

Housing Quality Standards

24 CFR 982.401

Subpart I-- Dwelling Unit: Housing Quality Standards, Subsidy Standards, Inspection and Maintenance

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Sec. 982.401 Housing quality standards (HQS).

(a) Performance and acceptability requirements.

- (1) This section states the housing quality standards (HQS) for housing assisted in the programs.
- (2) (i) The HQS consist of:
 - (A) Performance requirements; and
 - (B) Acceptability criteria or HUD approved variations in the acceptability criteria.
- (ii) This section states performance and acceptability criteria for these key aspects of housing quality:
 - (A) Sanitary facilities;
 - (B) Food preparation and refuse disposal;
 - (C) Space and security;
 - (D) Thermal environment;
 - (E) Illumination and electricity;
 - (F) Structure and materials;
 - (G) Interior air quality;
 - (H) Water supply;
 - (I) Lead-based paint;
 - (J) Access;
 - (K) Site and neighborhood;
 - (L) Sanitary condition; and
 - (M) Smoke detectors.
- (3) All program housing must meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.
- (4) (i) In addition to meeting HQS performance requirements, the housing must meet the acceptability criteria stated in this section, unless variations are approved by HUD.
- (ii) **HUD may approve acceptability criteria variations for the following purposes:**
 - (A) Variations which apply standards in **local housing codes** or other codes adopted by the PHA; or
 - (B) Variations because of local climatic or geographical conditions.
- (iii) Acceptability criteria variations may only be approved by HUD pursuant to paragraph (a)(4)(ii) of this section if such variations either:
 - (A) Meet or exceed the performance requirements; or
 - (B) Significantly expand affordable housing opportunities for families assisted under the program.

- (iv) HUD will not approve any acceptability criteria variation if HUD believes that such variation is likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

(b) Sanitary facilities.--

(1) *Performance requirements.* The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition, and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

(2) *Acceptability criteria.*

- (i) The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.
- (ii) The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.
- (iii) The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.
- (iv) The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

(c) Food preparation and refuse disposal.

(1) *Performance requirement.*

- (i) The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.
- (ii) There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g, garbage cans).

(2) *Acceptability criteria.*

- (i) The dwelling unit must have an oven, and a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. The equipment may be supplied by either the owner or the family. A microwave oven may be substituted for a tenant-supplied oven and range or stove. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.
- (ii) 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 approvable public or private system.
- (iii) The dwelling unit must have space for the storage, preparation, and serving of food.
- (iv) There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

(d) Space and security.-

(1) *Performance requirement.* The dwelling unit must provide adequate space and security for the family.

(2) *Acceptability criteria.*

- (i) At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
- (ii) The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
- (iii) Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.
- (iv) The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

(e) Thermal environment.

(1) *Performance requirement.* The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

(2) *Acceptability criteria*

- (i) There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.
- (ii) The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

(f) Illumination and electricity.-

(1) *Performance requirement.* 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. The electrical fixtures and wiring must ensure safety from fire.

(2) *Acceptability criteria.*

- (i) There must be at least one window in the living room and in each sleeping room.
- (ii) The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.
- (iii) The living room and each bedroom 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.

(g) Structure and materials.

- (1) *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.
- (2) *Acceptability criteria.*
- (i) 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.
 - (ii) The roof must be structurally sound and weathertight.
 - (iii) The 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.
 - (iv) The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.
 - (v) Elevators must be working and safe.

(h) Interior air quality.

- (1) *Performance requirement.* The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.
- (2) *Acceptability criteria.*
- (i) The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
 - (ii) There must be adequate air circulation in the dwelling unit.
 - (iii) Bathroom areas must have one openable window or other adequate exhaust ventilation.
 - (iv) Any room used for sleeping must have at least one window. If the window is designed to be openable, the window must work.

(i) Water supply.

- (1) *Performance requirement.* The water supply must be free from contamination.
- (2) *Acceptability criteria.* The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

(j) Lead-based paint performance requirement.-

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, M, and R of this title apply to units assisted under this part.

- (k) Access performance requirement.** The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

(l) Site and Neighborhood.-

- (1) *Performance requirement.* The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.
- (2) *Acceptability criteria.* The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage 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.

(m) Sanitary condition.

- (1) *Performance requirement.* The dwelling unit and its equipment must be in sanitary condition.
- (2) *Acceptability criteria.* The dwelling unit and its equipment must be free of vermin and rodent infestation.

(n) Smoke detectors performance requirement.

- (1) Except as provided in paragraph (n)(2) of this section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).
- (2) For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993 in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

Sec. 982.402 Subsidy standards.

(a) Purpose.

