



April 15, 2004

Regulations Division  
 Office of General Counsel  
 U.S. Department of Housing and Urban Development  
 Room 10276  
 451 Seventh St. SW  
 Washington, DC 20410-0500

**Comments on: Public Housing Assessment System (PHAS) Physical Condition Inspection  
 Proposed Changes to the Dictionary of Deficiency Definitions**

**Docket No. FR 4896-N-01**

The National Association of Housing and Redevelopment Officials, representing 3,000 public housing agencies and nearly 20,000 housing professionals, herewith submits comments on the above-referenced Notice. Both the department and the public housing industry understand that to better evaluate how well agencies are meeting their core responsibilities—maintaining decent, safe and affordable housing—the Public Housing Assessment System (PHAS) must be improved. The Interim Rule, which represented the best efforts to date of both the department and the industry to create such a system, was allowed to lapse. A proposed rule, which embodied some commendable ideas but which had critical flaws, was advanced by the department, then withdrawn. In its place, HUD has reverted to the January 2000 rule, which is far less satisfactory than the Interim Rule. Given that backdrop, this present notice for comment provides an opportunity only to address one component of the rule currently in effect.

We are pleased that the majority of changes to the dictionary of deficiency definitions discussed at the so-called Berger meetings in the summer of 2002 have been adopted. Those meetings are referenced in the Notice as informal consultations regarding the 47 definitions in question. Although scoring is inherently not part of a definition, there were several instances where a definition was agreed upon with the understanding that it would be used for advisory purposes, not scored. The Notice does not reference this, but we note it in the table below along with our specific comments on each definition.

<b>Fed. Reg. Page No.</b>	<b>Proposed Definition</b>	<b>NAHRO Comment</b>
12479	Building exterior – windows, missing/deteriorated caulk, seals, glazing compound	This deficiency is to be advisory only, not scored.
12480	Building systems – exhaust systems – roof fan inoperable	Paragraph 2 under Note is new. NAHRO agrees with the addition.
12484	Common areas – ceilings bulging/buckling	The phrase “to the extent that ceiling failure is possible” was agreed to as part of the Level 3 definition; NAHRO agrees with moving it up to the deficiency paragraph.
12485	Common areas – ceilings – holes/missing tiles/panels/cracks	Several additions have been made: “crack” and “OR you see a crack more than 1/8” wide and 11” long” added to Level 1 definition, which was moved up from the Level 2 definition. The word “crack” is added to the Level 3 definition. A note is added instructing the inspector to notify the agency of possible failure of the ceiling and recommend an engineering inspection.  NAHRO believes the Level 1 definition should remain as is in the current 2.3

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		<p>version; the added section should be returned to Level 2 because it indicates a more serious problem than would be consistent with the Level 1 definition.</p> <p>We agree with the Level 3 definition and the addition of the note instructing the inspector with regard to engineering inspection.</p>
12486	Common areas – ceilings, mold	<p>There were lengthy discussions at the Berger meetings about mold, especially about how much mold is an issue that should be addressed in the inspection. We arrived at a “large area” constituting 1-4 square feet. In the Level 1 definition, this has been reduced to 4 square inches to one square foot. This is not consistent with describing a “large area,” and not with the meetings.</p> <p>In the Level 3 description, a threshold of 4 square feet has been reduced to one square foot of damaged area. This does not constitute a “very large area” in the context of the Berger meetings.</p> <p>NAHRO recommends that the thresholds be returned to the agreed measures.</p>
12487	Common areas – hard floor covering – missing flooring/tiles	<p>In Level 1, the threshold has been changed from 10-20% to 5-10%. In Level 2, the threshold has been changed from 20%-50% to 10%-50%. The original thresholds were agreed to at the Berger meetings. In addition, the Level 3 Comment was removed because it duplicates the instruction under the Level 3 description.</p> <p>NAHRO recommends that the thresholds be returned to the agreed measures.</p>
12488	Common areas – soft floor covering damaged – floors	<p>The title of the definition should be changed to “Common areas – Soft floor covering – c Carpet” to be consistent with the deficiency definition, which now only references carpet. The definition should read, “Deficiency: You see damaged <b>OR</b> missing carpet.”</p> <p>We still fail to see how damaged carpeting could be a health and safety issue.</p>
12490	Common areas – floors – rot/deteriorated subfloor	<p>The Comment on Level 3 should be consistent with other similar notes instructing the inspector to notify the agency of possible failure of the item and recommend an engineering inspection. See, for example, the Comment on Level 3 on p. 12494.</p>
12494	Common areas – walls – damaged	<p>The Note paragraph 2 under Deficiency description should include that repaired or sealed cracks should not be recorded as a</p>

