

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the FCRHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and FCRHA-established requirements. All units must pass an HQS inspection prior to the approval of a lease and at least annually during the term of the contract.

HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and FCRHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the FCRHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the FCRHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- 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
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the FCRHA to enforce minimum HQS but also recognizes that certain judgments about acceptability of the unit are left to the family. For example, the FCRHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable

HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The FCRHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The FCRHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

FCRHA Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the FCRHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of FCRHA notification.

FCRHA Policy

The following are considered life-threatening conditions:

- Gas (natural or liquid petroleum) leak or fumes
- Electrical hazards that could result in shock or fire
- Inoperable or missing smoke detector
- Interior air quality (inoperable or missing carbon monoxide detector, where required)
- Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney or venting
- Lack of alternative means of exit in case of fire or blocked egress
- Other interior hazards (missing or damaged fire extinguisher, where required)
- Deteriorated paint surfaces in a unit built before 1978 and to be occupied by a family with a child under 6 years of age
- Any other condition subsequently identified by HUD as life-threatening in a notice published in the Federal Register
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent

danger of falling

- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Absence of a functioning toilet in the unit

If an owner fails to correct life-threatening conditions as required by the FCRHA, the FCRHA will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the FCRHA, the FCRHA will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the FCRHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental

investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the FCRHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the FCRHA will take action in accordance with Section 8-II.G.

FCRHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

FCRHA Policy

All medical professionals within Fairfax County are required to notify the Fairfax County Health Department whenever a child is diagnosed with an elevated blood lead level. The FCRHA has an agreement with the Fairfax County Health Department that it will notify the Director of Rental Assistance or his/her designee of any risk assessments conducted at an HCV-assisted unit. The FCRHA will take the appropriate steps as directed under 24 CFR 35.1225 to ensure the unit is compliant with lead-based paint regulations.

If during a regularly scheduled, special inspection or quality control inspection, the FCRHA observes indications of lead-based paint, the FCRHA will notify the owner/agent and the family of the failed HQS. If the owner/agent does not remedy lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 35.1330], the FCRHA will enforce owner compliance with HQS [8-II.G] and issue the family a voucher to move.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the FCRHA 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 FCRHA must issue the family a new voucher, and the family and FCRHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the FCRHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The FCRHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The FCRHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections.* HUD requires the FCRHA to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

Inspection of FCRHA-Owned Units [24 CFR 982.352(b)]

The FCRHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a FCRHA-owned unit. An FCRHA-owned unit is defined as a unit that is owned by the FCRHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the FCRHA). The independent agency must communicate the results of each inspection to the family and the FCRHA. The independent agency must be approved by HUD, and may be the unit of general local government for the FCRHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

FCRHA Policy

In the case of FCRHA-owned units, per MTW Activity 2014-3, the FCRHA is allowed to inspect FCRHA-owned units.

Inspection Costs

The FCRHA may not charge the family or owner for unit inspections or reinspections [24 CFR 982.405(e)]. In the case of inspections of FCRHA-owned units, the FCRHA may compensate the independent agency from ongoing administrative fee for inspections performed. The FCRHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow the FCRHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

FCRHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 6:00 p.m. In the case of a life-threatening emergency, the FCRHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the FCRHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

FCRHA Policy

When a family occupies the unit at the time of inspection an adult family member or adult family representative must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required. It is recommended that both the family and owner/agent are responsible for ensuring access is granted to the unit for a regularly scheduled or special inspection.

At the initial inspection of a vacant unit, the FCRHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

FCRHA Policy

The FCRHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Reinspections

FCRHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame (based on the nature and extent of the deficiencies) to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the FCRHA for good cause. The FCRHA will reinspect the unit within 5 business days of the date the owner notifies the FCRHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any FCRHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the FCRHA will notify the owner and the family that the unit has failed HQS and that the family may search for another unit depending on the severity of the failed item(s). The FCRHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

FCRHA Policy

Utility service must be available for testing at the time of the initial inspection. The FCRHA will inspect the unit to confirm that utilities are operational before the HAP contract is executed.

Appliances

FCRHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the FCRHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the FCRHA. The FCRHA can execute the HAP contract based upon a self-certification from the family that the appliances have been installed and are working based on documentation (e.g. pictures or videos). Or, a confirmatory inspection can be scheduled within 30 days of HAP contract approval.

8-II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must be inspected within 12 months of the last full HQS inspection.

FCRHA Policy

Although 24 CFR 982.405(a) provides that each unit under HAP contract must be inspected within 12 months of the last full HQS inspection, the FCRHA has been provided relief from this requirement under its MTW Activity 2014-3. The FCRHA conducts regularly scheduled HQS inspections for each unit under a HAP contract. Depending on the program, inspections may be conducted either annually, biennially, or triennially.

Program Type	Inspection Frequency
HCV	Triennially
RAD-PBV	50% of properties done biennially
Non-RAD PBV	Biennially
Homeownership program	Annually
FCRP – HOME funded*	Annually
TBRA programs*	Annually

*These programs are not part of the HCV program, but are included to provide a complete picture of the FCRHA's inspection compliance requirements.

