level child under age six is received from the family, owner, or other sources not associated with the medical health community, the PHA must immediately verify the information with a public health department or other medical health care provider.

If either the public health department or a private medical health agency provides verification that the child has an environmental intervention blood lead level, the PHA must proceed to complete a risk assessment of the unit, common areas and exterior surfaces. This requirement does not apply if the public health department has already conducted an evaluation between the date the child's blood was last sampled and the receipt of notification of the child's condition.

When a PHA receives a report of an environmental intervention blood lead level child from any source other than the public health department, the PHA must notify the health department within five (5) working days.

Risk Assessment

Within 15 days of notification by a public health department or medical health care provider, the PHA must complete a risk assessment of the dwelling unit, including common areas servicing the dwelling unit, if the child lived in the unit at the time the child's blood was sampled. In most areas of the country, the local health department will complete the risk assessment free of charge to the PHA. In areas where this is not possible, the PHA must hire and pay for a certified risk assessor and, upon completion of the risk assessment, the PHA must provide the report to the owner.

Persons trained and certified by an EPA or state-approved agency must complete risk assessments.

Risk assessments involve on-site investigations to determine the existence, nature, severity, and location of lead-based paint hazards. The investigation includes dust and soil sampling, and

visual evaluation, and may include paint inspections (tests for lead in paint). The assessor issues a report explaining the results of the investigation, as well as options and requirements for reducing lead-based paint hazards.

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The owner must notify the building residents of the results of the risk assessment within 15 days of receipt from the PHA. (See Exhibit 10-4, Summary Notice of Lead-Based Paint Risk Assessment.)

Hazard Reduction

The owner must complete reduction of identified lead-based paint hazards as identified in the risk assessment within 30 days (or date specified by PHA if an extension is granted for exterior surfaces).

Hazard reduction activities may include paint stabilization, abatement, interim controls, or dust and soil contamination control. The appropriate method of correction should be identified in the risk assessment.

Hazard reduction is considered complete when a clearance examination has been completed and the report indicates that all identified hazards have been treated and clearance has been achieved, or when the public health department certifies that the hazard reduction is complete.

The owner must notify all building residents of any hazard reduction activities within 15 days of completion of activities. (See Exhibit 10-3, Summary Notice of Completion of Lead-Based Paint Hazard Reduction Activities.)

Like paint stabilization compliance, PHA receipt of the owner's certification signals compliance with lead hazard reduction activities. (See Exhibit 10-2, Owner's Certification.)

Failure to complete hazard reduction activities (including clearance) within 30 days (or later if PHA grants an extension for exterior surfaces) of notification constitutes a violation of HQS, and appropriate action against the owner must be taken if a program family occupies the unit. If the unit is vacant when the PHA notifies the owner, the unit may not be reoccupied by another assisted family, regardless of the ages of children in the family, until compliance with the lead-based paint requirement.

Ongoing Maintenance

In addition to the visual assessment completed by the HQS inspector, the owner is required to conduct a visual assessment for deteriorated paint and failure of any hazard reduction measures at unit turnover and every 12 months of continued occupancy.

The owner is required to make corrections of deteriorated paint and any failed lead hazard reduction measures. Correction methods are the same as those for paint stabilization activities discussed earlier.

The owner must provide written notice to each assisted family asking occupants to report deteriorated paint. The notice must include the name, address, and phone number of the person responsible for accepting the occupant's complaint.

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The owner certifies that this requirement is being met by presenting the owner's certification to the PHA before the execution of the lease and at annual inspection. (See Exhibit 10-2, Owner's Certification.)

PHA Data Collection and Record Keeping

Quarterly, the PHA must attempt to obtain from the public health department having jurisdiction in the same area as the PHA, the names and addresses of children under age six with an identified environmental intervention blood lead level.

The PHA must match information received from the health department with information about program families. If a match occurs, the PHA must follow all procedures for notifying owners and conducting risk assessments as stated above.

Quarterly, the PHA must report a list of addresses of units occupied by children under age six, receiving assistance to the public health department, unless the health department indicates that such a report is not necessary.

Staff should be thoroughly trained about the requirements for lead-based paint so inspection activities are properly done and questions from owners about processes and requirements can be adequately addressed.

The PHA is responsible to inform owners of lead-based paint regulations especially those related to prohibited and safe work practices, tenant protection during lead-based paint activities, and notification requirements. Many owners do not know about the new regulations and requirements that were effective September 15, 2000. The PHA may wish to include information about these requirements in HQS notices and other mailings to owners. If the PHA routinely conducts owner workshops or owner meetings, lead-based paint is a good topic to place on the agenda.

Risk assessors and public health departments conducting risk assessments involving environmental intervention blood lead level children will issue a report on any needed corrections and appropriate methods to correct lead hazards. The PHA must notify the owner of the deadline for completing the corrections.

To carry out its responsibilities for matching PHA and public health records, PHA staff may need to develop a closer working relationship with staff at the public health department.

PHAs should also develop a tracking report to track known environmental intervention blood lead level children until the child reaches age six. This will assure that all PHA required

activities are addressed in a timely manner and that inspections conducted on behalf of the family will include the inspection for deteriorated paint. If the PHA is using a computerized inspection system with hand-held units, information about the child's condition should be entered into the system.

