

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 207, 266, 880, 881, 882, 883, 884, 886, 891, 965, and 983

[Docket No. FR-4280-P-01]

RIN 2501-AC45

Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish for housing assisted under certain HUD programs uniform physical condition standards. These standards are intended to ensure that such housing is decent, safe, sanitary and in good repair. HUD's Section 8 housing, Public Housing, HUD-insured multifamily housing, and other HUD assisted housing (collectively, HUD housing) currently must meet certain standards and must undergo an annual physical inspection to determine that the housing qualifies as decent, safe, sanitary and in good repair. The description or components of what constitutes acceptable physical housing quality and the physical inspection procedures by which the standards are determined to be met, however, vary from HUD program to HUD program. To the extent possible, HUD believes that housing assisted under its programs should be subject to uniform physical standards, regardless of the source of the subsidy or assistance. Additionally, to the extent feasible, HUD believes that the physical inspection procedures by which the standards will be assessed should be uniform in the covered programs. Therefore, this rule proposes that certain HUD housing, as defined in this rule, must meet uniform physical condition standards to ensure that the HUD housing is decent, safe, sanitary and in good repair. This rule also generally describes new physical inspection procedures that will allow HUD to determine conformity with such standards. This rule would not change the requirement for annual physical inspections currently found in the covered HUD programs. Additionally, this rule would not affect the existing requirements in each covered HUD program regarding which entity is responsible for conducting the physical inspection of the program.

DATES: Comments must be submitted on or before July 30, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations

Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For further information, contact the Real Estate Assessment Center, Attention: William Thorson, Department of Housing and Urban Development, 4900 L'Enfant Plaza East, SW, Room 8204, Washington, DC 20410; telephone (202) 755-0102. Persons with hearing and speech impairments may contact the Center via TTY by calling the Federal Information Relay Service at (800) 877-8399.

SUPPLEMENTARY INFORMATION:

I. Background—Statutory Directive To Provide Decent, Safe, and Sanitary Housing

"The Declaration of Policy" in section 2 of the United States Housing Act of 1937 (42 U.S.C. 1437) (1937 Act) provides in relevant part as follows:

It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this Act, to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of *decent, safe, and sanitary* dwellings for families of lower income * * *. (Emphasis added)

More recently, in the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990; 42 U.S.C. 12701 *et seq.*), the Congress reaffirmed the nation's housing policy. Section 102 of this statute (42 U.S.C. 12702) states in relevant part as follows:

The objective of national housing policy shall be to reaffirm the long-established national commitment to *decent, safe, and sanitary* housing for every American by strengthening a nationwide partnership of public and private institutions.

The housing standard set by the Congress as the standard for all American families is one of decent, safe, and sanitary housing. As the statutes cited above reflect, this is also the standard by which HUD housing should be evaluated.

II. Current Requirements Governing Physical Condition and Property Maintenance Standards for HUD Housing

The majority of HUD programs currently contain requirements governing the physical condition and maintenance of the housing. In discussing the various housing that is proposed to be covered by this rule (Section 8 project-based housing, Public Housing, HUD-insured multifamily housing, and other HUD-assisted housing) the term "HUD housing" is used for purposes of brevity.

Current Standards Applicable to Section 8 Housing

HUD's Section 8 project-based assistance is provided under the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, Property Disposition, Moderate Rehabilitation (including the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) program for homeless individuals), and project-based Certificate programs. The statutory physical condition standard for all Section 8 housing is "decent, safe, and sanitary." Specifically, section 2 of the 1937 Act, as noted above, declares the statutory policy to provide assistance for low-income individuals in "decent, safe, and sanitary" dwellings in the Section 8 (and Public Housing) program. Additionally, section 3(b)(1) of the 1937 Act defines the term "low-income housing," which term includes Public Housing and housing receiving Section 8 assistance, as "decent, safe, and sanitary dwellings assisted under this Act."

The various forms of Section 8 Housing Assistance Payments (HAP) Contracts covering all of these Section 8 programs contain broad references to the quality or the physical condition of the housing that must be maintained, language that is similar to the 1937 Act language. While there is some minor variation in language, these contracts generally require owners to maintain project units and related premises in decent, safe, and sanitary condition.

The program regulations for each of the Section 8 programs provide the substantive physical condition standards for each program, but they differ somewhat from one another. For the Section 8 New Construction and Substantial Rehabilitation programs, the regulations provide that housing is decent, safe, and sanitary if it is maintained in a condition substantially the same as at the time of acceptance (see 24 CFR 880.201 and 881.201). Section 8 New Construction projects

also must comply with HUD minimum property standards;¹ applicable State and local laws, codes, ordinances, and regulations; HUD requirements pertaining to noise abatement and control; and HUD requirements pursuant to section 209 of the Housing and Community Development Act of 1974 for "projects for the elderly or handicapped" (24 CFR 880.207). Section 8 Substantial Rehabilitation projects must comply with HUD minimum design standards for rehabilitation for residential properties;² applicable State and local laws, codes, ordinances, and regulations; HUD noise abatement and control requirements; and HUD section 209 requirements (24 CFR 881.207). The requirements in §§ 880.207 and 881.207 generally relate to design, construction, and rehabilitation standards, rather than to physical maintenance requirements. This proposed rule only addresses physical condition after completion of construction and/or rehabilitation. This rule does not propose to revise the design, construction, and rehabilitation standards currently found in HUD regulations.

Additionally, this rule does not propose to revise the housing quality standards (HQS) applicable to the Section 8 Certificates and Vouchers program. As discussed later in this preamble, HQS will remain applicable to the Section 8 Certificates and Vouchers Program.

Current Standards Applicable to Public Housing

HUD Public Housing is also subject to a standard of decent, safe, and sanitary. Section 3(b)(1) of the 1937 Act provides in relevant part as follows:

The term *low-income housing* means decent, safe, and sanitary dwellings assisted under this Act. The term "public housing" means low-income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8.

Section 14 of the 1937 Act, which addresses Public Housing modernization, also emphasizes a decent, safe, and sanitary housing standard. Section 14(j)(2) provides, in

relevant part, that "the Secretary shall issue rules and regulations establishing standards which provide for decent, safe, and sanitary living conditions in low-rent public housing projects * * *."

