

THIS NOTICE IS PENDING PUBLICATION IN THE FEDERAL REGISTER.

Department of Housing and Urban Development

[Docket No. FR-6086-N-05]

National Standards for the Physical Inspection of Real Estate: Inspection Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Office of the Assistant Secretary for Community Planning and Development, Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final notice.

SUMMARY: This notice of NSPIRE Inspection Standards serves as a complementary document to the Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) rule. The rule provides that HUD publish in the *Federal Register* a set of NSPIRE inspection Standards to consolidate and align housing quality requirements and associated inspection Standards across programs. After developing and testing draft Standards and receiving public comment on prior versions of the Standards, HUD is providing the final NSPIRE physical inspection Standards to accompany HUD’s final rule. Additionally, HUD is providing a list of life-threatening conditions and incorporating them into the NSPIRE inspection Standards in place of codifying the list, which HUD proposed in the “Housing Opportunity Through Modernization Act (HOTMA) of 2016—Housing Choice Voucher (HCV) and Project Based Voucher Implementation: Additional Streamlining Changes” proposed rule. These final Standards adopt the proposed Standards with changes identified in this notice.

DATES: Effective July 1, 2023.

FOR FURTHER INFORMATION CONTACT: Marcel M. Jemio, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410-4000, telephone number 202-708-1112 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Previous Standards and Programs

Prior to implementation of the NSPIRE rule, there were two inspection models used across the majority of HUD housing programs: Housing Quality Standards (HQS), developed in the 1970s and applicable to housing assisted under the Housing Choice Voucher and Project Based Voucher program, which were found at 24 CFR 982.401; and the Uniform Physical Condition Standards (UPCS) developed in the 1990s and applicable to the programs listed at 24 CFR 5.701, which were found at 24 CFR 5.703 with the dictionary of individual UPCS deficiencies contained in a *Federal Register* notice.¹

II. NSPIRE Rule

On May 11, 2023, HUD published the final rule “Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate” (88 FR 30442) to align expectations of housing quality and consolidate inspection standards across HUD programs.

¹ 77 FR 47707 (Aug. 9, 2012), <https://www.federalregister.gov/documents/2012/08/09/2012-19335/public-housing-assessment-system-phas-physical-condition-scoring-notice-and-revised-dictionary-of>

The rule at 24 CFR 5.709 explains that HUD will publish a notice establishing the NSPIRE Standards and will subsequently update these Standards through future *Federal Register* notices at least once every three years with an opportunity for public comment. This will provide further opportunity for the public to examine proposed changes, provide pertinent comments, and suggest the inclusion of industry best practices. This three-year Standards development cycle aligns with cycles used by standards development organizations (SDOs) in the model building codes and life safety industries. A three-year review cycle will also allow HUD to be more responsive to the ever-changing public and assisted housing portfolio and evolving needs and research findings in the field.

III. NSPIRE Standard Development and Background

The unified NSPIRE Standards will be used to evaluate compliance with HUD's expectations of housing quality across the distinct programs governed by the regulatory alignment offered in the NSPIRE rule. Consistent with the NSPIRE rule, the unified NSPIRE standards contribute to a unified inspection protocol for three different overarching programs: programs for housing assisted under the U.S. Housing Act of 1937 other than section 8 of the Act ("Public Housing"), programs previously under the Housing Quality Standards regulations at 24 CFR 982.401 (HQS regulations), and programs already covered under 24 CFR part 5, subpart G ("Multifamily housing").

With one exception, CPD programs are not subject to the requirements or standards issued through this notice. CPD programs used standards that are replaced by NSPIRE and, consistent with the preamble to the final rule, HUD will be issuing program-specific notices to address implementation of NSPIRE Standards for CPD programs. The one exception involves the Housing Opportunities for Persons with AIDS (HOPWA) program, which is the only CPD

program covered by the statutory requirement on installation of carbon monoxide detection devices. With respect to that carbon monoxide detection requirement, the standards HUD is establishing for units and inside area under this notice also apply for purposes of the HOPWA program. In all other respects, this notice and these standards do not apply for purposes of the HOPWA program.

Throughout the development of NSPIRE, HUD has provided multiple avenues for industry and public input on the Standards. In September 2019, HUD began publishing draft NSPIRE Standards on HUD's website. The original and subsequent versions of the Standards represent input from industry stakeholders and the public via workshops, webinars, and feedback received through HUD's NSPIRE website.

HUD's approach to Standards development follows a defined set of core principles: people-centered design, a focus on efficiency, science-based rationales, continuous collaborative improvement, and streamlined operations. HUD's principles of standards development are designed to ensure that standards:

- Are developed according to an evidence-based methodology that ensures reliability and defensibility;
- Prioritize resident health, safety, and functionality of property features, ensuring that residents are living in habitable homes;
- Promote iterative collaboration and feedback; and
- Focus on streamlining inspections processes, ensuring that standards can be executed consistently across programs.

On June 17, 2022, HUD published a request for comments on a draft set of NSPIRE Standards, "Request for Comments: National Standards for the Physical Inspection of Real

Estate and Associated Protocols” (87 FR 36426) (“proposed NSPIRE Standards notice”); HUD received 80 comments in response to that request for comments. HUD is now finalizing these Standards with changes based on the feedback HUD has received. HUD identifies the major changes and particularly pertinent comments below.

IV. HOTMA Life Threatening List

Under the Housing Opportunity Through Modernization Act of 2016 (HOTMA), as described in the preamble of the NSPIRE proposed rule and NSPIRE final rule, under the HCV and Project Based Voucher (PBV) programs, life-threatening deficiencies must be addressed within 24 hours, and all other deficiencies within 30 days or a reasonable longer period as established by the Public Housing Agency (PHA).² Under HOTMA, PHAs can allow families participating in the HCV and PBV programs to move into their unit prior to the unit passing the HQS, but only if there are no life-threatening conditions identified in the initial inspection.

Consistent with HOTMA, HUD published a list of life-threatening conditions (“HOTMA LT List”) through *Federal Register* notice “Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions” (82 FR 5458).