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Units that have been certified to be clear of lead paint hazards may be placed on a list and affirmatively marketed to families with children under six.

10.6 HQS INSPECTION PROCESSES AND PROCEDURES

Overview

The purpose of HQS inspections is to ensure that housing is decent, safe and sanitary. This section discusses types of HQS program inspections PHAs are required to conduct, methods for conducting inspections, inspection scheduling, and HQS enforcement. Sample letters and notices are provided to help PHAs carry out inspections. (See Exhibit 10-4a, Annual Inspection Appointment Letter, and Exhibit 10-4b, Second Notice of Inspection Appointment.)

PHAs are required to conduct three types of inspections: initial, annual, and special inspections, including quality control inspections. Inspections result in pass, fail, or inconclusive reports. Pass inspections require no further action by the PHA. Fail or inconclusive inspections require follow-up reinspections or PHA verification to confirm the correction of the HQS infractions.

Depending upon the nature of the item responsibility for correction of fail or inconclusive items may be the responsibility of the owner or tenant. Failure to comply with correction notices results in owner or tenant sanctions.

Scheduling Inspections

Program Requirements

The PHA must schedule initial inspections in accordance with program requirements. Annual inspections, quality control inspections, and all resulting reinspections must be scheduled to comply with SEMAP requirements as discussed in Section 10.7 of this Chapter. Other special inspections, such as complaint inspections, should be scheduled as quickly as possible after receipt of request.

Efficiently scheduling inspections that comply with SEMAP requirements can be challenging and complex, especially for PHAs with large programs. PHAs are allowed to determine their own procedures for scheduling inspections and may choose to complete the task manually or use of computer programs.

PHAs should plan efficient and cost effective inspection procedures that produce the best results, as well as good customer service for both families and owners. The size of the PHA's program plays a big part in determining scheduling details.

Annual inspections must be scheduled so that all units are inspected every 12 months. Annual inspections are likely to be the largest part of the PHA's inspection workload, followed by reinspections of units that fail HQS. Since many PHAs coordinate the scheduling of annual

inspections with annual reexaminations, the number of inspections is not constant from month to

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month, with more inspections required in the heavy leasing months (e.g., the summer months). This may also be the period with the greatest number of initial inspections.

The PHA should consider the following factors to determine how many total inspections will need to be scheduled and completed each year:

- Number of units under contract;
- Anticipated number of requests for expected tenancy approvals (new families and transfers) in the coming year;
- Unit fail rates for initial and annual inspections;
- Reinspection fail rates for annual inspections;
- Number of complaint inspections anticipated annually; and
- Number of quality control inspections required.

After estimating the number of required unit inspections, the PHA should determine the number of staff needed to complete required inspections. The PHA should take into account the following factors:

- Number of days employees actually conduct inspections each year (exclude time in office, training days, vacation, sick days, and approximate number of days lost to weather conditions for the area); and
 - Number of inspections each employee completes per day.
- This analysis will indicate the number of inspections each inspector must have scheduled and completed each day. The PHA should determine the amount of time required for an inspector to complete thorough inspections, taking into account the type of unit and the number of bedrooms. The PHA should also consider travel time.

Automated Inspection Systems

In order to meet all HQS requirements, inspections must be conducted and recorded using form HUD 52580-A or 52580. If the PHA has received HUD approval to include additional requirements, these changes must be reflected on the inspection instrument.

PHAs may conduct inspections using paper forms, checklists, or computer devices. Several automated HQS products are available on the private market. The PHA's program size will dictate the most cost effective and efficient method.

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Computer inspection hardware comes in many forms; most are Windows-based. The computer, often referred to as a “hand-held,” is available in various sizes and weights, and is available with printing devices that can be used in the field. Data entry can also take many forms, including use of a stylus to enter comments on the computer screen, typing comments into the system, or using programmed codes to describe fail items.

Most hand-held systems can be connected to the office computer system. Inspection results are then uploaded to the office computer to produce required letters to owners and/or tenants. Some systems will allow for the inspections data to be “tied” to other PHA computer mainframe applications to fill in tenant data fields for date of inspection, record inspection results to track and monitor SEMAP requirements, and perform other tasks.

PHAs considering the use of hand-held systems should consult several companies to determine the best and most cost effective system. Careful planning and programming of the hand-held system should occur.

Initial Inspection Process and Procedure

The PHA’s established tenancy approval process triggers an initial inspection. The PHA may deny a request to inspect a unit of behalf of a tenant as discussed in Chapter 6. (See Exhibit 105, Sample Notice Denying Request for Inspection.)

Program Requirements

-

The PHA is required to conduct an initial inspection for each unit as part of the tenancy approval process discussed in Chapter 6. The family and owner must be notified of the inspection results.

-

The unit must pass the HQS inspection before the execution of the assisted lease and housing assistance payments (HAP) contract and the initiation of payments.

-

PHAs with up to 1,250 budgeted units must conduct the inspection within 15 days after the family or owner submits a request for tenancy approval.

-

PHAs with more than 1,250 budgeted units must conduct the inspection within a reasonable time after the family submits a request for tenancy approval. If possible, the inspection should be completed within 15 days.

-

The 15-day period is suspended when the unit is not unavailable for inspection. For example, if a family and owner submit a request for tenancy approval on the 15th of month but the owner indicates that unit will not be available until 1st of next month, the 15-day clock starts on the 1st of the next month.