Fifty percent of RAD project-based voucher (PBV) properties shall be inspected biennially. Shown below are the RAD PBV properties and which year (odd or even) they shall be inspected.

Property	Year (Odd or Even)
Greenwood Apartments	Odd
Rosedale Manor	Odd
Old Mill Garden	Odd
Robinson Square	Odd
Audubon	Odd
Villages at Falls Church	Odd
Reston Town Center	Odd
Westford I	Odd
Briarcliff II	Odd
Heritage Woods I	Odd
Shadowood	Odd
Heritage Woods South	Odd
Heritage Woods North	Odd
Water's Edge	Odd
Colchester Towne	Odd

Sheffield Village Square	Odd
Woodlawn Glen	Odd
Monroe Chase	Odd
Kingsley Park	Even
Creekside	Even
Westford III	Even
Ragan Oaks	Even
Barros Circle	Even
Belle View	Even
The Atrium	Even
Newington Station	Even
Westglade	Even
The Park	Even
Westford II	Even
Virginia Station	Even
Walney Oaks	Even
Springfield Green	Even
Greenwood II	Even
The Green	Even
Barkley Square	Even

The FCRHA, program participants, owners/agents, housing specialists, or a third-party management company have the option to request a special inspection at any time.

The FCRHA will not rely on alternative inspection standards.

8-II.D. SPECIAL INSPECTIONS [HCV GB, p. 10-30]

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the FCRHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the FCRHA must inspect the unit within 15 days of notification.

FCRHA Policy

In the case of life-threatening conditions, the FCRHA will contact the owner/agent and family by phone to schedule and conduct a special inspection within 24 hours from receiving notification of the life-threatening condition. [8-I.C and 8-II.F.].

In the case of non-life-threatening conditions, the FCRHA will contact the owner/agent and family by phone to schedule a special inspection within two (2) business days, from receiving notification of the non-life-threatening condition. The FCRHA will conduct the special inspection within five (5) business days from the date of the request for an inspection. If the unit fails inspection, a reinspection will be scheduled for 30-days from the fail date. [8-II.F].

During a special inspection, the FCRHA will inspect those deficiencies that were reported and record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the regularly scheduled inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled, the FCRHA may elect to conduct a full HQS inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

FCRHA Policy

The minimum number of annual-required quality control inspections is calculated based on the FCRHA’s total baseline voucher count, which is calculated using the following methodology.

Total Baseline Voucher Count	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
601-2,000	16 plus 1 for each 100 (or part of 100) over 600
Over 2,000	30 plus 1 for each 200 (or part of 200) over 2,000

Based on the FCRHA’s baseline voucher count, the number of annual quality control inspections will be calculated using the over 2,000 baseline voucher count formula [HCV GB, p. 10-32].

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the FCRHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

FCRHA Policy

If the unit meets HQS standards as required in 24 CFR 982.401, the inspector will notify the tenant and owner/agent of the passed inspection result in writing and will mail the notification letter via USPS within two (2) business days from the completed inspection.

If the unit does not meet HQS standards and life-threatening conditions are identified, the FCRHA will immediately notify the owner/agent and family by telephone, fax, or email. The inspector will identify the deficiency and communicate that the violation must be corrected within 24 hours. The FCRHA will verify that the deficiency has been corrected within 24 hours of the original notification period [8-I.C.].

If the unit does not meet HQS standards and the observed conditions are not life-threatening, the FCRHA will send the owner/agent and family a written notification of the inspection results within two (2) business days of the inspection via USPS first-class mail and if available, an e-mail notification may be sent as well.

The notice of inspection results will inform the owner/agent and family that non-life-threatening conditions must be corrected within the specified time frame (or any FCRHA-approved extension), The owner's HAP will be abated in accordance with FCRHA policy [8-II.G.]. Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any FCRHA-approved extension, if applicable) the family's assistance will be terminated in accordance with FCRHA policy [12.II.F].

Extensions

For conditions that are life-threatening, the FCRHA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the FCRHA may grant an exception to the required time frames for correcting the violation, if the FCRHA determines that an extension is appropriate [24 CFR 982.404].

FCRHA Policy

For conditions that are not life-threatening, extensions will be granted in cases where the FCRHA has determined that the responsible party [Chapter 8-I.D.] has made a good faith effort to correct the deficiencies and is unable to for reasons beyond their control.

Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available or they have been ordered and will be available within a specific time.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation has been requested.
- Incidents of hoarding where the tenant is making a good faith effort to correct the deficiency.

Requests for extensions must be fully documented and include supporting justification that may

include vendor purchase orders, back-order notifications, reasonable accommodation approvals, or hoarding evaluation documentation. Typically, extensions will only be granted for a period not to exceed 30 calendar days. However, at the discretion of the FCRHA, the length of the extension may exceed 30 calendar days due to circumstances such as pro-longed weather conditions, availability of resources due to wide-spread emergencies or reasonable accommodation needs to include hoarding.

Reinspections

FCRHA Policy

The FCRHA will conduct a reinspection immediately following the end of the corrective period, or any FCRHA approved extension. Based on the nature and extent of the deficiency (e.g. leaky faucet, etc.), the FCRHA may accept a certification from the owner that the deficiency has been corrected in lieu of a reinspection.