In the proposed rule “Housing Opportunity Through Modernization Act of 2016-Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes” (85 FR 63664) (“HOTMA Proposed Rule”), HUD proposed to incorporate this list into 24 CFR 982.401. In the proposed NSPIRE Standards notice, HUD proposed to instead include the HOTMA LT List in the NSPIRE Standards. HUD received comments on the HOTMA LT List in both the HOTMA Proposed Rule and the Proposed NSPIRE Standards notice. HUD has

² Pub. L. 114-201, enacted July 29, 2016.

chosen to go forward with the proposal in the NSPIRE proposed Standards notice and includes the HOTMA LT list in these final NSPIRE Standards.

HUD has included the HOTMA LT List in the NSPIRE Standards and not in regulation and provides this list as Table 65 of the Standards. HUD believes that this consolidation is consistent with HUD's goal of consolidating standards. All NSPIRE Standards apply for the HCV and PBV programs, except where variant inspection standards apply.³ In the NSPIRE Standards, Deficiencies which are considered life-threatening for purposes of the HCV and PBV programs are noted with a 24-hour HCV Correction Timeframe. The HOTMA LT list applies for all PHAs in the HCV and PBV programs, and not only those choosing to implement the Non-Life-Threatening provision offered under HOTMA and PIH Notice 2017-20.

HUD received several comments on the HOTMA LT list. HUD carefully considered each of these comments and specifically discusses two overarching issues identified by commenters below.

First, commenters recommended local discretion in designating LT conditions. For example, commenters noted that PHAs in areas with warm climates may wish to require air conditioners. Commenters also suggested that PHAs may wish to provide increased specificity for certain technical aspects of some deficiencies. HUD notes that additional LT conditions may be added locally by the PHA. This must be done with HUD approval. HUD further clarifies that while local *addition* of LT conditions is allowed, LT conditions established by HUD cannot be *removed* at the local level.

Second, commenters stated that the HOTMA LT list should be codified in the CFR, which would require HUD to use notice and comment rulemaking to revise the LT list.

³ The rules and procedures for variant standards and alternate exceptions for the HCV and PBV programs are not changing under NSPIRE and are recognized at §§ 5.705(a)(3) and 5.703(g) of the NSPIRE final rule.

Commenters stated this would provide decision-making transparency and opportunity for public input.

The HOTMA LT list will not be codified in the CFR. This approach is consistent with the prior rule, which allowed for setting standards through notice. HUD will provide decision-making transparency and opportunity for public input by developing updates to the Standards through *Federal Register* notices with the prior opportunity for comment. As outlined in 24 CFR 5.709, HUD will publish updates to these Standards through future *Federal Register* notices at least once every three years with an opportunity for public comment. This will allow the public to examine proposed changes, provide comments, and suggest changes. This will also allow HUD to more frequently revise the Standards than rulemaking would allow, thereby allowing for increased sensitivity to changing technologies and advancing scientific understanding of building science and public health and safety.

V. Changes and Clarifications to the NSPIRE Standards

After considering comments received on the proposed NSPIRE Standards notice, feedback received through the NSPIRE demonstration, and feedback received through input from HUD partners, industry stakeholders, and the public for development of these final NSPIRE Standards, HUD is now publishing this Final Standards Notice.

HUD received comments on numerous Standards and deficiencies in response to the NSPIRE proposed Standards notice. Below, HUD discusses major changes made from the NSPIRE proposed Standards notice and discusses some of the comments HUD received. In addition to the broader comments addressed below, numerous additional technical comments were received, and those technical comments were integrated into the revision leading to the final version of the NSPIRE Standards.

Smoke Alarms

Consistent with the NSPIRE Final Rule, the Smoke Alarm Standard incorporates prescriptive locations for the installation of smoke alarms. These Standards are consistent with National Fire Protection Association (NFPA) Standard 72 – National Fire Alarm and Signaling Code. This will introduce new requirements for smoke alarms by requiring installation on each level and inside each sleeping area. This is aligned with the incorporation by reference of National Fire Protection Association Standard 74 or any successor standard thereto (this successor standard is currently NFPA 72) in the National Fire Protection Act of 1992 (Pub. L. 102-522; 15 USC 15557) and of NFPA 72 and successor standards in the Public and Federally Assisted Housing Fire Safety Act of 2022,⁴ which was enacted after the publication of the proposed NSPIRE Standards notice. The NSPIRE Smoke Alarm Standard does not require that the smoke alarm have a sealed battery; however, upon the effective date of the Public and Federally Assisted Housing Fire Safety Act of 2022 on December 29, 2024, which is two years after the date of enactment, sealed batteries *will* be required.

Commenters raised concern about the cost of installation of smoke alarms in properties where smoke alarms are not currently installed.

HUD believes that smoke alarms are essential to resident safety, to prevent death and injury, and therefore smoke alarms are critical to the NSPIRE inspection process. Additionally, smoke alarms are required by federal law (Public and Federally Assisted Housing Fire Safety Act of 2022). For further discussion on smoke alarms, please see additional comments and responses in the Final Rule and see the RIA for analysis of the benefits and costs of this change in smoke alarm inspections.

⁴ See Section 601, “Public and Federally Assisted Housing Fire Safety Act of 2022” of Title VI of Division AA, Financial Services Matters, Pub. L. 117-328, 136 Stat. 4459 (2022).

Carbon Monoxide Alarms

The Final Carbon Monoxide Alarm Standard incorporates statutory requirements⁵ for HUD Housing to contain carbon monoxide detectors either in compliance with Chapters 9 and 11 of the 2018 International Fire Code (IFC) published by the International Code Council, or to comply with the standards adopted by HUD through notice. As such, there was a significant change from the proposed Carbon Monoxide Alarm Standard in the Final Carbon Monoxide Alarm Standard regarding the “Inside Area”⁶ location. Classrooms are no longer included in the Standard as an affirmative requirement for the installation of alarms because the statute limits the requirement to install carbon monoxide detectors to units, which HUD interprets to allow HUD to require carbon monoxide detectors in units or in Inside Areas where such installation protects the Unit from potential sources of carbon monoxide originating from outside the unit. This Standard is substantively consistent with Chapters 9 and 11 of the 2018 IFC, and HUD is not adopting an alternate standard.