A thorough unit inspection is required for the PHA to determine compliance with HQS and to determine the reasonableness of the rent. (Rent Reasonableness is discussed in Chapter 9.)

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Regardless of how inspection results are recorded the PHA must produce and retain a facsimile that includes PHA-adopted standards. Form HUD-52580, Inspection Checklist.

The family and the owner must receive inspection results. (See Exhibit 10-6, Sample Notice, Initial Unit Inspection.) The owner must receive detailed information for all failed and inconclusive inspection items so that he or she is fully aware of the work necessary to pass the HQS inspection.

If the unit does not comply with HQS requirements within the PHA specified time frame, the PHA may cancel the tenancy approval and instruct the family to search for another unit.

The PHA is responsible for establishing a tenancy approval procedure. The procedure should clearly describe the process for the tenant and owner to request an inspection, keeping in mind:

- The requirement to conduct inspections within 15 days or as quickly as possible.

- The PHA may set a deadline for completion of repairs which, if not met, will result in cancellation of the tenancy approval.

- If the time to complete repairs is expected to be lengthy, the tenant may wish to find another unit, or the PHA may decide that the unit is unacceptable for leasing because the owner is non-responsive or has failed to comply with HQS within a reasonable period of time.

The PHA should request that the owner disclose the date the unit will be ready for inspection, as well as all phone numbers where the owner can be reached.

The PHA may either ask the owner to schedule unit inspection or may accept this responsibility itself. In either instance, the PHA should determine its policy and procedure for cases where owner requests are not timely, one or more appointments are cancelled, access is denied or the unit does not pass inspection after a reasonable time.

PHAs with a large number of tenancy approval requests may monitor their processing through a manual or computerized tracking system, which records actions from the time of the request through the execution of the HAP contract. This lets the PHA know where each unit stands in the scheduling and approval process, and provides management data on time frames from request for tenancy approval to HAP execution.

Prior to inspection, PHAs can use several methods to inform owners about HQS requirements: owner briefing materials, telephone discussion, inclusion of HQS requirements in tenancy approval materials, monthly newsletters to owners in the program, owner workshops, and public meetings with current and prospective owners. It is advantageous to the PHA and the prospective tenant if the unit passes inspection on the first attempt. The PHA should have a system to track units requiring reinspection to determine HQS compliance for all fail and inconclusive items.

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Annual Inspection Process and Procedure

The annual inspection process includes scheduling the unit for inspection, notifying owners and tenants of the inspection date and time, conducting the inspection, enforcing HQS requirements, and when necessary, taking action to abate payments and terminate HAP contracts and program assistance.

-

The unit must be in compliance with HQS requirements throughout the assisted tenancy.

-

Each unit must be inspected annually during assisted tenancy to determine if the unit meets HQS. The inspection must be conducted within twelve months of the previous inspection to meet SEMAP requirements discussed in Section 10.7.

-

The PHA must notify owners and tenants of HQS deficiencies in writing, and indicate a time period in which to make HQS corrections of that the PHA complies with SEMAP requirements discussed in Section 10.7.

-

The PHA must abate housing assistance payments to the owner for failure to correct an HQS violation under the following circumstances:

-

An emergency (life-threatening) violation is not corrected within 24 hours of inspection and the PHA did not extend the time for compliance;

-

A routine violation is not corrected within 30 days of the inspection and the PHA did not extend the time for compliance.

-

Abatements must begin on the first of the month following the failure to comply.

-

The PHA must terminate the HAP contract if repairs are not made. The PHA must decide how long abatement will continue prior to contract termination. The PHA should not terminate the contract until the family finds another unit provided the family does so in a reasonable time.

-

The PHA must terminate program assistance to families who fail to correct HQS deficiencies that they caused. The PHA should notify the owner of its intent to terminate the family's program assistance so the owner can begin eviction procedures. The PHA should continue to pay the owner until the eviction is completed.

The PHA may set policy regarding tenant and owner presence at the inspection.

The inspector conducts the unit inspection. Each item on the inspection checklist must receive a rating of pass, fail, or inconclusive. The inspector should make clear notes about the nature of all fail and inconclusive items. For the unit to receive a pass rating, no fail or inconclusive items

can be noted on the inspection checklist.

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Improvements which have occurred since the previous unit inspection, addition of amenities or services, and changes in type of or responsibility for utilities should be noted and reported to appropriate PHA staff.

The inspector may record recommended improvements or items that should be brought to the attention of the owner or tenant, but are not HQS deficiencies.

Written notification to the owner and/or tenant is required for all items for which fail or are inconclusive. The notice must include a list of HQS deficiencies and the correcting deadline. (See Exhibit 10-7a and Exhibit 10-7b, Sample Notice, Owner and Tenant HQS Deficiencies.). Reinspection or PHA verification that failed and/or inconclusive items are corrected is required.

Any time an inspector is present in an assisted unit, the inspector has the right to conduct a full inspection. If new HQS items are discovered during the time of a reinspection, the new items must be noted and the owner and/or tenant must be notified to correct the deficiencies.

Owners are responsible to the PHA for compliance with all HQS items except those specifically assigned to tenants.

Tenants are responsible to correct HQS fail and inconclusive items resulting from:

- Failure to pay for tenant-supplied utilities;
- Failure to supply appliance(s) required by the lease; or
- Damage to the unit.