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		<p>deficiency.</p> <p>Changes under Level 2 – threshold for size of crack, and Comments under Level 3 are acceptable.</p>
12496	Common areas – graffiti	<p>An appreciable amount of time was spent on this issue at the Berger meeting. The language in the Proposed Definition is clear and well-written. We suggest that the Deficiency description note that “one location” means “<b>adjacent</b> walls, door(s), ceiling and/or floors.”</p>
12500	Units – HVAC system – general rust, corrosion	<p>In the Deficiency description, the word “significant” has been deleted. Should read, “Deterioration is defined as SIGNIFICANT rust and/or formation of metal oxides....”</p> <p>This is a no-score item, according to the Berger meetings.</p>
12505, 12506	Site – fencing and gates – holes, missing sections, etc.	<p>Reference to swimming pool enclosures is inconsistent between this item and the one on the following page. Is it Site, Fencing and Gates, Security, or is it Common Areas, Pools and Related Structures?</p>
12508	Site – grounds – ponding/site drainage	<p>In Level 2 and 3 descriptions, change to include “100 square feet” is acceptable – adds clarity. Would be improved by adding “at least 100 square feet.”</p>
12509	Site – parking lots/driveways/roads – damaged paving	<p>In the Note under Deficiency description, paragraph 2 – should read, ‘Also repaired /sealed cracks should <b>NOT</b> be considered a deficiency.’</p>
12515	Site – retaining walls – damaged, falling, leaning	<p>Refers to a retaining wall “damaged (or deteriorating) as defined” but we do not see a definition for a damaged retaining wall. What is the threshold for damage on a retaining wall? In the Berger meetings this was not clearly defined, although we discussed how one could identify “imminent failure.” HUD has been taking these issues case-by-case under technical review, or relying on the inspector’s judgment, and identified it as a training issue for inspectors. This definition requires additional study.</p>
12516	Site – walkways, steps – cracks, settlement, heaving	<p>Under Notes, paragraph 3, to be consistent with Site – parking lots on page 12509, add “Also repaired /sealed cracks should <b>NOT</b> be considered a deficiency.”</p>
12517	Health and safety – air quality – mold or mildew observed	<p>The agreement was to cite a deficiency if there is at least 4 square feet of mold or mildew. The note should be changed from 1square foot to 4 square feet.</p>
12521	Health and safety – Flammable (Combustible) materials – improperly stored	<p>The Deficiency description adds “combustible” and the Note adds “paper, boxes, etc.”</p> <p>Combustible materials were discussed during the Berger meetings. “Improperly stored” was defined to mean that the material was in close proximity to an</p>

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		<p>ignition source/heat.</p> <p>We don't disagree with including combustibles, but we do recommend that a threshold be included in the definition. For example, paper stored adjacent to a gas furnace is an issue; paper stored in another area of the basement may not be.</p>
		<p>This concludes our comments on the definitions.</p>

Questions or comments may be directed to Christine Siksa, Director, Legislative and Program Development Division, [csiksa@nahro.org](mailto:csiksa@nahro.org) or 202-289-3500, ext. 252.

We look forward to continuing to work with the department to make PHAS as functional and useful as possible for both HUD and the industry. Thank you for the opportunity to submit comments on this Notice.

Sincerely,

Saul N. Ramirez, Jr.  
Executive Director