The Final NSPIRE Rule requires compliance with HUD carbon monoxide standards in both the Inside Area and the Unit. Deficiency 1 addresses both the Inside Area and Unit requirement. Deficiency 1 is categorized as a “Unit” deficiency because deficiencies will be counted per affected unit.

A commenter suggested that the CO requirement and related inspection Standard go out as a separate rulemaking.

⁵ See Section 101, “Carbon Monoxide Alarms or Detectors in Federally Insured Housing” of Title I of Division Q, Financial Services Provisions and Intellectual Property, of the Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 2162 (2020).

⁶ As discussed in other documents, “Inside Area”, as well as “Units” and “Outside area” are the three areas of inspection.

As discussed further in the NSPIRE Final Rule, because these conforming rule changes merely codify a new statutory requirement, HUD has determined that additional notice and public comment is unnecessary.

A commenter inquired if carbon monoxide detectors would be required if there were a fuel-burning appliance or fuel-burning fireplace outside, in areas not connected to the unit.

In limited circumstances, if there are communicated openings to the unit, a fuel-burning appliance or fireplace outside the unit may trigger the CO detector requirement. However, in most circumstances, CO detectors will only be required if the fuel burning appliance or fireplace is directly attached to or within the unit or if an unventilated garage is attached to the unit. HUD emphasizes that if there is an attached, unventilated garage, CO detectors are required, even if there is not a fuel-burning appliance or fuel-burning fireplace in the unit or building.

Door – Entry

The severity level for unit entry door has been elevated to Life-Threatening. Although a unit entry door may not be a fire labeled door, it may still offer some level of protection from fire and smoke during the outbreak of a fire. The presence of a non-fire-labeled unit entry door provides residents with an opportunity to shelter in place while a fire is extinguished or be rescued by emergency personnel. The health and safety risk to a resident occupying a unit missing an entry door during a fire could rise to the level of Life-Threatening. Additionally, a missing unit entry door may negatively affect the physical safety and security of resident.

Egress

Deficiency criteria for this Standard have been changed to assure alignment with state and local code requirements for egress. The Standard now aligns with those requirements by requiring bedroom window egress only for units in the building's 3rd level and below, and living

room windows are not considered egress for the purposes of this Standard, unless there is a fire escape present.

Electrical – Conductor

Commenters suggested that a missing lightbulb should not be considered a Life-Threatening condition, noting that this is a commonly encountered condition that is readily remedied (for example, by placing a new lightbulb in the socket).

Given that a missing lightbulb has not been identified as a systemic safety concern in the most recent research in residential electrical safety, a missing light bulb will not be cited as an exposed conductor. However, a missing light bulb may be cited under the Lighting – Interior Standard as an inoperable fixture if a light bulb is not installed during the inspection to demonstrate the fixture is in proper working condition.

The unprotected outlet Deficiency (“An unprotected outlet is present within six feet of a water source”) was moved from the Electrical – Outlet and Switch Standard to the Electrical – Ground-Fault Circuit Interrupter (GFCI) or Arc-Fault Circuit Interrupter (AFCI) – Outlet or Breaker, and GFCI is now specified as a requirement, following the Final NSPIRE Rule. This was for clarity of presentation of the Deficiencies and to assure compliance with the Final NSPIRE Rule.

The Electrical – Outlet and Switch Standard and the Electrical – Conductor Standard, which were separate in the proposed Standards, have been combined into a single Standard for the Final Standards Notice: Electrical - Conductor, Outlet, and Switch. This was for clarity of presentation of the Deficiencies. A Deficiency has been added to that final Standard, “Water is currently in contact with an electrical conductor” due to the shock and fire risks associated with this condition.

A commenter expressed concern that, with a “Leak” deficiency in the “Electrical – Conductor” Standard, remnant water stains (and not active leaks) may be cited as a deficiency, and suggested that only currently active water stains should be cited. The commenter also noted that certain electronic components are designed to be used in wet locations. Furthermore, the commenter stated that there is already a Leak Standard, that is not specific to leaks near electrical components.

HUD agrees with these comments and has clarified the definitions to state that only active leaks are to be cited, and that leaks near a component confirmed to be waterproof would not be cited. HUD clarifies that a leak cited under this deficiency will not also be cited under the “Leak” deficiency.

A commenter noted that there are existing local or state jurisdictions that already have requirements for electrical safety.

HUD emphasizes that local code requirements must be met for all HUD-assisted housing. Please see HUD’s discussion below, under “‘Safe’ Drinking Water,’ on superseding local code.

Fire Labeled Doors

The Fire Labeled Door Standard includes deficiency criteria specific to these types of doors where present. The deficiencies include function and operability criteria critical to the function of these fire safety components where present in buildings.

A commenter suggested that the Fire Door Standard should only apply if there is already an existing fire door (or doors), and that there should not be an affirmative requirement for Fire Doors in HUD assisted housing.

HUD agrees that the Fire Door Standard should only apply for Fire Doors that are already present and is taking this opportunity to emphasize that under NSPIRE Fire Doors will not be a

new affirmative requirement. HUD believes that Fire Doors are essential to resident safety, to prevent death and injury, and therefore Fire Doors that are present will be inspected under NSPIRE and where present must operate effectively to reduce risk of death or injury due to fire and related hazards.

A commenter stated that the Fire Door inspection may require additional technical training for inspectors and inquired about technical requirements for inspectors to inspect fire doors.

HUD acknowledges the technical training and educational requirements necessary to assess Fire Doors. Training required for this inspection will be provided. NSPIRE Inspectors would not be performing a technically exhaustive Fire Door inspection themselves and would receive training as to when to refer potential issues to an appropriate, technically trained and proficient individual.

Graffiti

The Graffiti Standard has been removed. In the proposed NSPIRE Standards, HUD had carried Graffiti through from prior versions of HUD inspection Standards. A commenter on the proposed Standards pointed out that Graffiti does not have a clear health and safety risk. HUD has reviewed this Standard and believes that it is unnecessary and therefore is removing it from the NSPIRE Standards.

