

provisions of paragraph (a)(3) of this section.

(b) *Reduction of match for participating jurisdictions in disaster areas.* If a participating jurisdiction is located in an area in which a declaration of major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is made, it may request a reduction of its matching requirement. For a local participating jurisdiction, the HUD Field office may reduce the matching requirement specified in § 92.218 by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year. For a State participating jurisdiction, the HUD Field office may reduce the matching requirement specified in § 92.218, by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year with respect to any HOME funds expended in an area to which the declaration of a major disaster applies. At its discretion and upon request of the participating jurisdiction, the HUD Field Office may extend the reduction for an additional year.

Subpart F—Project Requirements

§ 92.250 Maximum per-unit subsidy amount and subsidy layering.

(a) *Maximum per-unit subsidy amount.* The amount of HOME funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limits established under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located. These limits are available from the Multifamily Division in the HUD Field Office. If the participating jurisdiction's per-unit subsidy amount has already been increased to 210% as permitted under section 221(d)(3)(ii) of the National Housing Act, upon request of the Field Office, HUD will allow the per-unit subsidy amount to be increased on a program-wide basis to an amount, up to 240% of the original per unit limits.

(b) *Subsidy layering.* Before committing funds to a project, the participating jurisdiction must evaluate the

project in accordance with guidelines that it has adopted for this purpose and will not invest any more HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing.

[61 FR 48750, Sept. 16, 1997, as amended at 62 FR 28929, May 28, 1997]

§ 92.251 Property standards.

(a) (1) Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion, except as provided in paragraph (b) of this section. The participating jurisdiction must have written standards for rehabilitation that ensure that HOME-assisted housing is decent, safe, and sanitary. In the absence of a local code for new construction or rehabilitation, HOME-assisted new construction or rehabilitation must meet, as applicable, one of three model codes: Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926. To avoid duplicative inspections when FHA financing is involved in a HOME-assisted property, a participating jurisdiction may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

(2) All other HOME-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

(3) The housing must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which

§ 92.252

24 CFR Subtitle A (4-1-03 Edition)

implement the Fair Housing Act (42 U.S.C. 3601-3619).

(4) Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR part 3280. These standards pre-empt State and local codes covering the same aspects of performance for such housing. Participating jurisdictions providing HOME assistance to install manufactured housing units must comply with applicable State and local laws or codes. In the absence of such laws or codes, the participating jurisdiction must comply with the manufacturer's written instructions for installation of manufactured housing units. Manufactured housing that is rehabilitated using HOME funds must meet the requirements set out in paragraph (a)(1) of this section.

(b) The following requirements apply to housing for homeownership that is to be rehabilitated after transfer of the ownership interest:

(1) Before the transfer of the homeownership interest, the participating jurisdiction must:

(i) Inspect the housing for any defects that pose a danger to health; and

(ii) Notify the prospective purchaser of the work needed to cure the defects and the time by which defects must be cured and applicable property standards met.

(2) The housing must be free from all noted health and safety defects before occupancy and not later than 6 months after the transfer.

(3) The housing must meet the property standards in paragraph (a)(1) of this section not later than 2 years after transfer of the ownership interest.

(c) An owner of rental housing assisted with HOME funds must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

(d) All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the housing quality standards in 24 CFR 982.401.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28929, May 28, 1997]

§ 92.252 Qualification as affordable housing: Rental housing.

The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet the following requirements to qualify as affordable housing. The affordability requirements also apply to the HOME-assisted non-owner-occupied units in single-family housing purchased with HOME funds in accordance with § 92.254.

(a) *Rent limitation.* HUD provides the following maximum HOME rent limits. The maximum HOME rents are the lesser of:

(1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or

(2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

(b) *Additional Rent limitations.* In rental projects with five or more HOME-assisted rental units, twenty (20) percent of the HOME-assisted units must be occupied by very low-income families and meet one of following rent requirements:

(1) The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits which include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under paragraph (a) of this section, then the maximum rent for units under this paragraph is that calculated under paragraph (a) of this section.

(2) The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30