

[Federal Register: July 3, 1995 (Volume 60, Number 127)]

[Rules and Regulations]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 882, 887, 982, and 983

[Docket No. R-95-1628; FR-2294-F-02]

RIN 2577-AB14

Section 8 Certificate and Voucher Programs Conforming Rule

AGENCY: Office of the Assistant Secretary for Public and Indian

Housing, HUD.

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

Sec. 982.401 Housing quality standards (HQS).

(a) *Performance and acceptability requirements.*

- (1) This section states the housing quality standards (HQS) for housing assisted in the programs. Program housing must comply with the HQS, both at initial occupancy of the dwelling unit, and during the term of the assisted lease.
- (2)
 - (i) The HQS consist of:
 - (A) Performance requirements; and
 - (B) Acceptability criteria or HUD approved variations in the acceptability criteria.
 - (ii) This section states performance and acceptability criteria for these key aspects of housing quality:
 - (A) Sanitary facilities;
 - (B) Food preparation and refuse disposal;
 - (C) Space and security;
 - (D) Thermal environment;
 - (E) Illumination and electricity;
 - (F) Structure and materials;
 - (G) Interior air quality;
 - (H) Water supply;
 - (I) Lead-based paint;
 - (J) Access;
 - (K) Site and neighborhood;
 - (L) Sanitary condition; and
 - (M) Smoke detectors.
- (3) All program housing must meet the HQS performance requirements both at

- commencement of assisted occupancy, and throughout the assisted tenancy.
- (4) (i) In addition to meeting HQS performance requirements, the housing

[[Page 34709]]

must meet the acceptability criteria stated in this section, unless variations are approved by HUD.

- (ii) HUD may grant approval for the HA to use acceptability criteria variations that are based on local codes or national standards that satisfy the purposes of the HQS.
- (iii) HUD may approve acceptability criteria variations because of local climatic or geographic conditions.
- (iv) HUD will not approve acceptability criteria variations that will unduly limit the amount and types of available rental housing stock.

(b) Sanitary facilities.--

(1) Performance requirements.

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

(2) Acceptability criteria.

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

(c) Food preparation and refuse disposal.--

(1) Performance requirement.

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

(2) Acceptability criteria.

- (i) The dwelling unit must have an oven, and a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. The equipment may be supplied by either the owner or the family. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or

range to both subsidized and unsubsidized tenants in the building or premises.

- (ii) The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.
- (iii) The dwelling unit must have space for the storage, preparation, and serving of food.
- (iv) There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

(d) Space and security.--

(1) Performance requirement.

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

(2) Acceptability criteria.

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

(e) Thermal environment.--

(1) Performance requirement.

The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

(2) Acceptability criteria.

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

(f) Illumination and electricity.--

(1) Performance requirement.

Each room must have adequate natural or artificial illumination to permit normal indoor

activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. The electrical fixtures and wiring must ensure safety from fire.

(2) Acceptability criteria.

- (i) There must be at least one window in the living room and in each sleeping room.
- (ii) The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.
- (iii) The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

(g) Structure and materials.--

(1) Performance requirement.

The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

(2) Acceptability criteria.

- (i) Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.
- (ii) The roof must be structurally sound and weathertight.
- (iii) The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- (iv) The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.
- (v) Elevators must be working and safe.

(h) Interior air quality.--

(1) Performance requirement.

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

(2) Acceptability criteria.

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

(i) Water supply.

(1) Performance requirement.

The water supply must be free from contamination.

(2) Acceptability criteria.

The dwelling unit must be served by an

[[Page 34710]]

approvable public or private water supply that is sanitary and free from contamination.

(j) Lead-based paint performance requirement.--

(1) Purpose and applicability.

- (i) The purpose of paragraph (j) of this section is to implement section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning for units assisted under this part. Paragraph (j) of this section is issued under 24 CFR 35.24 (b)(4) and supersedes, for all housing to which it applies, the requirements of subpart C of 24 CFR part 35.
- (ii) The requirements of paragraph (j) of this section do not apply to 0-bedroom units, units that are certified by a qualified inspector to be free of lead-based paint, or units designated exclusively for elderly. The requirements of subpart A of 24 CFR part 35 apply to all units constructed prior to 1978 covered by a HAP contract under part 982.

(2) Definitions.

Chewable surface. Protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age; for example, protruding corners, window sills and frames, doors and frames, and other protruding woodwork.

Component. An element of a residential structure identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

Defective paint surface. A surface on which the paint is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level (EBL). Excessive absorption of lead. Excessive absorption is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive tests 3-4 months apart.

HEPA means a high efficiency particle accumulator as used in lead abatement vacuum cleaners.

Lead-based paint. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 milligram per centimeter squared (mg/cm²), or 0.5 percent by weight or 5000 parts per million (PPM).

(3) Requirements for pre-1978 units with children under 6.