Guardrails

The Guardrail Standard includes prescriptive deficiency criteria for guardrails where missing above elevated surfaces to protect from fall hazards along balconies, stairs, ramps, decks, rooftops, hallways, retaining walls, and other walking surfaces.

A commenter raised concern about the cost of installation of guardrails in properties where guardrails are not currently installed.

HUD believes that guardrails are essential to resident safety, to prevent death or injury from falls, and therefore guardrails are critical to the NSPIRE inspection process. Guardrails are commonly required in local codes and therefore are an existing requirement under those local codes. Therefore, for many localities, this will not be a new requirement, and therefore this is not expected to have a material cost, under the NSPIRE rule. Please see the Final Rule's RIA for further explanation and analysis.

Handrails

The Handrail Standard includes a deficiency for handrails that are not functionally adequate and cannot reasonably be grasped by hand to provide stability or support when ascending or descending stairways.

The Handrail Standard also includes a new deficiency for stairs where no handrail is present and there is no evidence of previous installation. This deficiency is different from the deficiency for a missing handrail where there is evidence of previous installation. This deficiency will not be scored and there is no requirement for a correction. Given the significant health impacts resulting from trip and fall injuries, it would benefit still benefit properties to address these risks expeditiously. The data from this deficiency will be monitored and an affirmative requirement for handrails will be considered for the standards in future rule making.

Infestation

The Infestation Standard includes deficiencies based on discrete levels of observed conditions, and refinement of the associated Health and Safety categorizations.

Commenters discussed adverse health outcomes attributable to infestation in the home and asserted that there are conditions in the home related to infestation that should be categorized as Life-Threatening. While some infestation deficiencies would be expected to have severe impacts on health and safety of the resident – for example, the documented effect of cockroaches on asthma – pest infestations are not documented to be life-threatening per the NSPIRE definition (i.e., presenting “a high risk of death to the resident”).

Commenters suggested that the Correction Timeframe should not be based on eradication of the pests, but should be based on initiation of an appropriate pest management plan. That is, all pests would not need to be eradicated within the Correction Timeframe, but the POA should have an appropriate pest management plan implemented within the correction timeframe.

HUD confirms that initiation of an appropriate pest management plan meets the requirement for correction, with the understanding that, while pests may still be present at the start of the pest management plan, they will be managed through the pest management plan. Ongoing implementation of an appropriate pest management plan (i.e., a pest management plan documented and initiated prior to the inspection) will also satisfy this condition. Within the correction timeframe, documentation must be provided for the pest management plan, and this documentation must include: start date of the plan; servicing schedule; methods of pest monitoring, managing and treatment; and other factors as determined by HUD, the PHA, and/or other relevant authority. Integrated Pest Management (IPM) is strongly encouraged; IPM, broadly stated, uses prevention-based pest management methods, with a focus on:

- Identifying and correcting building conditions that contribute to infestation;
- Reducing use of pesticides (especially routine or untargeted pesticide application);
- Modification of hygiene and sanitation practices in and on the property; and

- Assessment and on-going monitoring to assure appropriate interventions as needed.

A commenter suggested that additional pest species should be included in the Infestation Standard including ants, spiders, fleas, raccoons, squirrels, and snakes.

The presence of any pest (i.e., an animal or animals with potential impacts on resident health and safety) would constitute evidence of an infestation and therefore be counted as a deficiency. The presence of rats, mice, cockroaches, and bed bugs specifically are each identified as separate deficiencies because they are common forms of infestation that present certain health risks and challenges that HUD wishes to identify specifically. This is not intended to be a complete list of pests, and additional pests are noted in the “other pests” Deficiency of the Infestation Standard. Therefore, those pests identified by the commenter are covered under the Infestation Standard and would constitute a deficiency if present.

Mold-Like Substance

The Mold-Like Substance Standard includes deficiencies based on discrete levels of observed conditions and a ventilation or dehumidification requirement for bathrooms to reduce conditions conducive to mold growth. The Deficiency “Presence of mold-like at very low levels is observed visually” has been removed, as concerns were raised with regards to move-in for HCV programs (presence of LT conditions prevents move-in for HCV residents).

Commenters discussed adverse health outcomes attributable to mold in the home and asserted that there are conditions in the home related to mold that should be categorized as Life-Threatening.

HUD agrees that certain Mold-Like Substance conditions should be considered Life-Threatening. Presence of Mold-like Substance at extremely high levels in the Unit is considered a Life-Threatening Deficiency.

A commenter asked whether the ventilation Deficiency in the Mold-Like Substance Standard includes an affirmative requirement for mechanical ventilation, a window (in the bathroom), or a dehumidifier.

For this Standard and Deficiency, HUD is not being prescriptive as to the means of reducing humidity in a bathroom. This requirement may be met by one or more of the methods noted by the commenter (mechanical ventilation, an openable window, a dehumidifier); however, other means may also be employed to reduce the humidity below levels conducive to mold growth.

A commenter suggested that using instrumentation such as moisture meters and infrared cameras would add to the time it would take to perform the inspection, and that use of the equipment would require technical training.

HUD believes that any increased inspection time would be warranted by the increased attention to critical health and safety hazards related moisture and the subsequent benefits due to the identification and correction of those hazards. Please see the RIA for further analysis.

HUD clarifies that these instruments (moisture meters, IR cameras) are for use by inspectors with specific training in use of those devices.

A commenter asked if HUD would provide training for mold-related inspection devices. HUD will not provide training for moisture meters or IR cameras, but training is available from other sources.

A commenter stated that moisture may be due to resident activities (e.g., varying use of vents, fans, or air conditioners to reduce moisture and humidity) and that moisture and humidity vary across climate zones, and that this variability would raise concerns about general applicability of a moisture-related Standard.

Tenant activities will be covered in the administrative notice. Also, ambient/air moisture (i.e., humidity) would not be covered under a moisture deficiency; the moisture deficiency is solely limited to building components.