In addition to the references to the decent, safe, and sanitary standard, other sections of the 1937 Act refer to the "obligation" of a public housing agency (PHA) to inspect and maintain the Public Housing units in the PHA's projects. For example, in connection with the Public Housing Management Assessment Program (PHMAP), established by section 6(j) of the 1937 Act, section 6(j)(1)(G) requires the PHA to inspect the units to ascertain "maintenance or modernization needs."

The current regulatory provisions addressing the physical condition of Public Housing projects are found in several sections of HUD's regulations in Title IX of 24 CFR: §§ 901.30 (of the PHMAP regulations), 941.203 (of the Public Housing Development regulations), 965.704 (of the PHA-Owned or Leased Projects regulations), and 968.315 (of the Comprehensive Improvement Program Regulations). In the current Public Housing Development regulations, § 941.203 (Design and construction standards) provides that Public Housing projects must comply with a national building code; applicable State and local laws, codes, ordinances, and regulations; and other Federal requirements, including fire safety requirements and HUD minimum property standards. (HUD's minimum property standards are found in 24 CFR part 200, subpart S, and remain applicable to Public Housing as design and construction standards.)

As noted earlier in this preamble, Public Housing is not only currently subject to a standard of "decent, safe, and sanitary" housing, there is also a statutory obligation on the PHA to inspect Public Housing units (see section 6(j) of the 1937 Act). This requirement is found in the current Public Housing Management Assessment Program (PHMAP) regulations (see 24 CFR 901.30). Section 901.30, captioned "Indicator #5, Annual Inspection of Units and Systems," provides in relevant part that: "All occupied units are required to be inspected." This proposed rule would not change the current requirement that PHAs inspect all of their units annually to determine maintenance and modernization needs. However, through a separate rulemaking, HUD is proposing new assessment regulations for Public Housing under which PHAs would be required to maintain their units in accordance with the same decent, safe, and sanitary standard

proposed in part 5, subpart G of this rule.

Current Standards Applicable to Insured Multifamily Housing

Generally, in HUD-insured multifamily housing, the mortgagors are subject, by contract, to maintain the mortgaged premises, accommodations, and the grounds appurtenant thereto, in good repair and condition. Additionally, HUD's standard mortgage form requires the mortgagor to keep the premises in good repair. Although existing FHA regulations and supplementary materials (such as handbooks) do not provide exact details on what is meant by "good repair," the "good repair" standard is very similar if not identical to the "decent, safe, and sanitary" standard. For example, HUD Handbook 4350.1 REV-1, Multifamily Asset Management and Project Servicing, provides that in determining the level of management review HUD should perform on site, it should review the mortgagee's annual physical inspection "to determine if the condition of the property is consistent with the provision of "*decent, safe, and sanitary housing*" (emphasis added). For HUD-owned projects, section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) provides that HUD shall manage or dispose of HUD-owned projects and projects covered by a HUD-held mortgage in a manner that will, in the least costly fashion among reasonable available alternatives, address the goal of maintaining existing housing stock in a "decent, safe, and sanitary condition," among other things.

Summary of Current Applicable Standards

While Section II of the preamble does not address all the various HUD programs that contain housing physical condition standards and physical inspection requirements, the section provides examples of the similarities and differences in housing standards and inspection requirements to which certain HUD subsidized, assisted, and/or insured housing is currently subject under various HUD programs. These standards are found throughout HUD regulations, and are also supplemented by HUD handbooks, contracts, agreements, and other documents. Although several sets of housing standards apply to HUD housing, HUD finds it warranted, by the proper administration of its duties, to apply a uniform set of physical condition standards to the housing related to HUD's Section 8 (project-based assistance only), Public Housing,

¹ The minimum property standards pertain to HUD requirements for site design, building design, materials, and construction of projects. An owner has the obligation to maintain a project constructed in accordance with the minimum property standards in a condition "substantially the same as at the time of [its] acceptance" (24 CFR 880.201).

² The HUD minimum design standards contain the basic HUD requirements for the rehabilitation of projects. An owner has the obligation to maintain a project rehabilitated in accordance with the minimum design standards in a condition "substantially the same as at the time of [its] acceptance" (§ 881.201).

Section 202/811 Supportive Housing, and multifamily mortgage insurance programs. (As described below, HUD's Section 8 Certificate and Voucher Programs will continue to be subject to the existing housing quality standards (HQS) set forth in HUD's regulations in 24 CFR part 982.) However, in adopting uniform physical condition standards for HUD housing, this proposed rule would not alter the statutory standard for maintaining HUD housing. Instead, this proposed rule, by using the statutory terminology, clearly acknowledges that the physical condition of the housing that is to be met is one of "decent, safe, and sanitary."

III. Proposed Uniform Physical Condition Standards

Through this rule, HUD proposes uniform physical condition standards that will serve to determine whether certain HUD housing is decent, safe, sanitary and in good repair. HUD also proposes that these standards be evaluated through uniform physical inspection procedures. These proposed standards and inspection process are intended to achieve three significant objectives:

- (1) Consistency in physical condition standards for HUD housing;
- (2) Standardization of the inspection to be undertaken to determine compliance with the standards; and
- (3) Implementation of an electronically-based inspection system to evaluate, rate and rank the physical condition of HUD housing objectively.

HUD Programs Covered by the New Standards

The proposed new physical condition standards will apply to housing assisted by HUD under the following programs (Section V of this preamble discusses the specific regulatory parts and sections that are proposed to be amended). In this rule, the various types of HUD housing that are proposed to be subject to the new physical condition standards, as set forth in paragraphs (1) through (3) below, are collectively referred to as "HUD housing."

1. Section 8 Project-Based and Other Assisted Housing

—Section 8 Project-Based Assistance, including the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, Property Disposition, Moderate Rehabilitation (including the Single Room Occupancy program for homeless individuals), and project-based Certificate programs;

—Section 202 Program of Supportive Housing for the Elderly;

—Section 811 Program of Supportive Housing for Persons with Disabilities; and

—Section 202 Loan Program for Projects for the Elderly and Handicapped (including 202/8 projects and 202/162 projects).