- (i) If a dwelling unit constructed before 1978 is occupied by a family that includes a child under the age of six years, the initial and each periodic inspection (as required under this part), must include a visual inspection for defective paint surfaces. If defective paint surfaces are found, such surfaces must be treated in accordance with paragraph (j)(6) of this section.
 - (ii) The HA may exempt from such treatment defective paint surfaces that are found in a report by a qualified lead-based paint inspector not to be lead-based paint, as defined in paragraph (j)(2) of this section. For purposes of this section, a qualified lead-based paint inspector is a State or local health or housing agency, a lead-based paint inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD.
 - (iii) Treatment of defective paint surfaces required under this section must be completed within 30 calendar days of HA notification to the owner. When weather conditions prevent treatment of the defective paint conditions on exterior surfaces within the 30 day period, treatment as required by paragraph (j)(6) of this section may be delayed for a reasonable time.
 - (iv) The requirements in this paragraph (j)(3) apply to:
 - (A) All painted interior surfaces within the unit (including ceilings but excluding furniture);
 - (B) The entrance and hallway providing ingress or egress to a unit in a multi-unit building; and
 - (C) Exterior surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).
- (4) Additional requirements for pre-1978 units with children under 6 with an EBL.
- (i) In addition to the requirements of paragraph (j)(3) of this section, for a dwelling unit constructed before 1978 that is occupied by a family with a child under the age of six years with an identified EBL condition, the initial and each periodic inspection (as required under this part) must include a test for lead-based paint on chewable surfaces. Testing is not required if previous testing of chewable surfaces is negative for lead-based paint or if the chewable surfaces have already been treated.
 - (ii) Testing must be conducted by a State or local health or housing agency, an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be

tested by using an X-ray fluorescence analyzer (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, treatment of the paint surface in accordance with paragraph (j)(6) of this section is required, and treatment shall be completed within the time limits in paragraph (j)(3) of this section.

- (iii) The requirements in paragraph (j)(4) of this section apply to all protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age:
 - (A) Within the unit;
 - (B) The entrance and hallway providing access to a unit in a multi-unit building; and
 - (C) Exterior surfaces (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).
- (5) Treatment of chewable surfaces without testing. In lieu of the procedures set forth in paragraph (j)(4) of this section, the HA may, at its discretion, waive the testing requirement and require the owner to treat all interior and exterior chewable surfaces in accordance with the methods set out in paragraph (j)(6) of this section.
- (6) Treatment methods and requirements. Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:
 - (i) A defective paint surface shall be treated if the total area of defective paint on a component is:
 - (A) More than 10 square feet on an exterior wall;
 - (B) More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors, and interior walls; or
 - (C) More than 10 percent of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, window sills, baseboards and trim.
 - (ii) Acceptable methods of treatment are: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infra-red or coil type heat gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydroblasting or high pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joints and edges sealed and caulked as needed to prevent the escape of lead contaminated dust.
 - (iii) Prohibited methods of removal are: open flame burning or torching; machine sanding or grinding without a HEPA exhaust; uncontained

hydroblasting or high pressure wash; and dry scraping except around

- electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totalling no more than twenty square feet on exterior surfaces.
- (iv) During exterior treatment soil and playground equipment must be protected from contamination.
 - (v) All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution.
 - (vi) Waste and debris must be disposed of in accordance with all applicable Federal, state and local laws.
- (7) Tenant protection. The owner must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures. Residents must not enter spaces undergoing treatment until cleanup is completed. Personal belongings that are in work areas must be relocated or otherwise protected from contamination.
 - (8) Owner information responsibilities. Prior to execution of the HAP contract, the owner must inform the HA and the family of any knowledge of the presence of lead-based paint on the surfaces of the residential unit.
 - (9) HA data collection and recordkeeping responsibilities.
 - (i) The HA must attempt to obtain annually from local health agencies the names and addresses of children with identified EBLs and must annually match this information with the names and addresses of participants under this part. If a match occurs, the HA must determine whether local health officials have tested the unit for lead-based paint. If the unit has lead-based paint the HA must require the owner to treat the lead-based paint. If the owner does not complete the corrective actions required by this section, the family must be issued a certificate or voucher to move.
 - (ii) The HA must keep a copy of each inspection report for at least three years. If a dwelling unit requires testing, or if the dwelling unit requires treatment of chewable surfaces based on the testing, the HA must keep the test results indefinitely and, if applicable, the owner certification of treatment. The records must indicate which chewable surfaces in the dwelling units have been tested and which chewable surfaces in the units have been treated. If records establish that certain chewable surfaces were tested or tested and treated in accordance with the standards prescribed in this section, such chewable surfaces do not have to be tested or treated at any subsequent time.

(k) Access performance requirement.