10.7 COMPLAINT INSPECTIONS

The PHA must investigate complaints about HQS matters that are registered by tenants, owners or the general public.

Violations resulting from complaint inspections are treated in the same manner as annual inspection violations. Failure to comply with violation notices issued from complaint inspections result in abatement of payment to owners and/or termination of program assistance for tenants.

PHAs should schedule complaint inspections based upon the nature of the complaint. Staff that receive complaints should distinguish between emergency (life threatening) and routine matters and act accordingly.

Abatement of Payments

The PHA must abate HAP payments to owners who do not comply with notifications to correct HQS deficiencies within the specified time period: 24 hours or 30-days depending upon the

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nature of the deficiency. For valid reasons, the PHA may extend the time period. Placement of abatement must occur by the first of the month following expiration of the notice.

Except in the case of life threatening violations requiring corrections within 24 hours, the owner must receive 30-day written notification of the abatement. Therefore, it is important that PHAs include the 30-day notice to abate in the original violations notice. (See sample notice, Sample Notice of HQS Deficiency; Exhibit 10-7b.) If this does not occur, a separate Notice of Abatement, Sample Notice Exhibit 10-8, which delays the placement of abatement and has implications under SEMAP compliance, must be sent to the owner. (See Section 10.7.3.)

Following a failure to comply with a notice of deficiency owners are not entitled to HAP payments from the first of the month until the day the unit passes HQS. Examples include:

- The owner receives a notice of violation in May to correct deficiencies by June 20 or abatement of payment will occur on July 1. The owner does not comply on June 20th. An abatement is placed on July 1 unless the owner complies prior to July 1. (The PHA may allow the owner to request a reinspection of the unit for compliance with HQS before or after the abatement has been placed.) If the unit passes re-inspection, the PHA may reinstate HAP payments on the day the owner complies and reverse any notice of abatement or cancellation of HAP contract that may have been issued.

- The owner receives a notice of violation in May to correct deficiencies by June 20, but the notice does not contain language that abatement of payment will occur on July 1. The owner must be given a 30-day notice before the abatement can occur. Abatement may not be placed before August 1.

- In May, the owner receives a notice of violation requesting a correction of deficiencies by June 20 and the notice contains language that failure to comply will result in abatement of payment July 1. The owner does not comply and abatement is placed on July 1. The owner requests a re-inspection following abatement and passes the reinspection on July 10. HAP payments may be re-instated on July 10, resulting in a nine-day sanction. The PHA may not withhold HAP payments to recover the time the unit was out of compliance with HQS from June 20 through June 30.

Termination of HAP Contract

The PHA may terminate the HAP contract for an owner's failure to comply with its terms and conditions, including non-compliance with HQS. Both the owner and the tenant must be notified of intent to terminate. (See Exhibit 15-1, Sample Notice of Termination.)

The PHA may issue a voucher to the family to move, provided the family is eligible (not in violation of the terms of assistance, including HQS responsibilities). The family should be reminded of its responsibility to the owner to give notice of intent to move, and must continue to

pay its portion of the rent as long as the family remains in the unit. Procedures for terminating
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the HAP contract should be stated in the PHA administrative plan. (See Guidebook Chapter 15, Termination of Assistance and Housing Assistance Payment Contracts.)

Termination of Assistance

Termination of program assistance is discussed in Chapter 15. (See Exhibit 15-2, Sample Notice of Termination of Program Assistance.)

Special Inspection Process and Procedure

Special inspections include inspections in response to complaints registered with the PHA by families, owners or other sources regarding the unit's condition, quality control inspections, or any other inspection the PHA may deem appropriate to conduct.

PHAs are obligated to investigate complaints which may indicate non-compliance with HQS requirements. When repeated complaints about an assisted property are received, the PHA may wish to conduct regular or routine inspections more often than annually.

Quality control inspections are a second type of special inspection and are required by program regulations. See the discussion on quality control inspections in Section 10.7 of this Chapter.

Special inspections resulting in a fail or inconclusive HQS determination require the same notification actions and enforcement processes described above for annual inspections.

As discussed in Section 10.7 of this Chapter, the PHA should use tracking systems to monitor compliance with deadlines for correction of HQS violations, abatements, and terminations resulting from annual and special inspections.

The PHA should develop a procedure and tracking system to record, track, and schedule all unit inspections to ensure that inspection-related SEMAP requirements are met. These methods will assist staff to schedule and conduct the unit inspection within the required time frames. Frequent monitoring is necessary to assure that rescheduling of unit inspection is pursued diligently.

10.8 PHA-OWNED UNITS

A unit that is owned by the PHA that administers the housing choice voucher program (including a unit owned by an entity substantially controlled by the PHA) may not be inspected for HQS compliance by PHA staff.

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The PHA must obtain the services of an independent entity to perform HQS inspections and to communicate the results of these inspections to the family and the PHA.

-

The independent agency must be approved by HUD.

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- Administrative fee income may be used to compensate the independent agency. Other program receipts may not be used.

- Neither the PHA nor the inspecting agency may charge the family any fee for the inspection service.