While this proposed rule covers Section 8 project-based assistance, as described above, this proposed rule would not cover Section 8 tenant-based assistance (i.e., housing assisted by HUD's Section 8 Certificate and Vouchers Rental Assistance Program; see 24 CFR part 982). The housing quality standards (HQS) were originally established by the Secretary for the purpose of Section 8 tenant-based housing assistance. Unlike Section 8 project-based assistance, HUD is continuously reviewing and approving new units into the Section 8 tenant-based assistance programs, and HUD has found that HQS is appropriate for this purpose. As discussed earlier in this rule, HUD believes that all of its programs should be subject to the same uniform physical inspection requirements. HUD also believes that it would be appropriate to require the Section 8 Certificate and Voucher (tenant-based assistance) programs to be subject to the uniform standards. However, HUD is not proposing at this time to apply the new uniform standards to such housing, but instead will consider doing so at a later date.

2. FHA Multifamily Housing

The proposed standards also will apply to multifamily housing with mortgages insured or held by HUD, or housing that is receiving assistance from HUD, under the following authorities:

—Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

—Section 213 of the NHA (Cooperative Housing Insurance);

—Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

—Section 221(d) (3) and (5) of the NHA (Housing for Moderate Income and Displaced Families);

—Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

—Section 231 of the NHA (Housing for Elderly Persons);

—Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Board and Care Homes);

—Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

—Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

—Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

The proposed standards would not apply to housing insured under HUD's single family mortgage insurance programs. Section 5.701(b)(1) of this proposed rule lists those sections of the National Housing Act that specifically give the Secretary authority to insure mortgages. Sections of the NHA that give the Secretary authority to insure mortgages "pursuant to" another section of the NHA are not listed in the coverage of § 5.701 of this proposed rule, because HUD ultimately has insured the mortgages under one of the listed statutory sections.

3. Public Housing

—Housing receiving assistance under sections 5, 9 or 14 of the U.S. Housing Act of 1937.

Through a separate rulemaking, HUD is proposing new assessment regulations for Public Housing under which PHAs would be required to maintain their units in accordance with the same decent, safe, and sanitary standard proposed in part 5, subpart G of this rule. Under the HUD 2020 Management Reform Plan, published in the **Federal Register** on August 12, 1997 (62 FR 43204), HUD is seeking new tools to strengthen its abilities to ensure the soundness and physical condition of Public Housing. Consistent with HUD's responsibilities under the new Real Estate Assessment Center, HUD intends to conduct independent inspections of a statistically valid number of Public Housing units for each PHA, in order to confirm compliance with the new uniform physical condition standards.

Although HUD encourages PHAs to use its inspection software during the course of their own annual inspections in order to promote uniformity in inspections, HUD is not proposing at this time to require PHAs to use HUD's inspection software for two reasons. First, PHAs may have existing software for operations (e.g., work order systems) that may be incompatible with the HUD software. It would be unreasonable and uneconomical to require PHAs to change their existing systems. Second, PHAs may, as a part of their operating procedures, combine other inspections (e.g., housekeeping, preventative

maintenance) with their annual unit inspections. HUD believes that its role, consistent with section 2 of the U.S. Housing Act of 1937 (42 U.S.C. 1437), is to prescribe broad standards, giving PHAs maximum latitude as to how best to meet those standards consistent with existing statutes, regulations, and their own operating procedures and practices. HUD has no objection, however, if the PHA determines that use of the HUD software for its own purposes is in its best interests.

Standards for Determining Housing That Is Decent, Safe, Sanitary and in Good Repair

The uniform standards in this proposed rule would set parameters under which the HUD housing must be maintained and will be evaluated. These standards are designed to analyze, score, and rank the overall and general physical condition of a project. This evaluation would not focus on a single element, but would take into consideration significant observable deficiencies and score compliance taken as a whole. A single critical element with a major defect (for example, an inoperable heating system), however, could have a significant impact on a project's overall evaluation. The proposed standards emphasize health and safety considerations as essential to housing that is decent, safe, sanitary and in good repair.

The physical condition standards are intentionally broad and are defined with terms such as in "proper operating condition," "adequately functional," and "free of health and safety hazards." Given the differences in construction and design of HUD housing, and the different types of electrical and utility systems that an inspector will encounter, the rule cannot define or describe proper operating condition for every type of system. For example, an inspection of whether an electrical heating system is operating properly might be different from an inspection of whether an oil-based heating system is operating properly. This would not mean, however, that these two systems should be subject to a different physical condition standard. The standard—proper operating condition—is the same for both types of systems and is the same for all heating systems.

The uniform physical condition standards in this proposed rule do not include design or configuration requirements for housing (e.g., these standards do not require that every unit have a kitchen). The regulations for the individual housing programs will continue to contain any such design or configuration requirements. The

uniform physical condition standards in this proposed rule are structured so that regardless of the configuration of a particular project or unit (for example, a shared kitchen versus private kitchens), the project or unit would be inspected under the uniform standards. Similarly, the proposed standards do not address occupancy requirements of a dwelling unit, that is, the number of residents per unit. The proposed standards are solely concerned with the physical condition of the housing and the operational state of its various elements, to the extent relevant.

The proposed new standards address six major areas of the HUD housing:

- (1) Site;
- (2) Building exterior;
- (3) Building systems;
- (4) Dwelling units;
- (5) Common areas; and
- (6) Health and safety.

Under this proposed rule, the major areas of the HUD housing and their related elements are to be maintained in a manner that is decent, safe, sanitary and in good repair. Intrinsic to all these areas are health and safety considerations. However, there are other broad health and safety concerns that HUD will evaluate at any time they are observed. Since HUD places such a high priority on health and safety concerns, this proposed rule identifies them separately.

1. Site. The site components, such as fencing and retaining walls, grounds, lighting, mailboxes/project signs, parking lots/driveways, play areas and equipment, refuse disposal, roads, storm drainage and walkways must be free of health and safety hazards and be in good repair. The site must not be subject to material adverse conditions, such as abandoned vehicles, dangerous walks or steps, poor drainage, septic tank back-ups, sewer hazards, excess accumulations of trash, vermin or rodent infestation or fire hazards.

2. Building Exterior. Each building on the site must be structurally sound, secure, habitable, and in good repair. Each building's doors, fire escapes, foundations, lighting, roofs, walls, and windows, where applicable, must be free of health and safety hazards, operable, and in good repair.

3. Building Systems. Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system must be free of health and safety hazards, functionally adequate, operable, and in good repair.

