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## 1. Introduction & Timelines

- Brief History of the HOME Rule
- “As We Understand It Now.”
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## Lesson

### Introduction

Annually, HOME allocates approximately \$1.5 billion among States and approximately 600 localities nationwide. According to HUD, in fiscal year 2023, participating jurisdictions (PJs) completed 6,848 rental housing units and 4,051 homebuyer units, assisted 2,717 low-income homeowners to repair their homes, and provided tenant-based rental assistance to 13,016 low-income households. By far, the most common use for HOME funds is gap financing for rental projects, particularly for projects that have been awarded LIHTC, Section 42 tax credits. Currently, there are 245,122 HOME-assisted rental units operating in their periods of affordability, subject to ongoing HOME income and rent requirements.

The last major revision of the HOME Funds program regulations was effective August 23, 2013. Before it published a new proposed rule in 2024, HUD conducted a comprehensive review of the HOME statute and existing HOME program regulations to determine whether previously unrecognized opportunities existed to improve regulatory provisions. The proposed rule also incorporated changes made by the HOTMA and NSPIRE Final Rules and suggested further revisions to the HOME regulations to better meet HOTMA and NSPIRE requirements. After several years of work on the part of HUD, the next proposed overhaul of the HOME regulations was released on May 29, 2024, followed by a period for the public to submit comments. HUD received many comments and carefully considered and analyzed these before releasing the Final 2025 HOME Rule on January 06, 2025. **Although it was to be effective a month after release, the White House asked HUD to delay for a review, and the final Rule went into effect after the review on April 20, 2025, with only two provisions on hold until October or later.**

#### HUD Fact Sheet: HOME Final Rule

HUD's stated goal with the final rule was to revise the current HOME regulations to update, simplify, or streamline requirements, better align the program with other Federal housing programs, and implement recent amendments to the HOME statute. The rule also includes minor revisions to the regulations for the Community Development Block Grant (CDBG) and Section 8 Housing Choice Voucher Programs consistent with the implementation of the changes to the HOME program.

#### The final rule focuses on nine primary areas:

1. Rental housing
2. Tenant-based rental assistance
3. Tenant protections
4. Homebuyer housing
5. Community Land Trusts
6. Community Housing Development Organizations (CHDOs)
7. Maximum per-unit subsidy limits
8. Green and resilient property standards in HOME-assisted housing
9. Periods of affordability

### "As we understand it now..."

With any regulation, clarity and further guidance are provided over time. We anticipate this to be true of the new HOME Rule. We encourage participants to keep up with breaking news from HUD on the new HOME Rule. The *Housing Rules* Blog at [costellocompliance.com](https://costellocompliance.com) is a rich source of updates and analysis of housing regulations including HOME.

**Dig Deeper...** For further information, see related posts on the *Costello Housing Rules* blog.

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## References

- Fact Sheet | HOME Final Rule
- New HOME Rule | 24 CFR 92
- HOME Amended Written Agreements | 24 CFR 92.3 (d)(4) & (e)
- Applicability | 24 CFR 92.3 (e)Table 1

## Practical Pointers

### This Discussion's Focus

HOME Funds support the development or operation of a limited number of housing activity types. Primary among these are: [1] multifamily rental housing, [2] homeownership, and [3] tenant-based rental assistance.



This session covers **multifamily rental compliance** provisions that relate to the **ongoing operation** of the housing.



Areas of specific concern where PJs may differ are indicated with the above symbol.

## More Information

### Other Laws That Affect HOME 2025

#### HERA 2008

*The Housing and Economic Recovery Act of 2008* dictated that HOME and LIHTC rents at a property should not be used when determining the rents that a Public Housing Authority (PHA) should pay for tenants in LIHTC and/or HOME units. HUD regulated this for the LIHTC in PHA regulations, but HOME had not been addressed until the 2025 HOME Rule. The LIHTC has always allowed owners to collect and charge full subsidized rent when a household is receiving government rental assistance, but HOME did not.

*The challenge this presented.* Former HOME regulation requiring that tenant rent and subsidy combined be below the HOME rent limits for High HOME at PBRA properties and all TBRA households. This was a barrier to implementing the goal of HERA for HOME.

#### HOTMA

The following provisions were adjusted to align with the *Housing Opportunities Through Modernization Act* (HOTMA), which HUD regulated in 2023.

- HOTMA regulation required the use of income determination of Project-Based Rental Assistance (BPRA) and allowed PJs to decide if their policy would require the use of determinations of providers of Tenant Based Rental Assistance (TBRA).

*The challenge this presented.* This was inflexible and did not give PJs discretion.

- Most HOTMA programs allow other means-tested program income determinations.

*The challenge this presented.* HOME did not allow this provision.

**Question |** For LIHTC properties with some HOME units, are we allowed to use the HOTMA income rules for the HOME units?

**Answer |** Yes, in fact you are likely required to depending on the date a property's PJ decides HOTMA must apply. The income calculation rules apply to 24 CFR 5.609 and thus apply to most HOME properties, which use "Part 5" income rules (Part 5 was revised by HOTMA). What is in question as far as HOTMA goes, is how far the PJ will go to allow the income determinations of subsidy programs and other means-tested programs.

**HOTMA Deadline and HOME.** HUD published a notice on 12/31/2024 regarding HOTMA and HUD CPD programs, including HOME.

- The notice allows HOTMA to be applied by a PJ any time from 1/01/2024 to 1/01/2026 to allow time for PJ and owner/agent policies and procedures and software implementation.
- The use of PHA determination of income for PBRA and TBRA, which are part of HOTMA, may be instituted by a PJ earlier than the rest of HOTMA.

**Question |** Does the new rule apply to the NHTF?

**Answer |** The new Rule does not change 24 CFR 93, where the National Housing Trust Fund (NHTF) rules live. HUD has indicated that revised guidance is imminent. However, the NHTF is beyond the scope of 24 CFR 93.

**Bonus |** *HOTMA income calculation* methods will apply the NHTF properties that use the "Part 5" definition of income. Also, PHA determinations of income are currently **required** by HOTMA regulations for both PBRA and TBRA-assisted tenants for the NHTF.

### Practical Pointers



PJs that are also NHTF grantees will need to keep the similar, though different rules straight. It is unknown at this point how much new anticipated NHTF guidance will align with HOME.

More Information

Other Laws That Affect HOME 2025

NSPIRE

The new *National Standards for the Physical Inspection of Real Estate* (NSPIRE) Final Rule, published in the Federal Register on May 11, 2023. The NSPIRE Final Rule completely revised the HUD REAC inspection protocol. NSPIRE includes the standards used by HUD to inspect properties. It replaced the old *Uniform Physical Conditions Standards* (UPCS) and *Housing Quality standards* (HQS). IRS regulations also apply NSPIRE to the LIHTC program.