The PHA may select a government, nonprofit, or private group to conduct the independent HQS inspections. The independent agency may be a unit of general local government, but it may not be the PHA. Other local government agencies such as the local code enforcement agency, the Community Development Agency, or the Health Department may be acceptable. A neighboring PHA or a consultant are also possibilities.

After the PHA receives HUD approval of an independent inspection entity, the PHA should establish a system to report addresses and inspections schedules, receive information from the inspection entity, and manage the information flow. PHA owned units are also subject to SEMAP requirements.

10.9 SEMAP INDICATORS RELATED TO INSPECTIONS AND HQS

Introduction

The following five SEMAP Indicators, totaling 50 points, are directly or indirectly related to PHA compliance with program inspection requirements:

- Indicator 2, Rent reasonableness;
- Indicator 5, HQS quality control inspections;
- Indicator 6, HQS enforcement;
- Indicator 11, Precontract HQS inspections; and
- Indicator 12, Annual HQS inspections.

SEMAP Certifications and Scoring are discussed in Chapter 1, Introduction.

Certification of Indicators 2, 5, and 6 is audited by the PHA through quality control sampling. Sample size varies depending upon the universe, as shown in Table 10-1, Minimum Size of the PHA's Quality Control Sample. The scores resulting from the PHA quality control process and certified by the PHA to HUD will be verified by the PHA independent auditor.

TABLE 10-1
MINIMUM SIZE OF THE PHA'S QUALITY CONTROL SAMPLE

Universe Minimum number of files or records to be sampled

50 or less 5

51-600 5 plus 1 for each 50 (or part of 50) over 50

601-2000 16 plus 1 for each 100 (or part of 100) over 600

Over 2000 30 plus 1 for each 200 (or part of 200) over 2000

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The universe is determined as follows:

- SEMAP Indicator 2, Rent reasonableness: number of families assisted;
- SEMAP Indicator 5, HQS quality control inspections: number of units under HAP contract during the last completed PHA fiscal year;
- SEMAP Indicator 6, HQS enforcement: number of failed HQS inspections in the last year. The scores for SEMAP Indicators 11 and 12 are determined by data submitted by the PHA to HUD through MTCS.

Indicator 2, Rent Reasonableness

Program requirements for this indicator are discussed in detail in Chapter 9, Rent Reasonableness.

When determining the rent to owner, data must be gathered on a variety of units in order to allow the PHA to make a comparability determination. PHA staff conducting the initial pre-contract inspection are the most likely candidates to gather or verify the data, using the nine factors in the rent reasonableness procedure.

See Sample Data Collection Form for Program Unit provided in Chapter 9.

Indicator 5, HQS Quality Control Inspections

- A PHA supervisor or other qualified person must reinspect a sample of units under contract during the last PHA fiscal year. The guidelines included in Table 10-1 determine the required sample size.
- The universe referred to in Table 10-1 is the number of units under HAP contract at the end of the PHA's previous fiscal year. Example: The PHA fiscal year ends December 31, 2000. The SEMAP 2000 rating year for this PHA is January 1- December 31, 2000. The universe for this indicator is the number of units under HAP contract on December 31, 1999.
- Completed HQS inspections included in the sample must be no older than three months at the time of the reinspection. The sample must represent a cross section of neighborhoods where program units are located and inspections completed by all HQS inspectors. The sample should also include a cross-section of initial and annual inspections.
- Quality control reinspections should be conducted by staff trained in the PHA's inspection standards and should receive the same guidance as other PHA inspectors on inspection

policies and procedures.
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In addition to monitoring SEMAP compliance, quality control inspections provide feedback on inspectors' work, which can be used to determine if individual performance or general HQS training issues need to be addressed. For SEMAP purposes, an HQS deficiency found at the time of the quality control reinspection represents a "fail" quality control inspection. When rating an individual inspector's performance, the quality control inspector should take into account whether the failed item occurred since the previous inspector was on site. Often the tenant can describe when the deficiency occurred and will be helpful in making this determination. Deficiencies that occurred after the original inspection should not be held against the inspector's performance record.

The PHA should maintain a quality control tracking system for each SEMAP year, which indicates, the address of the units, date of original inspection and inspector, date of the quality control inspection, results of the quality control inspection, and location of the unit by neighborhood, zip code, census tract, etc. (See Exhibit 10-9, Documenting Quality Control Inspections.)

Indicator 6, HQS Enforcement

-

All life-threatening HQS deficiencies must be corrected within twenty-four (24) hours of inspection and all other cited HQS deficiencies must be corrected no more than 30 calendar days from the inspection unless the PHA approved an extension of time for correction.

-

For HQS deficiencies that are the owner's responsibility and are not corrected within the prescribed time frames, the PHA must abate housing assistance payments beginning no later than the first of the month following expiration of the PHA violation notice. Violation notices should contain language regarding abatement of payment for owner failure to make corrections.

-

For HQS deficiencies that are the responsibility of the tenant and are not corrected within the prescribed time frames, the PHA must take prompt and vigorous action to enforce family obligations following program requirements.

-

Compliance with this indicator is determined through quality control of files and records, in accordance with Table 10-1. The number of failed units in the PHA's past fiscal year establishes the universe.

The PHA should establish the definition of deficiencies that will be considered emergency fail items and should put a procedure in place to record, track, and close violations within 24 hours of inspection or take abatement action.