4. Dwelling Units. Each dwelling unit within a building must be structurally sound, habitable, and in good repair. All areas and aspects of the dwelling unit

must be free of health and safety hazards. The unit's bathroom, call-for-aid, ceiling, doors, electrical systems, floors, hot water heater, HVAC, kitchen, lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls, and windows (where applicable) must be free of health and safety hazards, functionally adequate, operable, and in good repair. Where applicable, the dwelling unit must have hot and cold running water, including an adequate source of potable water (note for example that single room occupancy units may not contain water facilities). If the dwelling unit includes its own sanitary facility, it must be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste. The dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit. Properties that are subject to the specific requirements of the Fire Administration Authorization Act must also comply with those requirements.

5. Common Areas. The common areas must be structurally sound, secure, and functionally adequate for the purposes intended. The basement/garage/carport, restrooms, closets, utility, mechanical, community rooms, day care, halls/corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas, if applicable, must be free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, outlets/switches, smoke detectors, stairs, walls, and windows, to the extent applicable, must be free of health and safety hazards, operable, and in good repair. These standards for common areas would apply, to a varying extent, to all HUD housing, but will be particularly relevant to congregate housing, independent group homes/residences, and single room occupancy units, in which the individual dwelling units (sleeping areas) do not contain kitchen and/or bathroom facilities.

6. Health and Safety Considerations. All areas and components of the housing must be free of health and safety hazards. As discussed in the preceding section, the five other major inspectable areas contain health and safety considerations that will be evaluated in the applicable areas. In addition, there are broad health and safety concerns by which HUD will evaluate the housing. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based

paint. For example, the buildings must have fire exits that are not blocked and are accessible to all residents, and have hand rails that are undamaged and have no other observable deficiencies. The housing must have no evidence of infestation by rats, mice, or other vermin, or of garbage and debris. The housing must have no evidence of electrical hazards, natural hazards, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold, odor, or other observable deficiencies. The housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications of such.

With regard to the evaluation and reduction of lead-based paint hazards, HUD is developing consolidated final regulations to implement sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992 (42 U.S.C 4851 *et seq.*). These final regulations will be based upon a proposed rule published on June 7, 1996 (61 FR 29170), and will be codified in 24 CFR part 35.

No Preemption of State and Local Building and Maintenance Codes. The new uniform physical condition standards in this rule would not supersede or preempt State and local building and maintenance codes with which HUD housing must comply. HUD housing must continue to adhere to these codes.

IV. Proposed Uniform Physical Inspection Requirements

Frequency of Inspection

To make a determination of whether the owner is providing HUD housing that is decent, safe, sanitary and in good repair, this rule proposes to continue the practice currently found in HUD programs of requiring a physical inspection of each HUD housing structure (except that Public Housing shall be inspected as described below). This proposed rule would require such inspections annually, unless HUD provides notice to the contrary. HUD housing is currently subject to an annual inspection requirement; therefore, an annual inspection would impose no new requirement.

The New Inspection Protocol

Along with the uniform physical condition standards proposed in this rule, HUD intends to implement a new computer-driven physical inspection protocol. The inspection would not

have to be performed by an engineer or architect, but may be performed by a person who is generally familiar with real estate of the type to be inspected. Any eligible individual who is trained and certified under HUD auspices to use the new HUD computer program may conduct the inspection. The inspector will complete the inspection using a hand-held computer that uses the HUD software. The new HUD computer program would guide the inspector through the inspection, prompting the necessary observations to be made regarding the condition of the property. The computer program is based on substantially objective observations, which will tend to eliminate the uncertainty of subjective interpretation of the physical condition standards. The results of the inspection will be electronically transferred to HUD and will be processed and scored by electronic means and recorded in a Central Integrated Data Repository.

Determining Whether HUD Housing Meets the New Physical Condition Standards

The determination of whether the HUD housing meets the standard of decent, safe, sanitary and in good repair would be based on a review of observable deficiencies of the health and safety conditions, the site, the building, the dwelling units, and the common areas of such housing. The computer program will generate a score for these major areas and their respective elements. The scores will allow HUD to rank the housing according to physical condition as determined by the computer-based inspection.

Inherent in such a scoring system is the weighting of factors that make up the physical condition standards. For instance, health and safety hazards are of utmost importance to HUD; therefore, these factors, as well as other key components of the building (i.e., roof, walls, heating) might be more heavily weighted in the scoring. Other factors that are less crucial to health and safety, although still related to housing that is decent, safe, sanitary and in good repair, might receive a lower weight. For example, a faulty roof would generally be weighed more heavily than a faulty sidewalk, because it could generally have a greater impact on the residents' health and safety. The evaluation system will create a composite score for HUD housing by calculating the component scores on a weighted average basis.

V. Regulatory Amendments

New Subpart for Physical Condition Standards and Inspection Requirements

This rule proposes to create a new subpart G in 24 CFR part 5. The regulations in part 5 represent HUD's general program requirements, as well as requirements that cut across one or more HUD programs. This new subpart G would consist of three sections. Section 5.701 would provide the lists of the types of HUD housing to which the uniform physical condition standards and inspection requirements would apply. This section also would describe the unique applicability of the proposed requirements to the Public Housing program, as described above.

Section 5.703 would contain the physical condition standards for HUD housing that is decent, safe, sanitary and in good repair. These are the standards to which HUD housing must be maintained. Section 5.705 would simply provide that any entity responsible for conducting a physical inspection of HUD housing must inspect such housing annually (unless HUD provides notice to the contrary), in accordance with HUD-prescribed physical inspection procedures. This rule would not affect the existing requirements under each covered HUD program regarding which entity is responsible for conducting the physical inspection. HUD intends to provide more details with respect to the implementation of its physical inspection system through notices and other guidance materials.

Conforming Amendments in Program Regulations

In accordance with the proposed physical condition standards and inspection requirements, this rule also proposes to make several conforming amendments to HUD's program regulations.

1. *24 CFR part 207; Multifamily Housing Mortgage Insurance.* This rule proposes to add a new § 207.260, which will provide that for FHA-insured multifamily properties, the mortgagor must maintain the insured project in accordance with the physical condition standards in the new subpart G of part 5. This section would also require the mortgagee to inspect the project in accordance with the requirements in subpart G of part 5. As described above, the requirements for the mortgagor to maintain the property in a condition that is decent, safe, sanitary and in good repair (and for the mortgagee to inspect the property) are not new. This rule provides a clear set of physical condition standards and inspection requirements to help ensure that these

properties are maintained in accordance with such obligations.