A commenter expressed concern that use of instruments that would be predictive of mold risk may lead to an increase in the number of cited deficiencies that are not directly health and safety concerns, and that this may discourage landlord participation in HUD programs and subsequently decrease housing availability. A commenter also suggested that, due to the predictive nature of the deficiency (that is, the deficiency does not appear to cite a health or safety deficiency, but the potential for such a future deficiency) and associated uncertainty (including due to technical ability of the instrument user), this assessment might not provide a clear health benefit to the resident, while decreasing landlord participation and associated housing availability.

The moisture meter will be used to record values for moist surfaces that have already been visually identified as apparently moist by visual assessment. Increased interior building moisture is a condition conducive to fungal growth, with associated respiratory health outcomes. This usage will also provide data for further assessment of use of moisture meters in NSPIRE inspections.

A commenter expressed concern that recommending (and not requiring) a tool would introduce increased variability of inspection outcomes, as some inspectors may carry that particular piece of equipment (IR Camera, in this case), whereas other inspectors may not.

IR Cameras are optional and will not be used on their own to cite a deficiency. If a thermal anomaly is observed using an IR camera, the moisture meter must be used to confirm whether there is elevated moisture present. IR camera cannot be used by itself.

A commenter stated that use of moisture meters and IR cameras could be an effective proactive assessment of potential health hazards.

HUD agrees that use of moisture meters and IR cameras would, with proper implementation, be expected to increase the health and safety related conditions of housing by adding to the available information related to conditions that are conducive to mold growth.

Potential Lead-based Paint Hazards Visual Assessment

The Potential Lead-based Paint Hazards Standard includes a deficiency that incorporates the HQS requirements for an enhanced visual assessment for deteriorated paint where there is a child under 6 years of age residing in the unit. The Final Standard is unchanged from the proposed Standard; however, the administrative notice will include updated inspection processes for this Standard.

Sprinkler Assembly

The Sprinkler Assembly Standard includes deficiencies based on discrete levels of observed conditions, and refinement of the associated Health and Safety categorizations. Small flecks of paint will not be cited as a Deficiency in the Final NSPIRE Sprinkler Assembly Standard. Corrosion has been added as a separate Deficiency in the Final Standard. These changes were based on assessments of the respective safety risks of these conditions.

Structural System

The Structural System Standard includes a deficiency that captures signs of serious structural collapse and may threaten resident safety. This is different from UPCS, as serious structural deficiencies in UPCS were spread across the various building components (e.g., Foundations, Storm Drainage, Walls), whereas NSPIRE combines them into a single Standard. Structural deficiencies were also included in HQS, and as with UPCS were included as

deficiencies specific to various building components, for interior conditions (ceiling, wall, or floor) and the building exterior (stairs, rails, porches, roof and gutters).⁷

A commenter asked about the technical qualifications required to assess structural systems.

HUD acknowledges the technical training and educational requirements to assess structural systems. Training required for this inspection will be provided. NSPIRE Inspectors will not be making structural stability assessments and would receive training as to when to refer potential structural systems issues to an appropriate, technically trained and proficient individual.

Address and Signage

HUD received a comment raising concern about potential cost of installation of address and signage (“address signage”) on buildings where address signage is not currently installed.

HUD believes that adequate address signage is essential to resident safety, to assure that emergency services can quickly and efficiently find sites within a property, and therefore adequate signage is critical to the NSPIRE inspection process. HUD notes that Project Signs were required to be legible under the previous UPCS Standards.⁸ Please see the Final Rule’s RIA for further analysis.

Electrical – GFCI or AFCI – Outlet or Breaker

Commenters raised concern about the cost of installation of GFCIs in properties where GFCIs are not currently installed.

HUD believes that GFCIs are essential to resident safety, to prevent death and injury, and therefore GFCIs are critical to the NSPIRE inspection process. GFCIs are commonly required in

⁷ HUD Form 52580A, <https://www.hud.gov/sites/dfiles/OCHCO/documents/52580A.PDF>

⁸ UPCS included the following deficiency: “Deficiency: The project sign is not legible or readable because of deterioration or damage. Level of Deficiency: Level 1: The sign is damaged, vandalized, or deteriorated, and cannot be read from a reasonable distance (for example, 20 feet).” 77 FR 47707, 47739.

local codes and therefore are an existing requirement under those local codes. Therefore, for many localities, this will not be a new requirement. Please see the Final Rule's RIA for additional explanation and analysis of the benefits and costs associated with this Deficiency.

A commenter stated that using instrumentation would add time to the inspection, and also add the additional cost of that instrumentation.

HUD believes that any increased inspection time would be warranted by the increased attention to critical health and safety hazards in the inspection and the subsequent benefits due to the identification and correction of those hazards. HUD believes that any increased inspection burden due to increased instrumentation requirements would be minimal and would be warranted by the increased attention to electrical hazards due to unprotected outlets, which is a critical safety condition of the home, and the subsequent benefits due to the identification and correction of such hazards in the residence.

A commenter suggested the word "unprotected" be clarified. HUD has clarified that "Unprotected" in the GFCI Standard refers to an outlet that is not GFCI protected.

A commenter noted that there are local or state jurisdictions that already have requirements for electrical systems, including for GFCI.

HUD notes that this would similarly be the case for nearly all NSPIRE Standards, as there are analogous state or local code requirements to the NSPIRE Standards. Please see the discussion below, under "Safe Drinking Water", regarding superseding local code.

A commenter suggested that HUD should explicitly state that inspectors are allowed to use either a receptacle tester with a GFCI test button or the integral device tester during the inspection process, and that HUD should not prescribe a specific tool that inspectors must use, but rather include a list of tools that meet industry standards.

HUD will allow use of either a receptacle tester with a GFCI test button or the integral device tester during the inspection process. HUD does not plan to prescribe a specific tool that inspectors must use but will include a list of tools that meet industry standards.

Fire Extinguisher

A commenter asked if tenant-owned Fire Extinguishers would be inspected. Tenant-owned fire extinguishers will not be inspected under NSPIRE.

Window

A commenter stated that it was not clear if window screens that are missing or damaged would be a deficiency.