Promptly following inspection, PHAs should issue violations letters for emergency fails to the responsible party. This may be done by fax, courier, overnight mail, or regular mail and should

be followed by personal contact. PHAs should have a system to cover these circumstances on weekends and holidays when staff are not readily available to conduct reinspections. Potential approaches include: phone calls to the tenant or owner within the 24 hour period to verbally

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determine compliance, followed by a site reinspection the next business day; rotation of inspectors to cover holiday and Saturday reinspections; receipt by fax of owner/tenant certifications that corrections are made within the required time frame, or telephone confirmation to a voice mail system followed by a reinspection on the next business day.

Promptly following inspection, notices to correct routine violations should be issued and should state a date for compliance that allows time for corrections to be made and a reinspection to be conducted within the 30-day time frame. Letters of violation should clearly state that failure to gain entry to the unit or failure to comply will result in abatement of assistance payments on the first of the month following the correction period.

Inspectors must identify the party responsible for each HQS violation listed on the inspection instrument so that proper notice can be sent to the owner and/or tenant for the appropriate items. This precludes abatement of owner rent when the violation(s) is the responsibility of the tenant. Housing assistance payments are never abated for tenant deficiencies.

The PHA must have a system to promptly identify units for which deficiencies have not been corrected within the required timeframe, in order to indicate abatement of rent and/or termination of assistance to the family. (See Exhibit 10-10, Sample Tracking Log for Emergency Inspections.) Termination of assistance procedures should be stated in the PHA administrative plan. In order to meet the SEMAP requirement to “take prompt and vigorous action” for tenant violations the PHA should strictly follow these procedures when the family fails to correct HQS violations.

PHAs should monitor HQS enforcement on a regular basis (daily, weekly, or monthly) to guarantee that reinspections occur within the proper time frames. PHAs may not penalize owners for PHA failure to conduct the reinspections on time. However, if owners fail to comply or allow entry into the unit, the PHA should notify the owner that it will begin abatement in 30 days.

For fairness and consistency, PHAs should have an established policy and procedure for receiving and processing requests for HQS compliance deadline, including the conditions under which extensions will be granted. It is not advisable to grant extensions without just cause, or to grant verbal extensions; this can be construed as circumvention of the SEMAP requirement.

The PHA must have a system to record the results of SEMAP quality control reviews of inspections. At a minimum, the system should provide: the address of the unit, date of original failed inspection, responsibility for the deficiency (tenant or owner), date of reinspection, result(s) of the reinspection, date owner notified of abatement, actual date of abatement, any extensions to that date, and initiation and status of termination of tenancy. The PHA should regularly monitor the tracking system to assure compliance.

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Indicator 11, Pre-Contract Inspections

-

PHAs must conduct initial inspections to determine that a unit passes HQS requirements on or before the effective date of the assisted lease and HAP contract.

-

Scoring of this indicator is based upon the date of the passed inspection reported on the form HUD 50058 transmitted through MTCS.

The PHA should routinely ensure that all new units pass HQS inspection prior to lease and HAP execution. The staff person responsible for signing the HAP contract should review the file to determine whether the unit passed before the HAP contract effective date.

Monthly MTCS reports should be monitored by the PHA to ensure that the system accurately reflects the PHA's performance.

Indicator 12, Annual Inspections

-

Each unit under HAP contract must be inspected at least annually and no more than 12 months following the most recent inspection.

-

Scoring for this indicator is determined by data submitted to HUD for reporting in MTCS. Following procedures described earlier in this chapter, the PHA should carefully determine the number of units to be scheduled for inspection in the upcoming SEMAP year.

Tracking systems and management reports should be in place to ensure that units are being inspected within the required 12-month period.

For purposes of this indicator, MTCS monitors the date of the last inspection of the unit to determine if it occurred within twelve months. PHAs should exercise caution that the correct date is placed into the system. The unit does not have to pass inspection within the time frame, but an inspection must occur.

Prompt scheduling is essential to getting all unit inspections conducted within required time frames. PHAs should review their scheduling procedures to determine if other processes that may result in inspections not being completed on time, are linked to annual inspection, such as the recertification process or families that are searching for new units. PHAs are also encouraged to streamline procedures and increase owner/tenant education to limit the number of units which are ready for inspection when scheduled. This requires a rescheduled or follow-up inspection.

PHAs should consider decoupling inspection from recertifications to balance monthly inspector workload. Annual inspections do not have to coincide with the recertification process. Inspections may be de-coupled from the recertification process and conducted by other methods

such as by zip code, specific buildings or apartment complexes, census track or ownership.

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SAMPLE

EXHIBIT 10-1

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

- (a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):
- (i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing. (Explain.)
- (ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- (b) Records and reports available to the lessor (check (i) or (ii) below):
- (i) _____ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).
- (ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.
- Lessee's Acknowledgement (initial)

- (c) _____ Lessee has received copies of all information listed above.
- (d) _____ Lessee has received the pamphlet Protect Your Family from Lead in Your Home.
- Agent's Acknowledgement (initial)

- (e) _____ Agent has informed the lessor of the lessee's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.
- Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Lessor Date Lessor
Date

Lessee Date Lessee
Date

Agent Date Agent
Date

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EXHIBIT 10-2

Sample Lead Paint Owner's Certification
Housing Choice Voucher Program

The undersigned hereby certifies that the property located at: (give full address, include apartment number)

is in compliance with all housing quality standard (HQS) requirements related to lead-based paint as indicated below.