2. *24 CFR part 266; Housing Finance Agency (HFA) Risk-Sharing.* This rule proposes to add a new § 266.507 to provide that the mortgagor must maintain the project in accordance with the new physical condition standards in subpart G of part 5. This new section would apply the new standards to all projects insured previously or in the future. This rule also proposes to remove § 266.505(b)(6) regarding the maintenance requirements of the Regulatory Agreement between the HFA and the mortgagor, since the maintenance requirements would be in the new § 266.507. This rule would also amend § 266.510(a) to require HFAs to perform their inspections in accordance with the inspection requirements in subpart G of part 5.

3. *24 CFR part 880; Section 8 New Construction.* This rule proposes to amend § 880.201 to revise the definition of the term "Decent, safe, and sanitary." This rule would provide that decent, safe, and sanitary housing is housing that meets the requirements of subpart G of part 5. This rule also proposes to remove paragraph (a) of § 880.207 regarding HUD's minimum property standards, since compliance with the new subpart G of part 5 would replace the continuing requirement to comply with these standards.

4. *24 CFR part 881; Section 8 Substantial Rehabilitation.* This rule proposes to amend § 881.201 to revise the definition of the term "Decent, safe, and sanitary." This rule would provide that decent, safe, and sanitary housing is housing that meets the requirements of subpart G of part 5. This rule also proposes to remove paragraph (a) of § 881.207 regarding HUD's minimum design standards, since compliance with the new subpart G of part 5 would replace the continuing requirement to comply with these standards.

5. *24 CFR part 882; Section 8 (Project-Based) Moderate Rehabilitation (including the Single Room Occupancy program for homeless individuals).* HUD recently amended its regulations in part 882 to remove the regulatory provisions on certificates. These provisions are now in part 982. (Please see the Section 8 Certificate and Voucher Programs Conforming Rule, published in the **Federal Register** on April 30, 1998, 63 FR 23826.) The only regulatory provisions remaining in part 882 are for two Section 8 project-based programs—Moderate Rehabilitation and Single Room Occupancy for homeless individuals.

This rule proposes to amend part 882 further to recognize the new uniform

physical condition standards. This rule would amend § 882.102 to revise the definition of the term "Decent, safe, and sanitary." This rule would provide that decent, safe, and sanitary housing is housing that meets the requirements of subpart G of part 5. This rule would also remove the definition of "Housing Quality Standards" from § 882.102, since those standards would be replaced by the new uniform physical condition standards in this proposed rule.

This rule would then amend § 882.404 by replacing the Housing Quality Standards with references to the new physical condition standards in subpart G of part 5. This rule would retain, however, the lead-based paint requirements that are otherwise embedded in the Housing Quality Standards. This rule would not affect the applicability of HUD's lead-based paint requirements (although please see the reference above to the separate regulations that are under development for lead-based paint). Similarly, this rule would also amend § 882.803(b) for the SRO program by replacing references to the Housing Quality Standards with references to § 882.404.

6. *24 CFR part 883; Section 8 State Housing Agencies.* This rule proposes to amend § 883.302 to add a definition of the term "Decent, safe, and sanitary." This rule would provide that decent, safe, and sanitary housing is housing that meets the requirements of subpart G of part 5. This rule also proposes to remove the definition of "MPS (Minimum Property Standards)" in § 883.302, and paragraphs (a)(1) and (b)(1) of § 883.310 regarding HUD's minimum property and design standards, since compliance with the new subpart G of part 5 would replace the continuing requirement to comply with these standards.

7. *24 CFR part 884; Section 8 New Construction Set-Aside for Rural Rental Housing.* This rule proposes to amend § 884.102 to revise the definition of the term "Decent, safe, and sanitary." This rule would provide that decent, safe, and sanitary housing is housing that meets the requirements of subpart G of part 5. This rule also proposes to remove the definition of "Minimum property standards" in § 884.102, and paragraph (b)(1) of § 884.110 regarding HUD's minimum property standards, since compliance with the new subpart G of part 5 would replace the continuing requirement to comply with those standards.

8. *24 CFR part 886; Section 8 Special Allocations (Loan Management Set-Aside (LMSA) and Property Disposition (PD)).* This rule proposes to amend §§ 886.102 (LMSA) and 886.302 (PD) to

revise the definition of the term "Decent, safe, and sanitary." This rule would provide that decent, safe, and sanitary housing is housing that meets the requirements of subpart G of part 5. This rule also would amend §§ 886.113 (LMSA) and 886.307 (PD) by replacing the Housing Quality Standards with references to the new physical condition standards in subpart G of part 5. This rule would retain, however, the specific occupancy requirements (i.e., the number of tenants per dwelling unit); such requirements are not addressed by the new uniform physical condition standards. This rule also would retain the lead-based paint requirements that are otherwise embedded in the Housing Quality Standards. This rule would not affect the applicability of HUD's lead-based paint requirements (although please see the reference above to the separate regulations that are under development for lead-based paint).

9. *24 CFR part 891; Supportive Housing for the Elderly and Persons with Disabilities.* This rule would add a new § 891.180 to provide that housing assisted under these supportive housing programs must be maintained and inspected in accordance with the proposed physical condition standards and inspection requirements in subpart G of part 5.

10. *24 CFR part 965; PHA-Owned or Leased Projects—General Provisions.* This rule proposes to add a new subpart F (consisting of § 965.601) to part 965. Section 965.601 would require that housing that is owned or leased by a PHA must be maintained in accordance with the new uniform physical condition standards. Section 965.601 would also provide that for each PHA, HUD intends to perform independent inspections to confirm that Public Housing is being maintained in accordance with the new uniform physical condition standards using the proposed new inspection system, based upon a statistically valid sample of Public Housing units for each PHA.

11. *24 CFR part 983; Section 8 Project-Based Certificate Program.* This rule proposes to amend § 983.5 by replacing the Housing Quality Standards with references to the new physical condition standards in subpart G of part 5. This rule would retain, however, the specific occupancy requirements, since these requirements are not addressed by the new uniform physical condition standards. This rule also would retain the lead-based paint requirements that are otherwise embedded in the Housing Quality Standards. This rule would not affect the applicability of HUD's lead-based paint requirements (although please see the reference above to the

separate regulations that are under development for lead-based paint).