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

(l) Site and Neighborhood.--

- (1) Performance requirement. The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.
- (2) Acceptability criteria. The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

(m) Sanitary condition.--

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

(n) Smoke detectors performance requirement.--

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

ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24CFR 982.401(a)]

The HA adheres to the acceptability criteria in the program regulations and HUD Inspection Booklet **with the additions described below.**

Additions to HQS:

Walls:

- * Any exterior or interior surfaces with graffiti must be painted with as many coats as needed to cover the graffiti. Paint must be unleaded or other suitable material.**
- * All units must be painted every five years, or more frequently if deemed necessary by the Inspector.**
- * In areas where plaster, stucco or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.**
- * In areas where brick(s) or tile(s) are broken, missing or otherwise damaged, it must be repaired or replaced.**
- * Any exterior or interior surfaces with peeling or chipping paint must be scraped and painted with two coats of unleaded paint or other suitable material.**
- * Any exterior vents must be covered and prevent rodents from entering the unit.**
- * All walls in a tub or shower area must be covered with ceramic tile or other material that is impervious to water to prevent water damage and eventual deterioration.**

Windows:

- * Windows must be weatherstripped as needed to ensure a watertight seal.**
- * All openable windows must have a properly fitting screen in good condition.**
- * All windows must have clean, intact and proper fitting window**

coverings.

Doors:

- * All exterior doors must be weather tight to avoid any air or water infiltration, have no holes, have all trim intact, and have a threshold.**
- * All interior doors must have no holes, have all trim intact, and be openable without the use of a key.**
- * All exterior doors must have dead bolt locks.**

Floors:

- * All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.**
- * All floors must be in a finished state (no plywood).**
- * All floors should have some type of base shoe, trim, or sealing for a “finished look.” Vinyl base shoe may be used for kitchens and bathrooms.**

Sinks:

- * All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.**
- * All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.**
- * All sinks must have functioning stoppers.**

Security:

- * If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.**
- * Owners are responsible for providing and replacing old batteries for smoke detectors in units. Tenants will be instructed not to tamper with smoke detectors or remove batteries.**

Bedrooms:

- * A bedroom must have a floor area of not less than seventy (70) square feet.**
- * Bedrooms in basements or attics are not allowed unless they meet local code requirements and must have adequate ventilation and emergency exit capability.**
- * Minimum bedroom ceiling height is 7'6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.**

Landscaping:

- * All yards must conform with neighborhood standards.**

Parking:

- * One parking space off of the street must be provided.**

Screens:

- *All windows and sliding glass doors must have functional screens.**

Cabinets:

- * All cabinet drawers and doors must be in tact.**

Countertops:

- * In areas where tile is broken or grout is missing, it must be repaired or replaced.**
- * Any surface that is cracked, torn or missing must be replaced or repaired.**

Refrigerator:

- *A refrigerator must be operating.**

Thermal Environment:

- * An adequate heating and cooling system must be operational in the unit.**

Modifications:

- * Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.**
- * Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. HA will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.**

COMMONLY MISSED ITEMS

This form is a courtesy provided to owners and residents for use in preparing for initial or yearly inspections. Please note that all utilities (water and PG&E) must be operating at the time of the inspection.

The following list will help identify the most common items that arise during inspections. Please correct any deficiencies prior to the inspection date. **There may be additional considerations at the time of inspection.**

Thank you for your attention.

1. The unit must be clean
2. Exterior yards must be groomed and free of trash and obstacles
3. If resident occupies unit--good housekeeping is required
4. No holes in walls or ceiling
5. No cracked or broken windows
6. No missing or torn screens--glass sliding doors must have screen doors
7. No peeling paint on exterior OR interior of unit
8. Must have working stove and refrigerator (all burners on stove must work properly).
Above appliances must be installed by owner or resident.
9. Overhead fan is required for GAS stoves (gravity vent is permissible)
10. All outlets must have plate covers
11. Hot water heater must have pop-off valve
12. Must have an OPERATING smoke alarm (chirping noise means weak battery)
13. Locks on all windows
14. No chipped porcelain (exposed black spots) on kitchen sink, bath basin or tub
15. No torn carpet or linoleum that can be a hazard
16. All plumbing must work properly, no dripping faucets
17. Must have a rail for four steps or more
18. Must have working fan in enclosed bathroom (exhaust fan must be plugged in)
19. Must have working cooling system and heater (no matter what season it is)
20. Garage door must open and close properly
21. Owner CANNOT store personal items in resident's garage or storage place
22. In garage--no loose wiring or exposed wiring (must be covered by conduit covering)
23. All hardware must be in place and working--i.e. door knobs, cabinet drawer handles, closet rods, toilet dispenser rods, fixture covers, switch plates and stove knobs in place

24. All outlets in wet areas must have three-pronged, grounded outlets (in kitchen, bathroom, utility rooms, etc.) or GFCI plugs.

ATTENTION!

Existing participants, residents transferring assistance from one unit to another, and participants transferring their assistance from a county outside of Fresno: The lease will be made effective the day of the inspection **IF** the unit passes. If unit fails the inspection, the LEASE WILL NOT BE BACKDATED. The effective date will be the day that all repairs are completed. The resident is responsible for the full contract rent until the unit passes inspection.

Residents who are new to the program: The lease will be made effective the day of the inspection IF the unit passes. If it fails, the effective date will be the day all repairs are completed. The resident is responsible for the full contract rent until the unit passes inspection.

FILE NAME: 717

1/9/98 sjk/wpwin/wpdocs/forms