(Mark ALL appropriate boxes)

The described property, including dwelling units, common areas and exterior painted surfaces, has been found to be free of lead-based paint by a certified lead-based paint inspector. The lead-based paint inspector's report is either attached or has already been provided to the PHA.

The described property was inspected by a certified lead-based paint inspector and lead-based paint was identified. All identified lead-based paint has been removed from the property, and the reports of the lead-based paint inspector and the certified lead-based paint abatement supervisor are attached or have already been provided to the PHA.

Ongoing lead-based paint maintenance activities have been incorporated into regular building operations in

accordance with 24 CFR 35.1355(a).

Corrective action to address lead-based paint hazards at the described property that were required by the PHA to meet HQS have been completed in accordance with all requirements established by 24 CFR Part 35, including:

The boxes below do not apply when paint stabilization is below de minimis levels.

The work was completed by person(s) trained to conduct lead-based reduction activities or was supervised by a certified lead-based paint abatement supervisor. Occupants of the dwelling unit(s) and their belongings were protected during the course of the work.

The lead hazard worksite was properly prepared and maintained during the course of their work. A person certified to conduct clearance examinations performed a clearance test and the results indicate that clearance was achieved.. Occupants have been properly notified of the results of any lead-based paint hazard evaluation and reduction, including the results of the clearance examination.

(Owner's Signature):

(Type or Print Name):

(Date):

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EXHIBIT 10-3

SAMPLE HAZARD REDUCTION NOTICE

(From Federal Register dated 9/15/99)

Summary Notice of Completion of Lead-Based Paint Hazard Reduction Activity

Address/location of property or structure(s) this summary notice applies to:

Summary of hazard reduction activity:

Start and completion dates(s): _____

Activity locations and types: List at least the housing unit numbers and common areas (for multifamily housing), bare soil locations, dust-lead locations, and/or building components (including type of room or space, and the material underneath the paint), and types of hazard reduction activities performed at the locations listed:

Date(s) of clearance testing and/or soil analyses: _____

Locations of building components with lead-based paint remaining in the rooms, spaces or areas where activities were conducted:

Summary of results of clearance testing and soil analyses:

- (a) _____ No clearance testing was performed.
- (b) _____ Clearance testing showed clearance was achieved.
- (c) _____ Clearance testing showed clearance was not achieved.

Contact person for more information about the hazard reduction:

Printed name: _____

Organization: _____

Street and city: _____

State: _____ ZIP: _____ Phone number: _____

Person who prepared this summary notice:

Printed name: _____

Signature: _____

Date: _____

Organization: _____

Street and city: _____

State: _____ ZIP: _____ Phone number: _____

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EXHIBIT 10-4

SUMMARY NOTICE OF LEAD-BASED PAINT RISK ASSESSMENT
(From Federal Register dated 9/15/99)

Address/location of property or structures(s) this summary notice applies:

Lead-based paint risk assessment description:

Date(s) of risk assessment: _____

Summary of risk assessment results: (Check all that apply)

- (a) ___ No Lead-based hazards were found.
- (b) ___ Lead-based paint hazards were found.
- (c) ___ A brief summary of the findings of the assessment.

Summary of types and locations of lead-based paint hazards. List at least the housing unit numbers and common areas (for multi-family housing), bare soil locations, dust-lead locations and/or building components (including type of room or space, and the material underneath the paint), and types of lead-based paint hazards found:

Contact person for more information about the risk assessment:

Printed name: _____
Organization: _____
Street and City: _____
State: _____ ZIP: _____ Phone number: _____

Person who prepared this Summary Notice:

Printed name: _____
Signature: _____
Date: _____
Organization: _____
Street and city: _____
State: _____ ZIP: _____ Phone number: _____

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EXHIBIT 10-4a

SAMPLE LETTER

ANNUAL INSPECTION APPOINTMENT LETTER

Dear Owner:

In accordance with the housing choice voucher program requirements, the unit that you own at _____, City and State, must be inspected annually to continue participation in the program.

Name of PHA has scheduled this inspection for date and time. It is your responsibility to make certain entry can be gained to the unit, common area spaces and heating facilities at the appointed time. You or your tenant may be present for the inspection.

If you find it necessary to re-schedule this appointment, please do so number of days, in advance of the appointed date and notify your tenant of the changed date. Please be advised that failure to allow the inspection or to reschedule the unit within a reasonable time period may result in the abatement of HAP payments and/or termination of the unit from the program.

It is very important that inspections be completed timely. We recommend that you inspect your unit in advance of the scheduled inspection and correct any deficiencies which may cause the unit to fail inspection.

If you have any questions, please telephone _____ at _____ during the hours of _____ and _____ Monday through Friday.

Sincerely,

PHA Staff

cc: Tenant
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EXHIBIT 10-4b

SAMPLE LETTER

SECOND NOTICE OF INSPECTION APPOINTMENT

Dear Owner:

By letter of _____ we notified you that the unit you own at _____ was scheduled for the required annual inspection under the terms of your housing assistance payments (HAP) contract for the housing choice voucher program.