VI. Justification for 30-Day Comment Period

In general, it is HUD's policy that notices of proposed rulemaking are to afford the public not less than 60 days for submission of comments, in accordance with its regulations on rulemaking in 24 CFR part 10. However, HUD has determined that there is good cause to reduce the public comment period for this proposed rule to 30 days. As discussed in more detail earlier in this preamble, the announcement, through this rule, of HUD's proposal to establish a uniform set of physical condition standards and to establish a uniform inspection protocol has been developed with the participation of HUD's program participants, industry leaders, and experts in the real estate inspection industries. As also discussed in the preamble, in adopting uniform physical condition standards for HUD housing, this proposed rule would not alter the statutory standard for the maintenance of HUD housing, nor the existing requirement to conduct property inspection. HUD anticipates that making these standards uniform and consistent will ease the administrative burden for participants in the covered HUD programs, and therefore there is a benefit to making this standard effective at the earliest date possible. Given these reasons, HUD has determined that the 30-day comment period for this proposed rule should provide sufficient notice and opportunity for interested entities to comment. In order to provide the fullest and most expedient access to the provisions of this proposed rule, HUD will make it available on the HUD Home Page on the World Wide Web at <http://www.hud.gov>, on the date of publication in the **Federal Register**. HUD will also directly notify entities that have expressed a significant interest to HUD by sending such entities a copy of this proposed rule.

VII. Findings and Certifications

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, *Regulatory Planning and Review*, issued by the President on September 30, 1993. OMB determined that this proposed rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made in this proposed rule subsequent to its

submission to OMB are identified in the docket file, which is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this proposed rule is not anticipated to have a significant economic impact on a substantial number of small entities. All HUD housing is currently subject to physical condition standards and a physical inspection requirement. As discussed in the preamble to this proposed rule, there are statutory directives to maintain HUD housing in a condition that is decent, safe, and sanitary. Accordingly, this proposed rule does not alter that requirement, nor does the proposed rule shift responsibility with respect to who conducts the physical inspection of the property. The entities and individuals currently responsible for the inspection of HUD subsidized properties would remain responsible. The proposed rule, however, provides for uniform physical inspection standards for the majority of HUD programs. These standards would not be significantly different from those standards to which HUD housing is currently subject. The existing applicable standards are similar but there are some variations from HUD program to program. HUD anticipates that making these standards uniform and consistent for the HUD programs covered by this rule will ease the administrative burden for participants in the covered HUD programs, including and particularly small entities. As with the implementation of any new or modified program requirement, HUD intends to provide guidance to the covered entities, particularly small

entities, to assist them in understanding the changes being made.

Notwithstanding HUD's determination that this proposed rule would not have a significant economic impact on small entities, HUD specifically invites comments regarding alternatives to this proposed rule that would meet HUD's objectives as described in this preamble.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this proposed rule would not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This proposed rule would provide a uniform set of physical condition standards and physical inspection requirements for HUD housing, which would make HUD's requirements clearer and more objective. As a result, the proposed rule is not subject to review under the Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs that would be affected by this proposed rule are:

- 14.126—Mortgage Insurance—Cooperative Projects (Section 213)
- 14.129—Mortgage Insurance—Nursing Homes, Intermediate Care Facilities, Board and Care Homes and Assisted Living Facilities (Section 232)
- 14.134—Mortgage Insurance—Rental Housing (Section 207)
- 14.135—Mortgage Insurance—Rental and Cooperative Housing for Moderate Income Families and Elderly, Market Rate Interest (Sections 221(d) (3) and (4))
- 14.138—Mortgage Insurance—Rental Housing for Elderly (Section 231)
- 14.139—Mortgage Insurance—Rental Housing in Urban Areas (Section 220 Multifamily)

- 14.157—Supportive Housing for the Elderly (Section 202)
- 14.181—Supportive Housing for Persons with Disabilities (Section 811)
- 14.188—Housing Finance Agency (HFA) Risk Sharing Pilot Program (Section 542(c))
- 14.856—Lower Income Housing Assistance Program—Section 8 Moderate Rehabilitation

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low- and moderate-income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 266

Aged, Fair housing, Intergovernmental relations, Mortgage insurance, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 880

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

24 CFR Part 881

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

24 CFR Part 882

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

24 CFR Part 883

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

24 CFR Part 884

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

24 CFR Part 886

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

24 CFR Part 891

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

24 CFR Part 965

Energy conservation, Government procurement, Grant programs—housing and community development, Lead poisoning, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements, Utilities.

24 CFR Part 983

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

Accordingly, for the reasons stated in the preamble, title 24 of the CFR is proposed to be amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for 24 CFR part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

2. A new subpart G is added to part 5 to read as follows:

Subpart G—Physical Condition Standards and Inspection Requirements

Sec.

5.701 Applicability.

5.703 Physical condition standards for HUD housing that is decent, safe, sanitary and in good repair (DSS/GR).

5.705 Uniform physical inspection requirements.

Subpart G—Physical Condition Standards and Inspection Requirements

§ 5.701 Applicability.

(a) This subpart applies to housing assisted by HUD under the following programs:

(1) All Section 8 project-based assistance. “Project-based assistance” means Section 8 assistance that is attached to the structure (see § 982.1(b)(1) regarding the distinction between “project-based” and “tenant-based” assistance);

(2) Section 202 Program of Supportive Housing for the Elderly;

(3) Section 811 Program of Supportive Housing for Persons with Disabilities;

(4) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects).

(b) This subpart also applies to housing with mortgages insured or held by HUD, or housing that is receiving assistance from HUD, under the following authorities:

(1) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

(2) Section 213 of the NHA (Cooperative Housing Insurance);

(3) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(4) Section 221(d)(3) and (5) of the NHA (Housing for Moderate Income and Displaced Families);

(5) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(6) Section 231 of the NHA (Housing for Elderly Persons);

(7) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Board and Care Homes);

(8) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(9) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(10) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(11) Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

(c) This subpart also applies to Public Housing (housing receiving assistance under sections 5, 9, or 14 of the U.S. Housing Act of 1937).

(d) For purposes of this subpart, the term “HUD housing” means the types of housing listed in paragraphs (a), (b), and (c) of this section.