The family and owner will be given reasonable notice by telephone, facsimile, or email of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the FCRHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with FCRHA policies. If the FCRHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the FCRHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the FCRHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the FCRHA, HUD requires the FCRHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

FCRHA Policy

The FCRHA will abate HAP payments to owners who do not comply with notifications to correct HQS deficiencies within the required 30-day period from the initial fail action. The FCRHA will make all HAP abatements effective the first of the month following the expiration of the FCRHA specified correction period (including any approved extension). The owner will receive 30-day written notification of the abatement. The FCRHA will include the 30-day notice to abate in the original violations notice [8-II.F.] [8-II.G].

If the owner/agent corrects identified deficiencies and the unit passes HQS inspection prior to the first of the month or abatement effective date, the abatement action will be canceled [HCV GB p 10-29] and the FCRHA will reinstate HAP payments on the day the owner complies.

Following a failure to comply with notice of deficiency owners are not entitled to HAP payments from the first of the month following the expiration of the FCRHA specified correction period (including any approved extensions) until the day the unit passes HQS. The FCRHA will abate the monthly HAP for a period not to exceed 90 calendar days [8.II-G HAP Contract Termination]. If the owner/agent corrects the deficiencies and schedules the re-inspection with the FCRHA, the FCRHA will remove the abatement for the remaining months of the HAP contract after verifying the deficiencies have been corrected. For each day the required repairs are not completed during the abatement period, the owner/agent will not receive retroactive payment. As part of the failed reinspection and abatement process, a tenant will be offered a voucher to move to a new unit.

During the abatement period, the family has the option to remain in the unit through the 90-day abatement period and will continue to be responsible for its share of the rent. Or, the family can request a voucher to move. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction. If the tenant chooses to reside in the unit passed the 90-day abatement period, the tenant will be responsible for the unit's full contract rent.

The FCRHA will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The FCRHA must decide how long any abatement period will continue before the HAP contract will be terminated. The FCRHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The FCRHA will issue a voucher to permit the family to move to another unit.

FCRHA Policy

The maximum length of time that HAP may be abated is 90 calendar days from the abatement effective date, which starts on the first of the month following the first failed reinspection. However, if the owner/agent completes corrections and notifies the PHA before the 90-day termination of the HAP contract, the FCRHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

If the owner/agent fails to correct the deficiencies, the HAP contract will be terminated at the end of the 90-day abatement period. The FCRHA will give the tenant and owner/agent a reasonable notice of HAP contract termination of at least 30 days prior to the HAP termination effective date. Should the family remain in the unit beyond the HAP termination effective date, the family will be responsible for the unit's full rent.

If the owner/agent completes corrections and notifies the FCRHA before the termination of the HAP contract, the FCRHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Exceptions to this policy will be considered as a reasonable accommodation.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the FCRHA (and any extensions), the FCRHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until the FCRHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

FCRHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a FCRHA-owned unit, the FCRHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A FCRHA-owned unit is defined as a unit that is owned by the FCRHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the FCRHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the FCRHA. The independent agency must be approved by HUD, and may be the unit of general local government for the FCRHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The FCRHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The FCRHA (or independent agency in the case of FCRHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the FCRHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

FCRHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the FCRHA may

request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the FCRHA will consider unit size and length of tenancy in the other units.

The FCRHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner for an initial move-in. The FCRHA will determine whether the requested increase is reasonable within 15 business days of receiving the request from the owner for rent increase request. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the FCRHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

FCRHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the FCRHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the FCRHA to make a determination at any other time. The FCRHA may decide that a new determination of rent reasonableness is needed at any time.

FCRHA Policy

In addition to the instances described above, the FCRHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the FCRHA determines that the initial rent reasonableness determination was in error or (2) the FCRHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The FCRHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

Units that must not be used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Note: Notice PIH 2011-46, issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the FCRHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the FCRHA information regarding rents charged for other units on the premises.

8-III.D. FCRHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

FCRHA Policy

The FCRHA contracts with a market research company to collect and maintain data on market rents in the FCRHA's jurisdiction. Information sources include newspapers, rental websites, real estate and apartment owners associations, and other available sources. The data is maintained by market area, unit type, and bedroom size. Comparable data from all of Fairfax County is collected and analyzed through a regression analysis to determine a reasonable rent. The data is updated on an ongoing basis and rent information that is more than 12 months old is eliminated from the database.

How Rents Are Determined

FCRHA Policy

The rent for a unit proposed for HCV assistance will be compared to rents from the entire rental market, which are then adjusted according to statistically significant market variables.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference - not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) the concession is allocated over 12-months and subtracted from the monthly rent to arrive at the true base rent. For example, if a comparable project reports rents of \$500/month, but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 - (\$500/12) = \text{actual monthly rent of } \458 .

The FCRHA will notify the owner of the rent the FCRHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The FCRHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the FCRHA's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

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

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. 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.

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. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one].

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

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. 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 a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint 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.

Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the FCRHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

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 FCRHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

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.

Site and Neighborhood

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

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

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 person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of 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.* 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.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.