If window screens are present and are damaged, this is an NSPIRE Deficiency. Window screens are not a new affirmative requirement. However, if window screens are present, they must be functional, and if there is evidence that window screens were previously installed in a location, the window screen must be present.

Playgrounds

A commenter asked why there are not Standards for playgrounds in NSPIRE. Though not specifically limited to playgrounds, there are current NSPIRE Standards which would apply to playgrounds. For example, Trip Hazard and Sharp Edges, would apply to playgrounds.

Overgrown vegetation

A commenter asked if overgrown vegetation would be inspected for. There is not an overgrown vegetation deficiency or Standard per se in NSPIRE; however, if the overgrown vegetation is causing an NSPIRE Deficiency, for example by damaging roofing or siding materials, it must be addressed. Also, vegetation management may be a component of an IPM plan. NSPIRE's focus is on hazards in the unit. An IPM plan, triggered by a pest deficiency, can

include modifications to the site. PHAs and Owners should work with an IPM consultant to tailor the IPM inspection and control plan to the property. Additionally, property owners must follow all local requirements, including those for vegetation management, such as for nuisance or overgrown vegetation.

General comments

HUD also received comments on general topics including increased on-site inspection time due to the new Standards, tenant-caused damage (including resident housekeeping), tenant-owned property, and the status of “non-industry standard” (NIS) repairs.

HUD believes that any increased inspection time would be warranted by the increased attention to critical health and safety hazards in the inspection and the subsequent benefits due to the identification and correction of those hazards. Please see the Final Rule’s RIA for further explanation and analysis. Tenant-caused damage and tenant owned property will be discussed in the administrative notice.

A “non-industry standard” (NIS) designation is not included in NSPIRE. NSPIRE allows that there may be interim repairs that remove a health and safety hazard even though those repairs are not permanent; for example, a missing GFCI can have an interim repair such as blank cover plates. Such interim repairs must be fully repaired within a reasonable timeframe approved by HUD or a designee (such as a PHA). Interim repairs are not required to be aesthetically pleasing or conforming to other aspects of the building and HUD acknowledges that such repairs may have salient qualities⁹ that disproportionately attract attention, but if the interim repair effectively removes the health and safety hazard until full repair is performed and if full repair is completed within the required timeframe, then the interim repair is acceptable under NSPIRE. If

⁹ See Bordalo, P, Gennaioli N, Shleifer A. 2021. Saliency. Annual Review of Economics 14, PDF available at: <https://scholar.harvard.edu/files/shleifer/files/saliency.12.12.2021.pdf>

the interim repair is implemented prior to the inspection, the timeline for *full repair* begins at the time of inspection, without regard to the time of the initial, pre-inspection implementation of the interim repair.

“Safe” Drinking Water

Commenters raised concern that including drinking water in the NSPIRE inspection would add to the inspection process (and time required for the inspection) and that another federal agency (EPA) and state and local entities already perform oversight of drinking water, and that a separate entity from the POA or PHA supplies the water and maintains the pipes, and that the technical and administrative burdens may be too much and that this inspection process may not be technically feasible given the training that may be required for water testing or evaluation of water quality documentation, and also that private well water is not currently regulated and it is unclear how private well water would be affected by this regulatory change.

HUD will not inspect for water quality per se. The NSPIRE safe drinking water component will only entail 1) visual inspection for lead service lines and 2) assessment (via an information request, not physical inspection) if there has been a water outage or water alert and the response, if an outage or alert has occurred. This is solely for the purpose of data collection and will not be scored. This will be covered in more detail in the administrative notice.

Several commenters noted that there are local and state codes and requirements for drinking water, and that HUD should not supersede those codes.

HUD confirms that HUD inspection Standards do not supersede local or state code, law, or regulation. The property must meet all applicable property condition standards under Federal, state, and local law. Conforming to HUD inspection Standards does not put the property at risk of violating local or state code, law, or regulation. HUD Standards may exceed local or state

requirements, but they do not contradict those local or state requirements. Where local or state codes, laws, or regulations exceed HUD Standards, the property must comply with the most stringent applicable standards.

A commenter raised the concern that property owners may not be knowledgeable with regards to current local water alerts or the public water system serves their property, and that this may delay the lease-up process.

HUD believes that adequate levels of technical proficiency can be achieved with appropriate training. HUD believes, given that property owners manage their water bills, that they are aware of the identity of their local water provider.

Heating Ventilation and air conditioning (HVAC)

Commenters recommended that HUD use the International Energy Conservation Code (IECC) and the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)'s Climate Classification for Building Energy Codes and Standards.¹⁰ This climate map is also used by Energy Star (US EPA) and includes eight climate map designations based on temperature and precipitation.

HUD appreciates the technical quality of the suggested document; however, it does not include all jurisdictions covered by NSPIRE (it only includes U.S. States, and therefore Puerto Rico, Guam, U.S. Virgin Islands, American Samoa, and the Commonwealth of Northern Mariana Islands are not covered by it). HUD will require permanent heating sources in all locales except for Hawaii, Puerto Rico, Guam, U.S. Virgin Islands, American Samoa, and the

¹⁰ Briggs RS, ZT Taylor, and RG Lucas. 2003. "Climate Classification for Building Energy Codes and Standards." PNNL-SA-37941, prepared by Pacific Northwest National Laboratory (PNNL). A version of this map may be found in Antonopoulos, C., T. Gilbride, E. Margiotta, and C. Kaltreider. *Guide to Determining Climate Zone by County: IECC and Building America 2021 Updates*. Richland WA: Pacific Northwest National Laboratory. PNNL-33270. US Department of Energy

Commonwealth of Northern Mariana Islands; this follows the International Energy Conservation Code (IECC). Those localities where permanent heating sources will not be required are Tropical (per IECA designation).

A comment provided that there are local or state jurisdictions that already have requirements for heating and cooling and recommended deference to local code.

HUD notes that this would similarly be the case for nearly all NSPIRE Standards, as there are analogous state or local code requirements to the NSPIRE Standards. Please see HUD's discussion above, under "Safe" Drinking Water', on superseding local code.