§ 5.703 Physical condition standards for HUD housing that is decent, safe, sanitary and in good repair (DSS/GR).

HUD housing must be decent, safe, sanitary and in good repair. Owners of housing described in § 5.701(a), mortgagors of housing described in § 5.701(b), and PHAs and other entities approved by HUD owning housing described in § 5.701(c) must maintain such housing in a manner that meets the physical condition standards set forth in this section in order to be considered decent, safe, sanitary and in good repair.

These standards address the major areas of the HUD housing: the site; the building exterior; the building systems; the dwelling units; the common areas; and health and safety considerations.

(a) *Site*. The site components, such as fencing and retaining walls, grounds, lighting, mailboxes/project signs, parking lots/driveways, play areas and equipment, refuse disposal, roads, storm drainage and walkways must be free of health and safety hazards and be in good repair. The site must not be subject to material adverse conditions, such as abandoned vehicles, dangerous walks or steps, poor drainage, septic tank back-ups, sewer hazards, excess accumulations of trash, vermin or rodent infestation or fire hazards.

(b) *Building exterior*. Each building on the site must be structurally sound, secure, habitable, and in good repair. Each building's doors, fire escapes, foundations, lighting, roofs, walls, and windows, where applicable, must be free of health and safety hazards, operable, and in good repair.

(c) *Building systems*. Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system must be free of health and safety hazards, functionally adequate, operable, and in good repair.

(d) *Dwelling units*. (1) Each dwelling unit within a building must be structurally sound, habitable, and in good repair. All areas and aspects of the dwelling unit (for example, the unit's bathroom, call-for-aid, ceiling, doors, electrical systems, floors, hot water heater, HVAC (where individual units are provided), kitchen, lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls, and windows) must be free of health and safety hazards, functionally adequate, operable, and in good repair.

(2) Where applicable, the dwelling unit must have hot and cold running water, including an adequate source of potable water (note for example that single room occupancy units may not contain water facilities).

(3) If the dwelling unit includes its own sanitary facility, it must be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste.

(4) The dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit.

(e) *Common areas*. The common areas must be structurally sound, secure, and functionally adequate for the purposes intended. The basement/garage/carport, restrooms, closets, utility, mechanical,

community rooms, day care, halls/corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas, if applicable, must be free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, outlets/switches, smoke detectors, stairs, walls, and windows, to the extent applicable, must be free of health and safety hazards, operable, and in good repair. These standards for common areas would apply, to a varying extent, to all HUD housing, but will be particularly relevant to congregate housing, independent group homes/residences, and single room occupancy units, in which the individual dwelling units (sleeping areas) do not contain kitchen and/or bathroom facilities.

(f) *Health and safety concerns*. All areas and components of the housing must be free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint. For example, the buildings must have fire exits that are not blocked and are accessible to all residents, and have hand rails that are undamaged and have no other observable deficiencies. The housing must have no evidence of infestation by rats, mice, or other vermin, or of garbage and debris. The housing must have no evidence of electrical hazards, natural hazards, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold, odor, or other observable deficiencies. The housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications of such (see 24 CFR part 35).

(g) *Compliance with State and local codes*. The physical condition standards in this section do not supersede or preempt State and local codes building and maintenance with which HUD housing must comply. HUD housing must continue to adhere to these codes.

§ 5.705 Uniform physical inspection requirements.

Any entity responsible for conducting a physical inspection of HUD housing, to determine compliance with this subpart, must inspect such HUD housing annually (unless otherwise specifically notified by HUD), in accordance with HUD-prescribed physical inspection procedures. For Public Housing, PHAs have the option to inspect Public Housing units using

the procedures prescribed in accordance with this section.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

3. The authority citation for 24 CFR part 207 continues to read as follows:

Authority: 12 U.S.C. 1701z–11(e), 1713, and 1715b; 42 U.S.C. 3535(d).

4. A new § 207.260 is added, immediately after § 207.259a, to read as follows:

§ 207.260 Maintenance and inspection of property.

As long as the mortgage is insured or held by the Commissioner, the mortgagor must maintain the insured project in accordance with the physical condition requirements in 24 CFR part 5, subpart G; and the mortgagee must inspect the project in accordance with the physical inspection requirements in 24 CFR part 5, subpart G.

PART 266—HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS

5. The authority citation for 24 CFR part 266 continues to read as follows:

Authority: 12 U.S.C. 1707; 42 U.S.C. 3535(d).

§ 266.505 [Amended]

6. Section 266.505 is amended by removing and reserving paragraph (b)(6).

7. A new § 266.507 is added, to read as follows:

§ 266.507 Maintenance requirements.

The mortgagor must maintain the project in accordance with the physical condition standards in 24 CFR part 5, subpart G.

8. In § 266.510, paragraph (a) is revised to read as follows:

§ 266.510 HFA responsibilities.

(a) *Inspections*. The HFA must perform inspections in accordance with the physical inspection procedures in 24 CFR part 5, subpart G.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

9. The authority citation for 24 CFR part 880 continues to read as follows:

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

10. Section 880.201 is amended by revising the definition of “*Decent, safe and sanitary*”, to read as follows:

§ 880.201 Definitions.

* * * * *

Decent, safe, and sanitary. Housing is decent, safe, and sanitary if it meets the physical condition requirements in 24 CFR part 5, subpart G.

* * * * *

§ 880.207 [Amended]

11. Section 880.207 is amended by removing and reserving paragraph (a).

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

12. The authority citation for 24 CFR part 881 continues to read as follows:

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

13. Section 881.201 is amended by revising the definition of “*Decent, safe and sanitary*”, to read as follows:

§ 881.201 Definitions.

* * * * *

Decent, safe, and sanitary. Housing is decent, safe, and sanitary if it meets the physical condition requirements in 24 CFR part 5, subpart G.

* * * * *

§ 881.207 [Amended]

14. Section 881.207 is amended by removing and reserving paragraph (a).

PART 882—SECTION 8 MODERATE REHABILITATION PROGRAMS

15. The authority citation for 24 CFR part 882 continues to read as follows:

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

16. Section 882.102 is amended in paragraph (b) by revising the definition of “*Decent, safe, and sanitary*”; and by removing the definition of “*Housing quality standards (HQS)*”; to read as follows:

§ 882.102 Definitions.