The inspection was not made for the following reasons:

_____ No one was present to allow entry by the inspector.

_____ You canceled the inspection, and have failed to re-schedule the unit.

You must contact _____ at _____ to reschedule the inspection of the unit by no later than _____. Failure to re-schedule the unit or to allow entry on the appointed date will result in abatement of your HAP payments effective _____ and termination of the unit from the program on _____.

If you have any questions, please contact _____ at _____ during the hours of _____ and _____, Monday through Friday.

Sincerely,

PHA Staff

cc:
Tenant
Any other PHA staff needing this information
Housing Choice Voucher Program Guidebook 10-41

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EXHIBIT 10-5

SAMPLE LETTER
DENYING REQUEST FOR INSPECTION

Dear Owner:

Name of Authority has received a request to inspect the unit you own at _____ for participation in the housing choice voucher program. This request is denied for the following reasons:

_____Records indicate you have a repeated history of violations of program rules and regulations including repeated violations of HQS at properties you own.

_____Records indicate that you were notified to correct deficiencies related to lead-based paint at this unit and they were not made. This unit may not be occupied by another assisted family until the terms of the previous notice have been met.

If you have questions, you may contact _____ at _____ during the hours of _____ and _____ Monday through Friday.

Sincerely,

PHA Staff

cc: Prospective tenant
Housing Choice Voucher Program Guidebook 10-42

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EXHIBIT 10-6

SAMPLE LETTER
NOTICE - INITIAL INSPECTIONS

Dear Owner:

Please be advised that an inspection was made at the property that you own located at _____ . The unit has been proposed for participation in the housing choice voucher program.

The result of the inspection was:

_____The unit meets HQS and has been approved for inclusion in the program. You will be notified by _____shortly of the procedures which must be followed in order to execute the lease and housing assistance payments contract.

_____The unit needs repairs to meet HQS. A list of those repairs is attached. We are unable to process this unit for lease under the program until all HQS requirements have been met.

Please contact this office at _____when the unit is ready for reinspection or if you have questions about this letter.

If we have not heard from you by _____, we will assume you do not intend to make the needed repairs and we will notify the prospective tenant to locate another suitable dwelling unit.

Sincerely,

PHA Staff

cc: Prospective tenant
Housing Choice Voucher Program Guidebook 10-43

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EXHIBIT 10-7a

SAMPLE LETTER

NOTICE OF HQS DEFICIENCIES - TENANT
(Annual or Special Inspections)

Dear Tenant:

Please be advised that on _____ an HQS inspection was made at the property where you reside.

The unit requires repairs to meet HQS. A list of required repairs is attached.

These repairs must be completed by _____ and you must telephone

_____ to schedule a re-inspection of the unit by _____. Failure to make the corrections and/or schedule a re-inspection within the required time frames will result in the termination of your program assistance effective _____.

NOTICE: The PHA reserves the right to cite additional violations upon re-inspection of the unit should conditions at the time of re-inspection warrant this.

Thank you for your cooperation.

Sincerely,

PHA Staff

cc:

Owner

(Other PHA staff needing to have this information)

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EXHIBIT 10-7b

SAMPLE LETTER

SAMPLE NOTICE OF HQS DEFICIENCY - Owner
(Annual, or Special Inspections)

Dear Owner:

Please be advised that on _____ an inspection was made at the property you own located at _____.

The unit needs repairs to correct HQS deficiencies. A list of required repairs is attached. These repairs must be completed by _____. You must telephone _____ to schedule a re-inspection of the unit by _____.

Please be advised that failure to complete these repairs and/or have a re-inspection conducted by the specified time frames will result in abatement of your housing assistance payments on _____ and termination of the HAP contract on _____.

NOTICE: The PHA reserves the right to cite additional HQS violations upon re-inspection of the unit should conditions at the time of re-inspection warrant.

Thank you for your cooperation.

Sincerely,

PHA Staff

cc: Tenant
Housing Choice Voucher Program Guidebook 10-45

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EXHIBIT 10-8

SAMPLE LETTER

NOTICE OF ABATEMENT

Dear Owner:

On _____ you received a notice to correct HQS deficiencies at the unit you own located at _____.

To date, you have not complied with the terms of the notice of violation. Effective _____ your housing assistance payments for this unit will be abated. Termination of the HAP contract will occur on _____.

If you have made the repairs and wish to have a re-inspection of the unit, you must do so by _____. Provided the unit passes inspection by the date established in this paragraph, we will resume your payments on _____ and cancel the termination of the HAP contract.

If you have any questions or we can be of assistance, please telephone _____ between the hours of ___ and _____ Monday through Friday.

Sincerely,

PHA Staff

cc:

Tenant

(PHA staff that need to know this).

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EXHIBIT 10-9

DOCUMENTING QUALITY CONTROL INSPECTIONS

Address of Unit Neighborhood

or Zip Code

Date of Original

Inspection

Original Inspector Date of Quality

Control

Inspection

Inspections Result

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EXHIBIT 10-10

EMERGENCY INSPECTION LOG

Unit
Address
Date of
Inspection
Inspection
Result
Tenant or Owner
Violation
Date Written
Notice Sent
Reinspection
Date Reinspection Result
Date of
Abatement
Date Tenant
Termination
Processed
(These columns are necessary to track Emergency Inspection)
Optional columns include:
Unit or
Tenant ID # Zip Code Owner Name Owner Address Owner Telephone Tenant Name Tenant
Telephone