- (1) The HA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions.
- (2) For each family, the HA determines the appropriate number of bedrooms under the HA subsidy standards (family unit size).
- (3) The family unit size number is entered on the voucher issued to the family. The PHA issues the family a voucher for the family unit size when a family is selected for participation in the program.

(b) Determining family unit size. The following requirements apply when the HA determines family unit size under the HA subsidy standards:

- (1) The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- (2) The subsidy standards must be consistent with space requirements under the housing quality standards (See Sec. 982.401(d)).
- (3) The subsidy standards must be applied consistently for all families of like size and composition.
- (4) A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- (5) A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- (6) Any live-in aide (approved by the HA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- (7) Unless a live-in-aide resides with the family, the family unit size for any family consisting of a single person must be either a zero or one-bedroom unit, as determined under the HA subsidy standards.
- (8) In determining family unit size for a particular family, the HA may grant an exception to its established subsidy standards if the HA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. (For a single person other than a disabled or elderly person or remaining family member, such HA exception may not override the limitation in paragraph (b)(7) of this section.)

(c) Effect of family unit size--maximum subsidy in the voucher program. The family unit size, as determined for a family under the PHA subsidy standards, is used to determine the maximum rent subsidy for the family assisted in the voucher program. For a voucher tenancy, the PHA establishes payment standards by number of bedrooms. The payment standard for a family shall be the lower of

- (1) The payment standard for the family unit size; or
- (2) The payment standard for the unit rented by the family.
- (3) Voucher Program. For a voucher tenancy, the PHA establishes payment standards by number of bedrooms. The payment standards for the family must be the lower of:
 - (i) The payment standards for the family unit size; or
 - (ii) The payment standards for the unit size rented by the family.

(d) Size of unit occupied by family.

- (1) The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit size. However, the dwelling unit must meet the applicable HQS space requirements.
- (2) The family may lease an otherwise acceptable dwelling unit with more bedrooms than the family unit size.

Sec. 982.403 Terminating HAP contract: When unit is too big or too small.

- (a) Violation of HQS space standards.
 - (1) If the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible.
 - (2) If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.
- (b) Certificate program only--Subsidy too big for family size.
 - (1) Paragraph (b) of this section applies to the tenant-based certificate program.
 - (2) The PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible if:
 - (i) The family is residing in a dwelling unit with a larger number of bedrooms than appropriate for the family unit size under the PHA subsidy standards; and
 - (ii) The gross rent for the unit (sum of the contract rent plus any utility allowance for the unit size leased) exceeds the FMR/exception rent limit for the family unit size under the PHA subsidy standards.
 - (3) The PHA must notify the family that exceptions to the subsidy standards may be granted, and the circumstances in which the grant of an exception will be considered by the PHA.
 - (4) If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.
- (c) Termination. When the PHA terminates the HAP contract under paragraph (a) of this section:
 - (1) The PHA must notify the family and the owner of the termination; and
 - (2) The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.
 - (3) The family may move to a new unit in accordance with Sec. 982.314.

Sec. 982.404 Maintenance: Owner and family responsibility; PHA remedies.

- (a) Owner obligation.
 - (1) The owner must maintain the unit in accordance with HQS.
 - (2) If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations. PHA remedies for such breach of the HQS include termination, suspension or reduction of housing assistance payments and termination of the HAP contract.
 - (3) The PHA must not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the PHA and the PHA verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within no more than 30 calendar days (or any PHA-approved extension).
 - (4) The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible (as provided in Sec. 982.404(b) and Sec. 982.551(c)). (However, the PHA may terminate assistance to a family because of HQS breach caused by the family.)

(b) Family obligation.

- (1) The family is responsible for a breach of the HQS that is caused by any of the following:
 - (i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;
 - (ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or
 - (iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).
- (2) If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any PHA-approved extension).
- (3) If the family has caused a breach of the HQS, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with Sec. 982.552.

Sec. 982.405 PHA initial and periodic unit inspection.

- (a) The PHA must inspect the unit leased to a family prior to the initial term of the lease, at least annually during assisted occupancy, and at other times as needed, to determine if the unit meets the HQS. (See Sec. 982.305(b)(2) concerning timing of initial inspection by the PHA.)
- (b) The PHA must conduct supervisory quality control HQS inspections.
- (c) In scheduling inspections, the PHA must consider complaints and any other information brought to the attention of the PHA.
- (d) The PHA must notify the owner of defects shown by the inspection.
- (e) The PHA may not charge the family or owner for initial inspection or reinspection of the unit.

[60 FR 34695, July 3, 1995, as amended at 64 FR 26647, May 14, 1999; 64 FR 56914, Oct. 21, 1999]

Sec. 982.406 Enforcement of HQS.

Part 982 does not create any right of the family, or any party other than HUD or the PHA, to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995]