*The challenges this presented.* At various stages, both UPCS and HQS have applied to HOME. Depending on PJ choices and the year HOME Funds were committed, if HQS was applied the HOME and LIHTC programs (which are very often combined) had different standards. Also, UPCS and HQS did not focus as heavily on habitability and safety as NSPIRE does. It was observed that under UPCS all residential units could fail a HUD REAC inspection and still the overall inspection could pass. NSPIRE seeks to address this problem.

Lesson

“Period of Affordability”

HUD Fact Sheet: HOME Final Rule

HUD summary rationale | HUD *“adopting updated periods of affordability to address concerns about increased development costs.”*

Prior to 2025, the terms “Affordability Period” and “Period of Affordability” were used interchangeably. The 2025 Rule consistently uses *“Period of Affordability.”*

The options for the period of affordability remain 5, 10, 15, or 20 years. However, the *expenditure thresholds* to determine the period of affordability have changed.

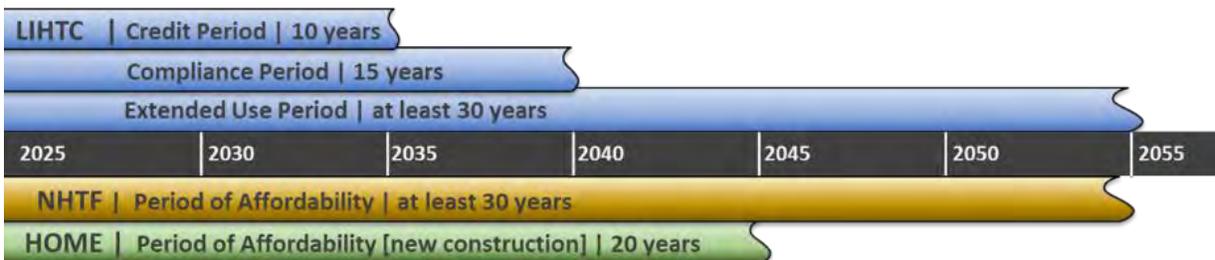
A Specific Period of Affordability

24 CFR 92.2

The old regulation required that HOME period of affordability be *at least* the period specified in the HOME Rule. The 2025 Rules says that “the HOME-assisted units must meet requirements under this part *for the applicable period specified*” in the HOME Rule, beginning from project completion. HUD indicated that this was done to make the period of affordability a set period during which HOME rules generally apply. At the same time, PJs may implement extended commitments to prioritize long-term affordability. However, the federal HOME requirements do not continue after the period of affordability, and violations of the agreement after the federal period of affordability are a matter of PJ compliance, not a risk to the HOME Funding. This makes the HOME period of affordability similar to the federal LIHTC compliance period in that it is a set period during which all the federal rules apply. Any further HOME commitment in the written agreement is much like the LIHTC extended use period, subject to the PJ’s rules but not HOME repayment.

Amount of HOME Funding		Period of Affordability
committed before 2025	committed 2025 on	
Less than \$15,000 per unit	Less than <b>\$25,000</b> per unit	<b>5 years</b>
\$15,000 - \$40,000 per unit	<b>\$25,000 - \$50,000</b> per unit	<b>10 years</b>
over \$40,000 per unit OR any rehab/refinance	<b>over \$50,000</b> per unit OR <b>any rehab/refinance</b>	<b>15 years</b>
New construction	<b>Any level</b>	<b>20 years</b>

Example Commitment Periods



## Lesson

## Timelines

**Question** | *The most important question that we have is what will apply to existing properties, and when?*

**Answer** | As always, your PJ and the properties written agreement is crucial in the application of HOME rules. Pending exact application by your PJ and the written agreement, **income determinations** can apply as soon as the 2025 Rule is effective. **Most other provisions may require amended written agreements**, and **a few provisions may only be applied** to projects that are **committed HOME Funds on or after the 4/20/2025 effective date** of the new Rule. Separately, **HOTMA** provisions apply on the date the PJ selects, no later than 1/01/2026.

## Applicability Date

The 2025 changes to the HOME rule apply differently depending on if they are related to family income determinations or if they are other rules. For income rules, applicability is based on when an income determination is made. In general, other changes will apply to properties with **HOME commitments made on or after April 20, 2025**.

## On-Hold Provisions

Until October 30, 2025 (or likely until further notice) two provisions were on hold and did not take effect on 4/20/2025. These include the provisions at 24 CFR 92.250 (Maximum Per-Unit Subsidy Amount, Underwriting, and Subsidy Layering—Paragraph (c)) relating to green building and 24 CFR 92.253—Tenant Protections and Selection.

## Compliance Period

**There will be up to a one-year compliance period.** Participating jurisdictions are permitted to choose to continue to comply with the requirements of the old HOME Rule as they existed on April 19, 2025, for commitments made on or before April 20, 2026. This allows PJs time to change their policies and procedures, forms, and systems, so that they can effectively implement the provisions of the final rule.

**Delayed compliance date for income determinations.** Participating jurisdictions are permitted to continue to comply with the income determination requirements in accordance with § 92.203 that the participating jurisdiction had implemented on April 19, 2025, until April 19, 2026, or longer if granted by HUD.

## Amended Written Agreements

24 CFR 92.3 (d)(4) & (e)

A participating jurisdiction **may choose to amend its written agreements for funds committed prior** to April 20, 2025, to conform to the requirements of this part, with some exceptions.



**Important Note** | Many written agreements do not have a great level of specificity on many compliance provisions, and the PJ may determine that no amendment to the written agreement is necessary to go ahead with many parts of the new HOME Final Rule. For instance, the written agreement may simply say that “income is determined per 24 CFR “Part 5” rules and according to the PJ’s current Compliance Manual and other written guidance.” The PJ may determine that the use of means-tested programs’ determination of income can be adjusted in other guidance and does not require written agreement amendment. Items that are significantly disadvantageous to owners are particularly subject to written agreement revision, as it is unfair to the owner to require provisions that they did not agree to. Most provisions in the HOME Rule are of significant benefit to owners and tenants, and no objection is likely to be raised. Issues that will potentially be troublesome to property owners (such as the new tenant protections) are not allowed to be imposed on existing projects.