Permanently Installed Heating Source

A commenter suggested that minimum temperature requirements should only apply in "heating months of the year," depending on location in the US, and suggested that HUD use the International Energy Conservation Code (IECC) and the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)'s "Climate Classification for Building Energy Codes and Standards."

HUD notes that while the NSPIRE inspection might not be performed at a time of the year when the resident would require heating, adequate heat in the dwelling must be available when required, and the NSPIRE inspection must be performed when scheduled, even if that inspection is not performed when, for example, heat would be required in the dwelling. Therefore, the inspection requirements must be applicable at the time of inspection.

A commenter raised concern about the additional time (relative to a UPCS inspection) this might require.

HUD believes that any increased inspection time would be warranted by the increased attention to housing temperature, which is a critical health condition of the home, and the subsequent benefits due to the identification and correction of temperature related hazards.

A commenter noted that people with disabilities may have heating or cooling requirements that are above and below those of many other housing residents.

HUD acknowledges that some residents may have temperature needs that are above or below those that are established in NSPIRE and that housing providers must provide for these temperature needs for tenants with disabilities as a reasonable accommodation. This may be dealt with administratively, for example by a Database Adjustment.

A commenter stated that there are local or state jurisdictions that already have requirements for heating and cooling.

HUD emphasizes that local code requirements must be met for all HUD-assisted housing. Please see HUD's discussion above, under "Safe" Drinking Water', on superseding local code.

A commenter noted that maintaining appropriate temperatures is a fire safety issue, in addition to a direct health risk and a direct influence on quality of life. For example, when a unit is not able to be adequately heated to safe and comfortable levels, tenants will necessarily utilize other, often more dangerous means to heat their homes.

HUD agrees that heating requirements address fire safety concerns as well as health concerns.

Commenters noted that tenant choice may affect the point-in-time temperature measurement in a Unit (i.e., the tenant may choose to have the Unit be colder or warmer than a given requirement), and therefore testing operability (and not indoor air temperature) of the HVAC equipment would be the better inspection methodology.

This will be covered in the administrative notice. Temperature measurement processes and protocols will be based on IPMC 602 Heating Facilities (2021)¹¹ and PIH Notice 2018-19.¹²

A commenter asked about technical instrumentation, including the need for calibration of thermometers, and effects of location where the temperature is determined (e.g., different locations in a building or unit will have different temperatures).

Proper training, including for calibration and for determining location of temperature measurements, will be available for inspectors.

A commenter stated that there would be additional burden on the inspector to carry additional equipment (i.e., a thermometer).

HUD believes that any increased inspection burden due to increased instrumentation requirements will be minimal and will be warranted by the increased attention to housing temperature, which is a critical health condition of the home, and the subsequent benefits to the resident due to the identification and correction of temperature related hazards in the residence.

Definition of Permanently Installed Heating Source

Commenters suggested that “permanent” be contrasted with “temporary” or “portable”, and that “permanent” would have a “hard” mounting and would be directly wired to a power source or on a dedicated breaker. A commenter suggested that HUD should define “permanently installed heating sources” as heating sources that are attached to the building (i.e., secured and not portable). A commenter suggested that the definition should include central systems, baseboard heating, and permanently affixed in-wall units. A commenter noted that the International Property Maintenance Code (IPMC) does not define “permanently installed heating

¹¹ Chapter 6 Mechanical And Electrical Requirements, 2021 International Property Maintenance Code (IPMC) | ICC Digital Codes (iccsafe.org), https://codes.iccsafe.org/content/IPMC2021P1/chapter-6-mechanical-and-electrical-requirements#IPMC2021P1_Ch06_Sec602.1

¹² Available at: https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-19HOTMA_HeatingStandardsNoticeFinal_rev.pdf

facilities,” but does list items that may not be considered compliant with the heating facility requirement; excluded items are “cooking appliances,” “portable unvented fuel-burning space heaters,” and “one or more portable space heaters.” A commenter stated that "permanently installed heating sources" could be defined as having a "hard" mounting or attached to a building and one that is directly wired to a power source on a dedicated breaker, which would allow for a different definition between permanent and temporary.

HUD agrees with the comments that a permanent heating source should be neither temporary nor portable and should be directly wired to the building’s power source. HUD agrees that Permanent Heating Sources should include central systems, baseboard heating, and permanently affixed in-wall units. HUD agrees that Permanent Heating Systems should not include cooking appliances or portable heaters. HUD agrees that power source on a dedicated breaker is a part of the definition and though that specific wording is not specifically designated, "safely connected to the unit or building electrical system" is specified and HUD believes that this is inclusive of the suggested language.

Additionally, HUD states in the comment responses in the final NSPIRE rule that a fireplace would not be considered a permanent heating source, and that permanent heating sources are: typically specified as being self-fueled; permanently affixed within the unit or building; safely connected to the unit or building electrical system; thermostatically controlled by the unit or building; and appropriate for the size of the unit.

These comments have been incorporated into the definition of “Permanent Heating Source” that is provided in the NSPIRE Heating, Ventilation, and Air Conditioning (HVAC) Standard.

Unvented, Fuel-Burning Space Heaters

Multiple commenters reiterated the critical health risks of unvented space heaters. A commenter stated that space heaters may impact the internal thermometers of a building and thereby cause some areas to be underheated or some areas to be overheated; this will cause the inefficient heating of a building and will cause energy to be wasted, thereby impairing the energy efficiency of buildings.

A commenter stated that space heaters per se are permitted in some jurisdictions and recommended that HUD should take that into consideration in order to avoid adversely affecting the HCV program in some localities.

HUD acknowledges that tenants may be using their own space heaters. HUD reiterates the critical health and safety risk of unvented fuel-burning space heaters and emphasizes the prohibition of unvented space heaters.

Correction Timeframes for Severe (Non-Life Threatening) Deficiencies

Commenters recommended that, ideally, correction timeframes would be addressed directly in the Standards, but also acknowledged that this may not always be possible and that, while administrative processes may not be the most efficient way to adjust correction times, it is sometimes the only option. Commenters suggested that HUD define an administrative process wherein an owner may request additional time to make repairs for good cause, with defined criteria for what constitutes good cause. A commenter stated that, for numerous reasons (e.g., supply chain disruption, labor availability, season/outdoor weather) repairs may not be possible within the required timeframes.