* * * * *

(b) * * *

Decent, safe, and sanitary. Housing is decent, safe, and sanitary if it meets the physical condition standards in 24 CFR part 5, subpart G.

* * * * *

17. Section 882.404 is amended by revising the heading; by revising paragraph (a); by removing and reserving paragraph (b); by revising paragraph (c); and by removing paragraph (d); to read as follows:

§ 882.404 Physical condition standards; physical inspection requirements.

(a) Compliance with physical condition standards. Housing in this program must be maintained and

inspected in accordance with the requirements in 24 CFR part 5, subpart G.

* * * * *

(c) *Compliance with lead-based paint requirements.* Housing used in the Section 8 moderate rehabilitation program must comply with the lead-based paint requirements in 24 CFR 982.401(j). For purposes of the SRO program, however, see § 882.803(b).

18. Section 882.803 is amended by revising paragraph (b), to read as follows:

§ 882.803 Project eligibility and other requirements.

* * * * *

(b) *Physical condition standards.* Section 882.404 applies to this program, except that the lead-based paint requirements in 24 CFR 982.401(j) do not apply to this program, since these SRO units will not house children.

* * * * *

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

19. The authority citation for 24 CFR part 883 continues to read as follows:

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

20. Section 883.302 is amended by adding a definition of “*Decent, safe, and sanitary*”, in alphabetical order; and by removing the definition of “*MPS (Minimum Property Standards)*”; to read as follows:

§ 883.302 Definitions.

* * * * *

Decent, safe, and sanitary. Housing is decent, safe, and sanitary if it meets the physical condition requirements in 24 CFR part 5, subpart G.

* * * * *

§ 883.310 [Amended]

21. Section 883.310 is amended by removing and reserving paragraphs (a)(1) and (b)(1).

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

22. The authority citation for 24 CFR part 884 continues to read as follows:

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

23. Section 884.102 is amended by revising the definition of “*Decent, safe, and sanitary*”; and by removing the

definition of “*Minimum property standards*”; to read as follows:

§ 884.102 Definitions.

* * * * *

Decent, safe, and sanitary. Housing is decent, safe, and sanitary if it meets the physical condition requirements in 24 CFR part 5, subpart G.

* * * * *

§ 884.110 [Amended]

24. Section 884.110 is amended in paragraph (b) by removing “(1) Minimum Property Standards,” and the designations “(2)”, “(3)”, “(4)”, and “(5)”.

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

25. The authority citation for 24 CFR part 886 continues to read as follows:

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

26. Section 886.102 is amended by revising the definition of “*Decent, Safe and Sanitary*”, to read as follows:

§ 886.102 Definitions.

* * * * *

Decent, Safe, and Sanitary. Housing is decent, safe, and sanitary if it meets the physical condition requirements in 24 CFR part 5, subpart G.

* * * * *

27. Section 886.113 is amended by revising the heading; by removing the introductory text; by revising paragraphs (a) and (b); by removing and reserving paragraphs (c) through (h); and by removing paragraphs (j) through (n); to read as follows:

§ 886.113 Physical condition standards; physical inspection requirements.

(a) *General.* Housing used in this program must be maintained and inspected in accordance with the requirements in 24 CFR part 5, subpart G.

(b) *Space and security.* In addition to the standards in 24 CFR part 5, subpart G, the dwelling unit must have a living room, a kitchen area, and a bathroom. The dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

* * * * *

28. Section 886.302 is amended by revising the definition of “*Decent, safe, and sanitary*”, to read as follows:

§ 886.302 Definitions.

* * * * *

Decent, safe, and sanitary. Housing is decent, safe, and sanitary if it meets the

physical condition requirements in 24 CFR part 5, subpart G.

* * * * *

29. Section 886.307 is amended by revising the heading; by removing the introductory text; by revising paragraphs (a) and (b); by removing and reserving paragraphs (c) through (h); and by removing paragraphs (j) through (p); to read as follows:

§ 886.307 Physical condition standards; physical inspection requirements.

(a) *General.* Housing assisted under this part must be maintained and inspected in accordance with the requirements in 24 CFR part 5, subpart G.

(b) *Space and security.* In addition to the standards in 24 CFR part 5, subpart G, the dwelling unit must have a living room, a kitchen area, and a bathroom. The dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

* * * * *

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

30. The authority citation for 24 CFR part 891 continues to read as follows:

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

31. In subpart A of part 891, a new § 891.180 is added, to read as follows:

§ 891.180 Physical condition standards; physical inspection requirements.

Housing assisted under this part must be maintained and inspected in accordance with the requirements in 24 CFR part 5, subpart G.

PART 965—PHA-OWNED OR LEASED PROJECTS—GENERAL PROVISIONS

32. The authority citation for 24 CFR part 965 continues to read as follows:

Authority: 2 U.S.C. 1437, 1437a, 1437d, 1437g, and 3535(d). Subpart H is also issued under 42 U.S.C. 4821–4846.

33. In part 965, a new subpart F, consisting of § 965.601, is added, to read as follows:

Subpart F—Physical Condition Standards and Physical Inspection Requirements

§ 965.601 Physical condition standards; physical inspection requirements.

Housing owned or leased by a PHA, and public housing owned by another entity approved by HUD, must be maintained in accordance with the physical condition standards in 24 CFR part 5, subpart G. For each PHA, HUD will perform an independent physical inspection of a statistically valid sample of such housing based upon the

physical condition standards in 24 CFR part 5, subpart G.

PART 983—SECTION 8 PROJECT-BASED CERTIFICATE PROGRAM

34. The authority citation for 24 CFR part 983 continues to read as follows:

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

35. Section 983.5 is revised to read as follows:

§ 983.5 Physical condition standards; physical inspection requirements.

(a) *General.* Housing used in this program must be maintained and inspected in accordance with the requirements in 24 CFR part 5, subpart G.

(b) *Space and security.* In addition to the standards in 24 CFR part 5, subpart G, the dwelling unit must have a living room, a kitchen area, and a bathroom. The dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

(c) *Lead-based paint.* 24 CFR 982.401(j) applies to assistance under this part.

Dated: June 5, 1998.

Andrew Cuomo,
Secretary.

[FR Doc. 98–17271 Filed 6–29–98; 8:45 am]

BILLING CODE 4210–32–P