## Checklist for PJs | Is an Amended Written Agreement Needed?



- Does the provision relate to income determinations? **If “yes”, stop.**
  - These may be applied to determinations after the effective date of the Rule.
- Is the provision allowable to existing projects? **If “no” stop.**
  - There are 3 provisions that cannot be added by amendment (see below).
- Is the item addressed in the PJs written agreement?
  - **If “no”,** it may be addressed in other PJ written policies and procedures, such as a compliance manual.
  - **If “yes,”** agreement amendment may be necessary. **Consult legal counsel.**

24 CFR 92.3 (e)

TABLE 1 TO PARAGRAPH (e)—SUMMARY OF EFFECTIVE DATES AND COMPLIANCE DEADLINES

2025 Rule effective date	April 20, 2025
Applicability	Rule applies to projects for which HOME funds are committed on or after April 20, 2025.
Compliance Date	Participating jurisdictions must set compliance date: as early as April 20, 2025, and no later than April 20, 2026.
Exceptions for Income Determinations	Participating jurisdictions must set compliance date: as early as April 20, 2025, and no later than April 20, 2026.  Participating jurisdictions may continue to calculate income in accordance with the provisions that were being implemented by the participating jurisdiction on April 19, 2025 until compliance date set by the participating jurisdiction, or longer as determined by HUD.
Applicability Limitations	Listed provisions are not applicable to commitments made to projects prior to April 20, 2025. Participating jurisdictions may not amend written agreements of projects with commitments existing prior to April 20, 2025 to incorporate any of the following provisions:  § 92.206(d)(1) and (2).  § 92.250(c).  §§ 92.252 and 92.254.  § 92.253.  § 92.300.

Items that cannot be amended in pre-2025 written agreements. This provides further details to supplement the above chart.

- Certain costs allowed to be reimbursable** under § 92.206(d)(1) and (2), as effective February 5, 2025, may only be included in written agreements for projects if the participating jurisdiction committed the HOME funds for the project on or after February 5, 2025.
- ~~Requesting an increase in maximum per-unit subsidy in accordance with § 92.250(c) is only permitted for projects if the participating jurisdiction committed the HOME funds for the project on or after February 5, 2025.~~
- Use of the **revised dollar thresholds for the periods of affordability** in §§ 92.252 and 92.254 is only permitted for projects if the participating jurisdiction committed the HOME funds for the project on or after February 5, 2025.
  - Note: this is not the entire sections 252 and 254, as may be misunderstood from the chart above.
- ~~Tenant protections provided in § 92.253, including the tenancy addenda requirements in § 92.253(b) through (d), apply for rental housing projects if the participating jurisdiction committed the HOME funds for the project, entered into the rental assistance contract, or entered into an agreement to provide security deposit assistance on or after February 5, 2025.~~
  - Note: 2 and 4 are on hold for further review until October 30, 2025.
- The **revisions to the roles of community housing development organizations (CHDOs)** in owning, developing, and sponsoring affordable housing in § 92.300 only apply if the participating jurisdiction committed the community housing development organization set-aside funds for the project on or after April 20, 2025.

**Exercise #1**

Shady Oaks Apartments is a HOME property with LIHTC funding. It is rare because HOME and LIHTC are not often combined.

True False

**Exercise #2**

Shady Oaks Apartments is a new construction HOME/LIHTC project. The first year of the period of affordability is 2025. During what year will the HOME period of affordability end? \_\_\_\_\_

**Exercise #3**

A PJ has observed what it believes to be HOME owner/agent abuse of tenant rights. It wants to provide more tenant protections. It \_\_\_\_\_ revise the written agreement to require the new HOME tenant protections.

should cannot

**Exercise #4**

Every written agreement will need to be amended to apply any of HOME 2025 to existing HOME properties.

True False

**Quiz #1**

Going forward, HOME new construction \_\_\_\_\_ have a period of affordability of 25 years.

may | may not

**Quiz #2**

Which of the following law/reg changes did NOT inform HOME 2025?

[A] NSPIRE [B] HOTMA [C] LIHTC Average Income Test [D] HERA

### Answers

**Exercise #1: False.** HOME very often provides gap financing for LIHTC properties. | **Exercise #2: 2044.** 2025 + 19 years (for a total of 20 years). | **Exercise #3: cannot.** The new tenant protections must only be applied to HOME commitments after the new Rule is effective, **and tenant protections are also on hold until at least October 30, 2025.** | **Exercise #4: False.** PJs may find that legal counsel indicates that amendments are not necessary. | **Quiz #1: may not.** The period of affordability will be fixed going forward and will be 20 years for new construction. | **Quiz #2: C.** The LIHTC AIT law and regulation change does not directly related to HOME 2025 as NSPIRE, HOTMA, and HERA do.

### Action Items

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_



### Digging Deeper | Further Optional Reading

- For owners/agents of HOME rental properties | **Compliance in HOME Rental Projects: A Guide for Property Owners**
- For HOME participating jurisdictions | **Compliance in HOME Rental Projects: A Guide for PJs**
  - o Note: a HOME professional needs to know how to apply 2013 and 2025 HOME Rule changes, but these Guides are still valuable in many ways.



## Lesson

### Deadline to Occupy HOME Units

24 CFR 92.252

The HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of this section to qualify as affordable housing. If all HOME units are **not occupied by eligible tenants within six months** following the date of project completion, the **participating jurisdiction must revise its marketing plan** to enable the project to reach the required HOME occupancy. The **participating jurisdiction must repay HOME funds** invested in any housing unit that has **not been rented to eligible tenants within 18 months** after the date of project completion.

Note that the former rule required HUD to get involved at 6 months. HUD required the participating jurisdiction to submit marketing information and possibly a marketing plan. Now it is up to the PJ and the owner to develop a plan to ensure that the 18-month deadline is met. HUD is not involved directly until the obligation to occupy all HOME units has failed.



### Example HOME Lease-Up Deadlines



## More Information

### PBRA and TBRA

24 CFR 92.203(a)(1) & (2)

HOTMA added a provision to the HOME regulation allowing a PJ to **choose** to implement a policy to accept the income determination of a PHA for HOME households that receive federal **tenant-based** rental assistance (TBRA, most often a Housing Choice Voucher (HCV)). In contrast, it required that a PJ **must** accept the income determination of a **project-based** rental assistance program (PBRA). However, in HOME 2025, HUD revised the “must” to a “may” relating to PBRA in response to public comments recommending that HUD allow PJs to have the option to determine annual income in accordance with the usual HOME process. This change allows PJs the choice of accepting the income determinations made in Federal or State project-based rental subsidy programs instead of requiring PJs to accept those determinations.