HUD agrees that, where possible, correction timeframes should be addressed in the Standards notice, but also agrees that an administrative process for determining a correction timeframe is necessary under certain circumstances. Therefore, HUD will include correction

timeframes for each deficiency in the Standards, but will also provide the opportunity to adjust those timeframes when necessary via administrative procedure. This will be discussed in the Administrative Notice.

HUD also notes that temporary relocation of residents is also an option if appropriate repairs cannot be performed in the required timeframe. Additionally, as discussed above, appropriate interim repair may be allowable, if the safety and health hazard is sufficiently corrected such that they no longer pose a severe health or safety risk to residents of the property, or that the hazard is blocked until permanent repairs can be completed. Interim repair does not remove the requirement for timely and full repair of the Deficiency.

The Effect of the NSPIRE Standards on Participation in HUD's programs

For all the above changes, HUD also sought comments on whether those proposed requirements, as applied to all covered housing, would substantially narrow the pool of available rental housing for families participating in HUD's programs.

A commenter asserted that the changes may limit housing availability if they exceed local requirements. Commenters also noted that regulatory requirements, including inspection Standards, may discourage landlords from participating in voucher programs. Commenters stated that the correction timeframes may discourage landlord participation, and that exemptions or different time frames for natural disasters, tenant/resident caused damage, season (e.g., for painting outside), and labor or material constraints (including supply chain disruption) could mitigate this potential discouragement.

Commenters stated that housing conditions should be the same with regards to health and safety conditions for all housing, and that conditions such as mold and pest infestations, among

other conditions, would not be tolerated in people's homes and that the safety, well-being and dignity of all must be maintained.

A commenter expressed concern that HUD appears to be loosening standards for landlords through extending response timeframes. A commenter noted that property owners receive funds to provide decent, safe and healthy housing, and they can obtain additional funds to remedy substandard conditions, and therefore that the new NSPIRE Standards should be achievable.

HUD appreciates and acknowledges the concerns and comments that were provided and believes that the focus on health and safety will benefit residents and property owners. Additionally, inspections may provide property owners and agents with a critical opportunity they might not otherwise receive to examine the conditions of their units and provide assurance that health and safety standards are being met.¹³ HUD has included consideration of potential constraints on housing availability when developing the NSPIRE Standards and believes that the NSPIRE Standards are achievable. The RIA for the final rule includes analysis of the costs and benefits associated with the NSPIRE rule.

VI. THE NSPIRE STANDARDS

As explained in the background section of this notice, previous versions of the NSPIRE Standards have been published to and are archived on the HUD website. For the proposed NSPIRE Standards notice, HUD sought comment on Version 2.2 of the NSPIRE Standards and made them available for review via the NSPIRE webpage on the HUD website.

The final NSPIRE Standards are available at: https://www.hud.gov/sites/dfiles/PIH/documents/6092-N-05nspire_final_standards.pdf

¹³ Nisar et al, 2018. Landlord Participation Study; HUD/PD&R, available at: <https://www.huduser.gov/portal/sites/default/files/pdf/Landlord-Participation-Study-Final-Report.pdf>

In addition to the NSPIRE Standards themselves, there have also been revisions to the Health and Safety category titles and those revisions are as follows:

1. The “Severe Non-Life-Threatening” category is now titled “Severe”;
2. The “Standard” category is now titled “Moderate”; and
3. The “N/A” or “Advisory” category is now titled “Low”.

Originally, HUD intended Advisory deficiencies to act as warnings to the property of issues which may rise to the level of a Moderate deficiency if unaddressed. Therefore, in the proposed Standards, Advisory deficiencies did not have a correction timeframe. Upon further consideration, however, HUD determined that these deficiencies still represent conditions that should be repaired, and therefore renamed “Advisory” to “Low” and, in “Request for Comments: National Standards for the Physical Inspection of Real Estate and Associated Protocols, Proposed Scoring Notice”¹⁴ (“the proposed Scoring notice”), HUD proposed a relatively small point deduction for Low deficiencies. In these final Standards, HUD is also adding a 60-day correction timeframe to these deficiencies.

Additionally, the Infestation, Mold-Like Substance, and Potential Lead-Based Paint Hazards – Visual Assessment Standards will include Deficiencies that are scored at the Life-Threatening level point deduction,¹⁵ despite being defined in the Severe H&S category. These Severe Health and Safety Deficiencies do not present risks consistent with the Life-Threatening definition, but they do present chronic health risks that are distinct from the other Severe Health and Safety Deficiencies. This chronic health risk category includes deficiencies that, if evident in the home or on the property, present a high risk of causing or exacerbating a chronic and severe health condition; severe health conditions include permanent disability or serious illness. This

¹⁴ 88 FR 18268 (April 27, 2023)

¹⁵ See the proposed Scoring notice for more information.

includes cases in which the harm has a likelihood of accruing irrevocably in under 24 hours and may also include risks due to longer term exposure. This category does not define an additional risk ranking or correction timeframe; it is a sub-category to be used for scoring.

There have also been changes in the presentation of information with the Standards. For each inspection Standard, the definition, location, deficiency, deficiency criteria, health and safety determination, and correction timeframe have been listed. Further, HUD believes that housing standards must focus on habitability and the health and safety of residents. Each NSPIRE Standard contains “rationales,” or the reason the requirement is necessary. Rationales describe the potential harm that may result from a given deficiency if left uncorrected. Generally, rationales include the health, safety, and/or major functional or habitability issue, and illustrate why detection and remediation of the deficiency is critical to housing quality. Commenters noted that rationales were not provided in the version of the Standards provided with this notice. The rationales for the Standards and associated deficiencies will be available on HUD's Client Information Policy Systems (HUDCLIPS): <https://www.hud.gov/guidance>

VII. Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). That finding is posted with the NSPIRE Standards at [insert link].

Adrienne Todman
Deputy Secretary

[Billing Code: 4210-67]