### Safe Harbor: Other Means-Tested Programs

92 CFR § 92.203(a)

If a family in a HOME rental unit is assisted by a form of Federal, State, or local public assistance (e.g., TANF, Medicaid, LIHTC, local rental subsidy programs, etc.) which examines the annual income of the family each year, then a participating jurisdiction **may accept a written statement from a Federal or non-Federal entity administering the assistance**. The statement must **indicate the tenant's family size** and **state the amount of the family's annual income**. When accepting the statement from a government administrator, the participating jurisdiction must still adjust income in accordance with paragraph (f) of this section. **The statement must be for an income determination made within the previous 12-month period.**

## References

- Occupancy Deadline | 24 CFR §92.252
- PBRA/TBRA | 24 CFR 92.203(a)(1)&(2)
- Other Program Safe Harbor | 92 CFR § 92.203(a)

## Practical Pointers

### Common Abbreviations

- PBRA | Project-Based Rental Assistance [example “Section 8 PBRA”]
- TBRA | Tenant-Based Rental Assistance [example “a Housing Choice Voucher”]
- HCV | Housing Choice Voucher, the most common TBRA



LIHTC

concerns cannot be given sole consideration during lease-ups of LIHTC/HOME properties.



**The PJ's need to monitor lease-ups has not ended, although HUD is not as involved. The 6-month mark will be an important milestone and adjusted marketing plans will need to be documented in case the 18-month mark is also missed.**

More Information

**Safe Harbor: Other Means-Tested Programs** (continued)

This provision was not in HUD’s proposed changes that were published in 2024, so it was surprising –but welcome– when it appeared in the Final Rule. It aligns very well with HOTMA. HOME 2025 is less specific than HOTMA, which prescribes specific *federal* programs that can be used, whereas the HOME Rule would permit any *Federal, State, or local public assistance program* that the PJ is willing to allow. The HOTMA list that PJs may want to start with is below.

**HOTMA Means-Tested Program Determination Safe Harbor**

**24 CFR 5.609(c)(3)**

- (A) **SNAP** | The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- (B) **EITC** | The Earned Income Tax Credit (26 U.S.C. 32).
- (C) **LIHTC** | The Low-Income Housing Credit (26 U.S.C. 42).
- (D) **WIC** | The Special Supplemental Nutrition Program for Women, Infants, and Children (42 U.S.C. 1786).
- (E) **SSI** | Supplemental Security Income (42 U.S.C. 1381 et seq.).
- (F) Other programs administered by HUD.
- (G) Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.
- (H) Other Federal benefit determinations made in other forms of means-tested Federal public assistance that the Secretary determines to have comparable reliability and announces through the Federal Register.

**Verification.** To implement this new HOME safe harbor provision, a written statement must be obtained from the administrator of the assistance which contains the amount of annual income and household composition (that is, the number of people in the family). A PJ can implement this safe harbor *for all rental housing income determinations*, including those performed at initial occupancy and every sixth year of the period of affordability. Self-certification of family income continues to be allowed for other years, although a PJ may allow the use of other means-tested income determinations for these years, as well. This relieves the requirement to calculate the annual income of a family by using 2 months of source documents if the family is receiving public assistance and a statement is available fulfilling the requirements of the new safe harbor.



**Important Note** | Careful consideration must be given to the benefits of alignment of HOME with HUD PBRA, HCVs, the LIHTC, and other programs. HOTMA and now the HOME 2025 Rule allow for simplification and lessening of burdens for the PJ, owners/agents, and tenants of HOME properties. Although the PJ cannot always dictate choices that are made by owners/agents and other program agencies, allowing maximum flexibility within HOTMA and HOME positions properties to benefit as much as possible. The laws and regulations, not ideas that we have held dear for many years, are the most defensible bases for policy decisions. Many extra layers of compliance provisions because we feel that low income people are untrustworthy, for instance, does not comport with the reduction in burden Congress and HUD intended with both HOTMA and the 2025 HOME Rule.

**Exercise #1**

An owner is in the seventh month of a HOME lease-up and not all HOME units have been occupied. Which agency is involved at that point?

HUD    The PJ

**Exercise #2**

An owner just finished the eighteenth month of a HOME lease-up and not all HOME units have been occupied. Which agency is involved at that point?

HUD    The PJ

**Exercise #3**

Shady Oaks Apartments is both LIHTC and HOME. It has multiple buildings and will be leased up over two years. Because all buildings need to be filled in turns for the LIHTC, the owner will wait on the same schedule and fill the last HOME units in the 19<sup>th</sup> and 20<sup>th</sup> months in the last building.

True    False

**Exercise #4**

An LIHTC Tenant Income Certification (TIC) or HCV 50058 certification form may be all that a HOME PJ requires to establish income eligibility for a HOME property.

True    False

**Quiz #1**

The list of allowed means-tested programs in HOTMA are NOT all that are allowed for the HOME safe harbor.

True    False

**Quiz #2**

Congress and HUD \_\_\_\_\_ write and regulate HOTMA with many rules and redundancies to catch dishonest tenants because most of them lie.  
**did    did not**

**Answers**

**Exercise #1: The PJ.** HUD is not involved until the 18<sup>th</sup> month when repayment will be required. | **Exercise #2: HUD.** See the answer for Exercise #1. | **Exercise #3: False.** The compliance needs of both programs must be prioritized to meet all needs, and all HOME units must be filled in no more than 18 months. | **Exercise #4: True.** These are other program assistance safe harbor options for HOME. | **Quiz #1: True.** HOME will allow the PJ to designate local and state programs, not just the federal programs listed in HOTMA. | **Quiz #2: did not.** Congress' and HUD's goals were to reduce unnecessary burdens on all involved, including tenants.

**Action Items**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

**Digging Deeper | Further Optional Reading**

- The HOTMA Final Rule in 24 CFR**
- The Joint Implementation Notice 2023-10 (as updated Feb. 2024)**
  - Parts of the HOTMA regulation are directly related to HOME, and others apply to the extent that the PJ requires the use of the HUD "Part 5" definition of income.
  - The Joint HUD Multifamily Housing (MFH) and Public and Indian Housing (PIH) Notice provides the most comprehensive coverage of HOTMA income rules.



## Lesson

### Subsidized Tenant Families

#### Former Rule

Prior to 2025, HOME required that tenant rent AND subsidy be added to compare to the HOME rent limits. There was an exception for Low HOME-qualified tenants in PBRA units.



Example	
<b>Rent Limits and Subsidy Pre-2025</b>	
Section 8 Contract Rent:	\$930
Low HOME rent:	\$730
High HOME rent:	\$825

A property with section 8 assistance has the above 2-bedroom apartment rents.

Sanford and his son moved into a Low-HOME unit at a Section 8 property. He pays \$250, based on 30% of his income. His section 8 assistance pays the remainder of the contract rent, \$680.

**Amount of subsidy the owner can keep: \$ 680** [contract rent less the tenant rent]

**Amount of subsidy the owner cannot keep: \$ 0** [all subsidy can be collected for Low HOME PBRA]

At his second recertification, Sanford begins to receive periodic payments from an annuity, and his income increases to exceed the very low limits. His portion of the rent is \$700.

**Amount of subsidy the owner can keep: \$ 125** [the High HOME limit less the tenant rent]

**Amount of subsidy the owner cannot keep: \$105** [the High HOME standard up to the contract rent]

## References

**Subsidy Payment Rules** | 24 CFR 92.252(a)(1) and 92.252(a)(2)  
**LIHTC Rents** | 92.252(a)(2)(iii)  
**Over-income HOME Families** | 24 CFR 92.252(h)(2)(i)  
**HOME UA Rules** | 24 CFR 92.252(b)

## Practical Pointers

**HUD Offices**  
**HUD CPD** | HUD Planning and Community Development [oversees HOME]  
**HUD MFH** | HUD Multifamily Housing [oversees Section 8 PBRA]  
**HUD PIH** | HUD Public and Indian Housing [oversees public housing and HCV programs]



Owner/agents of HOME properties will likely get used to asking for a local PHA to establish a payment standard for HOME projects that is not based on the HOME rents usually allowed.



**HOME rent monitoring will need to adjust when subsidy is involved, similar to the LIHTC.**

## Lesson

### Subsidized Tenant Families

The *Housing and Economic Recovery Act of 2008* dictated that HOME and LIHTC rents at a property should not be used when determining the rents that a Public Housing Authority (PHA) should pay for tenants in LIHTC and/or HOME units. HUD regulated this for the LIHTC in PHA regulations, but HOME had not been addressed until the 2025 HOME Rule. The LIHTC has always allowed owners to collect and charge full subsidized rent when a household is receiving government rental assistance. The barrier to implementing this rule for HOME was the HOME regulation requiring that combined tenant rent and subsidy must be below the HOME rent limits for High HOME at PBRA properties and all TBRA households.

#### 24 CFR 92.252(a)(1) and 92.252(a)(2)

After careful consideration, HUD determined that the changes in HERA fundamentally changed the relationship between Section 8 and HOME. It is clear from HERA that the HOME rent limits were not meant to apply to recipients of Section 8 or similar rental assistance. HUD determined a change is appropriate and promotes greater alignment between HOME and HUD's other programs. Where a family is participating in a program and **pays rent no more than 30% of the family's monthly adjusted income or ten percent of the family's monthly income**, then the **maximum rent due from the family is the family's contribution, regardless of whether the family is occupying a High or Low HOME Rent unit**. The HOME housing owner may now accept the rent due from the tenant and the subsidy payment.

## Exercise #1

### HOME and Rental Assisted-Rents

Kardi moved into a High HOME unit and holds a Housing Choice Voucher (HCV). The owner requests that the PHA determine a reasonable rent standard for the area under HCV rules, not based on HOME or LIHTC rents applicable to the property. The PHA establishes the standard and Kardi's portion of the rent alone is significantly more than the HOME rent usually applicable to the unit and the subsidy paid by the PHA makes the combined total even higher. The owner may collect \_\_\_\_\_. (circle one)

- A. only the High HOME rent, including tenant rent and PHA payment.
- B. only the High HOME rent, including tenant rent but excluding the PHA payment.
- C. the correct HCV tenant rent and the subsidy that the PHA will pay, per the HCV standard.

## Exercise #2

**The following year.** Kelli no longer needs the subsidy and relinquishes the subsidy, per HCV rules. The owner may now collect the \_\_\_\_\_ rent.

*Note: if this is floating HOME property, it is likely that the owner/agent will float the HOME designation off the unit to collecting rent applicable to non-HOME units.*

### More Information

#### LIHTC Rents and Low HOME

24 CFR 92.252(a)(2)(iii)

If a Low HOME-assisted unit "is a LIHTC unit and has rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of title 26" (LIHTC law) then it shall be a Low HOME Rent unit.

**Question |** *What LIHTC rent is referred to in 92.252(a)(iii)?*

**Answer |** Section 42(g)(2) is the LIHTC rent limit calculation rule. The LIHTC rule refers to the minimum set-aside provision at 42(g)(1), immediately before the rent provision. Therefore, the HOME rent rule is satisfied if the rent based on the minimum set-aside is charged. This means a 50% LIHTC rent for a 20-50 minimum set-aside property and a 60% for a 40-60 minimum set-aside property. An Average Income Test (AIT) minimum set-aside property would charge the rent that applies to the AIT designation assigned to the unit.

#### Practical Pointer

The LIHTC minimum set-aside for a property, and thus the rent limit, is elected by the owner on IRS Form 8609, line 10(c)

## Exercise #3

### HOME and LIHTC Rents

Kelli moved into a floating Low HOME unit that is also an LIHTC property with a 40-60 minimum set-aside. The owner charges up to the \_\_\_\_\_% LIHTC rent. There is no conflict with the HOME program.

## Exercise #4

**Three years later,** at her HOME recertification, Kelli is over-income for the Low HOME unit, and it redesignated High HOME following HOME rules. Her rent is now capped at the \_\_\_\_\_ rent for the property.

*Note: because this is floating HOME property, it is likely that the owner/agent will float the HOME designation off the unit to continue collecting the LIHTC rent, assigning another Low HOME unit. This will not be an option for fixed HOME properties.*

### Lesson

#### Over-Income HOME Families

24 CFR 92.252(h)(2)(i)

When a family in a HOME unit exceeds the low-income (80%) limit at recertification, their rent is generally calculated based on 30% of adjusted income, capped at fair market rent for the area for floating HOME. However, the new HOME Rule clarifies that a tenant of a HOME unit subject to rent restrictions under the LIHTC program must pay a rent amount that complies with the LIHTC program.

**Lesson**

**Utility Allowances**

**24 CFR 92.252(b), HUD Fact Sheet: HOME Final Rule**

HUD’s stated goal with the final rule included to better align HOME rental housing requirements with those of other funding sources frequently combined with HOME in rental housing to lower burden, including *permitting PJs to use PHA-established utility allowances for HOME rental projects*.

The 2013 HOME Rule eliminated the option for HOME properties committed HOME Funds after the 2013 Rule was effective. PHA estimates of utilities were no longer allowed in favor of the HUD Utility Schedule Model (HUSM) or other approach that reflects actual rates in use at a property. The rationale was that using a UA that most accurately reflects the actual utilities in use at a property is fairer to owners and tenants. This required HUD to approve the PHA UA in the case of VASH and other assistance programs that required the use of the PHA estimate on a property-by-property basis. After careful consideration and public comment, the new Rule *reinstates the PHA UA option*.

A participating jurisdiction may allow the HUD Utility Schedule Model (HUSM), the utility allowance established by the applicable local PHA, or other method approved by HUD for its maximum monthly utility allowances. Past HOME guidance indicates that other options used by Section 8 and the LIHTC program are also acceptable.

**24 CFR 92.252(b)**

HUD now lists broadband as an exclusion from utilities and services included in the UA to help clarify utilities that are not required to be part of the utility allowance.

**Exercise #1**

See the full exercise above.

**Exercise #2**

See the full exercise above.

**Exercise #3**

See the full exercise above.

**Exercise #4**

See the full exercise above.

**Quiz #1**

For a Low HOME unit that is also 60% LIHTC, which income limit applies?

LIHTC HOME

**Quiz #2**

For a Low HOME unit that is also 60% LIHTC, which rent limit applies?

LIHTC HOME

**Answers**

**Exercise #1: C.** The entire payment otherwise due the owner from both the tenant and the PHA is allowed. | **Exercise #2: High HOME.** Once the family is no longer assisted, the High HOME rent limit applicable to her unit applies. | **Exercise #3: 60% LIHTC.** The LIHTC minimum set-aside rent applies. | **Exercise #4: High HOME.** As she is no longer in a Low HOME unit, the High HOME, not LIHTC rent limit applies. | **Quiz #1: Low HOME.** Although the LIHTC *rent* limit will apply, the 50% Low HOME *income* limit will still apply. | **Quiz #2: LIHTC.** See the answer for Quiz #1.

**Action Items**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

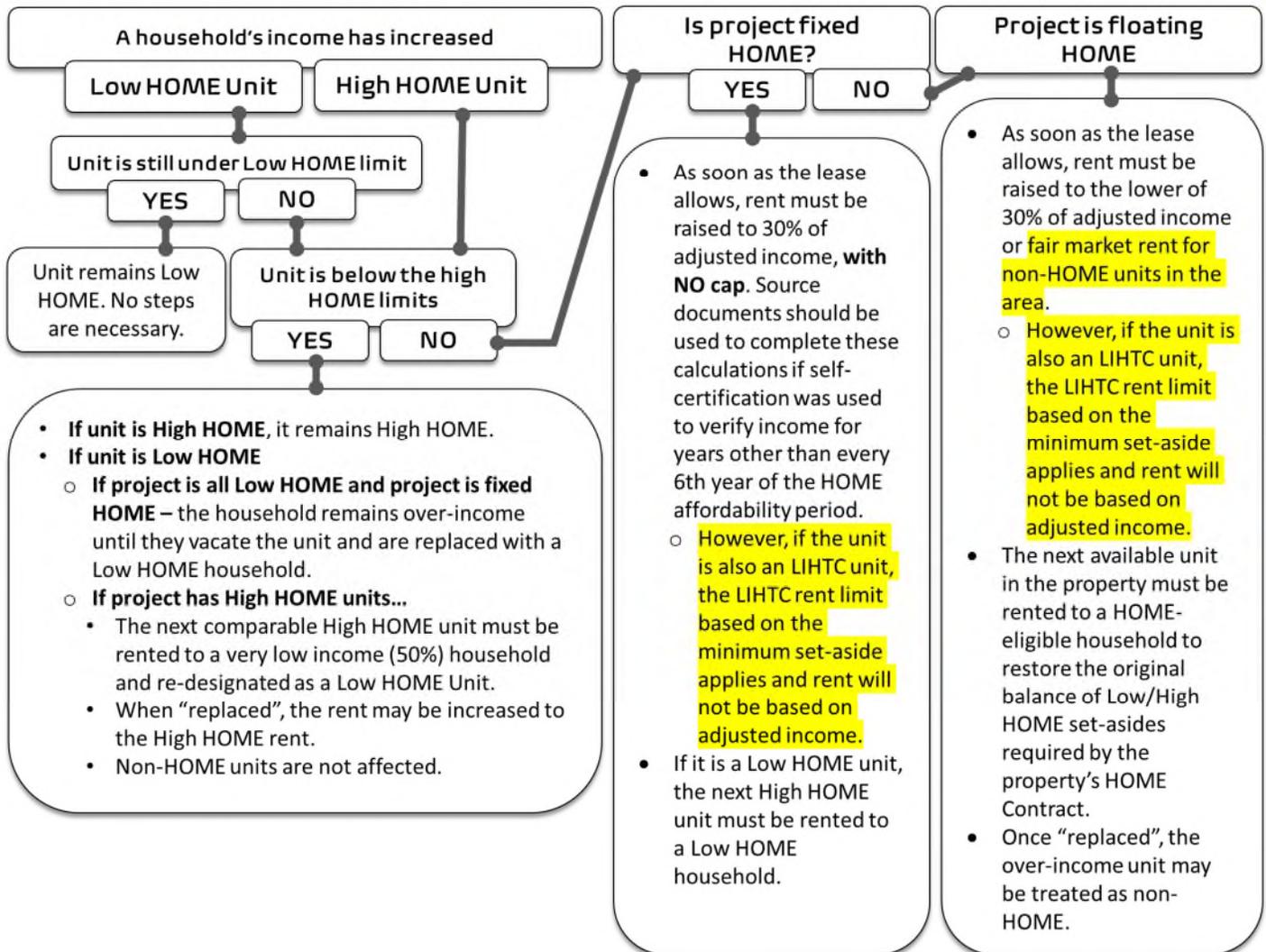


**Digging Deeper | Further Optional Reading**

**Flow Chart: Increases of Income | HOME [attached]**

- o Points clarified in HOME 2025 **are highlighted.**

# Flow Chart | Increases of Income | HOME



- If unit is High HOME, it remains High HOME.
- If unit is Low HOME
  - If project is all Low HOME and project is fixed HOME – the household remains over-income until they vacate the unit and are replaced with a Low HOME household.
  - If project has High HOME units...
    - The next comparable High HOME unit must be rented to a very low income (50%) household and re-designated as a Low HOME Unit.
    - When “replaced”, the rent may be increased to the High HOME rent.
    - Non-HOME units are not affected.

- As soon as the lease allows, rent must be raised to 30% of adjusted income, with **NO cap**. Source documents should be used to complete these calculations if self-certification was used to verify income for years other than every 6th year of the HOME affordability period.
  - However, if the unit is also an LIHTC unit, the LIHTC rent limit based on the minimum set-aside applies and rent will not be based on adjusted income.
- If it is a Low HOME unit, the next High HOME unit must be rented to a Low HOME household.

- As soon as the lease allows, rent must be raised to the lower of 30% of adjusted income or fair market rent for non-HOME units in the area.
  - However, if the unit is also an LIHTC unit, the LIHTC rent limit based on the minimum set-aside applies and rent will not be based on adjusted income.
- The next available unit in the property must be rented to a HOME-eligible household to restore the original balance of Low/High HOME set-asides required by the property's HOME Contract.
- Once “replaced”, the over-income unit may be treated as non-HOME.



Lesson



NSPIRE

24 CFR 92.251(f)(1)(i) & 24 CFR 92.251(g)

The NSPIRE standard, based on 24 CFR 5.703, and any local inspection codes or ordinances are applied as the minimum a PJ must apply to HOME inspections in the 2025 Final Rule. This standard replaced the UPCS and HQS standard that applied in the past to HOME and is used across other HUD and the LIHTC program.

Prior to 2013, the inspection frequency was every 1, 2, or 3 years based on HOME project type and number of units. The 2025 rule continues to require the 2013 standard that the PJ must perform an on-site inspection within 12 months after project completion and every 3 years during the period of affordability. Major health and safety violations, as defined by PJ policy, must be re-inspected within 12 months to ensure that they were corrected.

**Inspection procedures.** The participating jurisdiction must establish written inspection procedures. The procedures must include detailed inspection checklists, a description of how and by whom inspections will be carried out, and procedures for training and certifying qualified inspectors. For ongoing property inspections, the procedures must also describe how frequently the property will be inspected.

**A history of implementation deadlines for NSPIRE** | In September 2023, HUD delayed the NSPIRE compliance date for CPD programs and for the HCV and PBV programs until October 1, 2024, to allow PHAs, PJs, participants, recipients, and HUD grantees additional time for implementation. On July 5, 2024, HUD further extended the compliance date for CPD programs and for the HCV and PBV programs until **October 1, 2025**.

Rehab Mixed with New Construction or Reconstruction

24 CFR § 92.251(d)

If a project includes both rehabilitation of housing units and either new construction or reconstruction of housing units, then the PJ must apply the rehabilitation standards to the housing units that are rehabilitated and the new construction requirements to housing that is either newly constructed or reconstructed.

Use of Other Program NSPIRE Inspections (Including LIHTC)

24 CFR § 92.251(b)(1)(viii)(A), § 92.251(f)(3)(i)(B), and § 92.251(f)(4)(ii)

HUD is open to sharing NSPIRE inspection results to be used by multiple HUD programs. Section 8 properties, for instance, are subject to NSPIRE REAC inspections. The same inspection can meet HOME 2025 requirements. HUD understands that there are other projects using non-HUD funding, most notably LIHTC projects, that may use inspections to the NSPIRE standards as well. HUD will allow a PJ to accept inspections to the NSPIRE standards or another alternative inspection standard HUD may establish in the future. The inspections must be in satisfaction of another funding source's requirements and conducted within the timeframes established for the applicable regulations.

The New HOME Rule allows the PJ to accept a determination made **within the past 12 months** in satisfaction of another funding source's requirements, that the HOME-assisted project and units are decent, safe, sanitary, and in good repair in an inspection conducted under the National Standards for the Condition of HUD housing (NSPIRE, based on 24 CFR part 5, subpart G) or an alternative inspection standard, which HUD may establish through the Federal Register. If a participating jurisdiction is accepting a determination from another program, then the participating jurisdiction must document the determination and is not required to perform an on-site HOME inspection of the project and the units for compliance with NSPIRE.

References

- NSPIRE Reg | 24 CFR 5.703
- HOME Inspection Reg | 24 CFR 92.251
- Sample Size | 24 CFR 92 Table 1 to Paragraph (f)(3)(iii)
- Use of LIHTC/other NSPIRE Inspections | 24 CFR § 92.251(b)(1)(viii)(A), § 92.251(f)(3)(i)(B), and § 92.251(f)(4)(ii)

Practical Pointers

NSPIRE Guidance

An internet search for "HUD NSPIRE" will lead to the HUD.gov REAC NSPIRE webpages. These are full of useful information. For Owners/Agents and PJs.



To effectively respond to NSPIRE findings, an owner/agent will need a very good knowledge of the NSPIRE standards.



NSPIRE will require significant knowledge on the part of inspectors working for a PJ. Many find contractors to be an attractive option.

More Information

Sample Size of Inspections

To determine the appropriate sample size for each project, HUD started with its minimum requirement that **four units be inspected for all projects** that have **up to twenty units**. This is because all units in small-scale housing (1-4 unit projects) must be inspected, and projects of a larger size should not be required to inspect fewer units than a small-scale housing project. Additionally, the Department examined other sampling techniques in response to public comments, including the LIHTC and NSPIRE sampling methods. The Department found that even with the four-unit minimum sample size requirement for projects up to twenty units, HOME was still less burdensome than other programs and required fewer units to be inspected. HUD therefore adopted a 20 percent sample for projects containing between twenty and one hundred and thirty HOME units. Then, in response to comments requesting that the Department provide burden relief similar to that provided in LIHTC or HUD programs subject to NSPIRE, the new HOME Rule adopted the sampling method that is used under NSPIRE for projects containing greater than one hundred and thirty units. HUD stated that this approach strikes the correct balance by providing burden relief for smaller and larger projects while still requiring an appropriate amount of unit inspections occur. It also provides a clearer standard for PJs because the unit sampling for the inspection is **not required to be based on a statistically valid sample**.

24 CFR 92 Table 1 to Paragraph (f)(3)(iii)—Minimum Inspection Sample Size for HOME Rental Housing Projects

Number of HOME-assisted units in the HOME project	Number of units that must be selected in the random sample (i.e., minimum unit sample size)
1-20	4
21-25	5
26-30	6
31-35	7
36-40	8
41-45	9
46-50	10
51-55	11
56-60	12
61-65	13
66-70	14
71-75	15
76-80	16
81-85	17
86-90	18
91-95	19
96-100	20
101-105	21
106-110	22
111-115	23
116-120	24
121-125	25
126-130	26
131-166	27
167-214	28
215-295	29
296-455	30
456-920	31
921+	32

## Lesson

**Smoke and CO Detectors**

In HOME 2025, HUD implemented several policies relating to smoke and carbon monoxide (CO) detectors in HOME units. These align with NSPIRE and other HUD program rules.

**24 CFR 92.251(a)(3)(vi)(A), 92.251(b)(1)(xi)(A), and 92.251(f)(1)(iv)(A)**

HUD added the **carbon monoxide detector** requirement applicable to the Section 8 voucher program as a new requirement for the HOME program, which HUD will more fully describe through a publication in the Federal Register.

**24 CFR 92.251(a)(3)(vi)(B), 92.251(b)(1)(xi)(B), and 92.251(f)(1)(iv)(B)**

HUD added **smoke detection** requirements. The revised smoke detection requirements are tailored to the type of HOME activity and work being performed informed by public comments and implementation considerations.

**24 CFR 92.251(a)(3)(vi)(B)(1)**

- **New construction projects.** A hardwired smoke detector must be installed on each level of each housing unit, in or near each sleeping area in each housing unit, in the basement of each housing unit, and in each common area of a project. However, a hardwired smoke alarm is not required in crawl spaces or unfinished attics of housing units. In addition, a hardwired smoke detector must also be installed within 21 feet of any door to a sleeping area measured along a path of travel. Where a smoke alarm installed outside a sleeping area is separated from an adjacent living area by a door, a smoke alarm must also be installed on the living area side of the door. HUD believes that it is appropriate to require that the smoke alarm be hardwired, as HOME funds are being used in the new construction of the projects and therefore the building designs and electrical systems can be tailored to meet the HOME requirements.

**Technical note |** In response to HUD's consideration of public comments, it added that following the relevant specifications of either the International Code Council (ICC) or the National Fire Protection Association (NFPA) Standard 72 satisfies the HOME detector requirements. Originally, HUD considered only codifying installation in accordance with the NFPA Standard 72 but received comments urging the Department to make its revisions consistent with the U.S. Housing Act of 1937, as amended by the Consolidated Appropriations Act, 2023. The 2023 Act requires that units occupied by tenants living in public housing, living in units and receiving Section 8 Housing Choice Vouchers, or living in unit that receives project-based assistance comply with the applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72 or any successor standard. Therefore, the Department is moving to allow property compliance with either standard for new construction in the HOME program which is consistent with other HUD programs.

**24 CFR 92.251(a)(3)(vi)(B)(2)**

**Hearing Impaired Persons.** HUD also now requires that smoke alarms have an alarm system designed for hearing-impaired people so that individuals with hearing impairments are adequately warned in the event of smoke or a fire. The addition of this paragraph also makes the requirements of this section more consistent with the requirements contained in other HUD rules.

**24 CFR 92.251(a)(3)(vi)(B)(3)**

**Future Changes.** The Final Rule also added that HUD may establish additional standards related to detectors through notice in the Federal Register.

- **Rehabilitation.** HUD had considered requiring hardwired smoke detectors for rehabilitation projects but came to understand that rehabilitation projects may require different considerations. As a result, while the Department is adopting the same requirements from new construction, it also will allow a PJ to provide a written exception to an owner to allow the owner to install a smoke detector that uses a 10-year non-rechargeable, non-replaceable primary battery as long as the smoke detector is sealed, tamper-resistant, contains a means to silence the alarm, and otherwise complies with the requirements of this section. This relief may only be provided where the use of hardwired smoke detectors places an **undue financial burden** on the owner or is **infeasible**. It is the PJ's responsibility for making and documenting this determination for their records. HUD declined to define the terms "undue financial burden" or "infeasible" because it believes that PJs should have the flexibility to develop their own standards and to make their own determinations based on the fact-specific circumstances.

**24 CFR 92.251(f)(1)(iv)(B), 24 CFR 5.703(b) and (d)**

- **Ongoing property standards I.** For existing rental housing projects and the property standards for tenant-based rental assistance, HUD is creating new requirements, which will mandate that smoke detectors meet the standards in 24 CFR 5.703. These are the NSPIRE smoke detection standards that apply to the Section 8 program and elsewhere. The Department believes it is appropriate to treat existing rental housing and units with tenants receiving tenant-based rental assistance the same as those receiving Section 8 HCV assistance or project-based Section 8 assistance, as these programs are sufficiently similar.

**Lesson**

**Smoke and CO Detectors (continued)**

**Ongoing property standards II.** For existing rental housing units and units with tenants receiving tenant-based rental assistance, the inside area must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the property. For the unit, there must be at least one battery-operated or hard-wired smoke detector, in proper working condition on each level of the unit, inside each bedroom, within 21 feet of any door to a bedroom measured along a path of travel, and where a smoke detector installed outside a bedroom is separated from an adjacent living area by a door, a smoke detector must also be installed on the living area side of the door. Additionally, if the unit is occupied by any hearing-impaired person, the smoke detectors must have an alarm system designed for hearing-impaired persons. For both the inside area of the building and the unit, HUD is able to establish additional standards through Federal Register publication.

**Exercise #1**

Shady Oaks Apartments has 10 HOME units and 57 total units. How many HOME units must be inspected?  
\_\_\_\_\_

**Exercise #2**

NSPIRE includes \_\_\_\_\_ detector requirements.

CO CO<sup>2</sup>

**Exercise #3**

Which inspections are suitable for HOME.

[A] HUD REAC for Section 8 PBRA [B] LIHTC [C] Either of these

**Exercise #4**

When used by HOME, an inspection has to have been within \_\_\_\_\_.

[A] 3 months [B] 6 months [C] 12 months [D] 24 months

**Quiz #1**

There will always be 20% of HOME units inspected.

True False

**Quiz #2**

HOME inspection sample is based on \_\_\_\_\_ units in a project.

[A] all [B] all HOME

**Answers**

**Exercise #1: 4.** See the table in HOME 2025 and above for the number of HOME units that dictate the number inspected. | **Exercise #2: CO.** CO<sup>2</sup> is carbon dioxide and is not generally a concern. CO is carbon monoxide, and it is extremely poisonous. | **Exercise #3: [C].** REAC and LIHTC both use NSPIRE and are acceptable to use for HOME. | **Exercise #4: C.** | **Quiz #1: False.** The lower and higher end are higher and lower than 20%, respectively. | **Quiz #2: [B].** See the samples size chart.

**Action Items**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_



**Digging Deeper | Further Optional Reading**

- o NSPIRE Standards | HUD.gov