



LeadingAge Analysis: NSPIRE Final Rule

June 22, 2023

On May 11, 2023, HUD published a final rule establishing new approaches to affordable housing safety inspections. The final rule, called “Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE),” outlines HUD’s new protocol for defining and assessing housing quality across HUD’s affordable rental housing programs, including Multifamily Housing programs serving older adults, like project-based Section 8 and Section 202.

The rule is part of a broad revision of the way HUD-assisted housing is evaluated for the safety of the residents. Below is LeadingAge’s overview of the “why,” “when,” and “how” of the NSPIRE rollout, followed by our more detailed “what” of the NSPIRE Final Rule.

Why is HUD Implementing NSPIRE?

At its core, NSPIRE hopes to improve oversight of living conditions for HUD-assisted households. The purpose of NSPIRE is twofold: to *strengthen property standards* for properties assisted through HUD, and to *improve HUD oversight* through the alignment and consolidation of the inspection regulations used to evaluate housing across Multifamily Housing, Public Housing, and other HUD rental assistance programs.

When is HUD Implementing NSPIRE?

The new NSPIRE approach to housing inspections will be implemented in two phases. On July 1, 2023, Public Housing will transition to NSPIRE; on October 1, 2023, the Multifamily Housing programs, Housing Choice Voucher and Project Based Voucher programs, and CPD programs will transition to NSPIRE.

The NSPIRE Final rule has two effective dates:

- **July 1, 2023:** Amendments to implement the NSPIRE regulations affecting Public Housing.
- **October 1, 2023:** Amendments to implement NSPIRE regulations affecting Multifamily Housing, Housing Choice Voucher, Project-Based Voucher, Section 8 Moderate Rehabilitation, and the Community Planning and Development (CPD) programs such as HOME Investment Partnerships Program (HOME), the Housing Trust Fund (HTF), Housing Opportunities for Persons with AIDS (HOPWA), Emergency Solution Grants (ESG) and Continuum of Care (COC) regulations.
Participants in these programs are not subject to the regulatory changes being made by the final rule until October 1, 2023.

How is HUD Implementing NSPIRE?

HUD began officially overhauling its inspection process in 2019. Many LeadingAge members engaged in HUD’s NSPIRE demonstration – a HUD-led pilot program to test the new inspection protocol. In addition, HUD issued proposed guidance to collect LeadingAge and other stakeholder feedback on the NSPIRE rules, building standards updates, and a new scoring model.

Following the NSPIRE final rule, HUD will provide further transition information in three core “Subordinate Notices.” The following core Subordinate Notices are expected before July, 2023:

- Standards Notice (*published by HUD on June 22, 2023, pending LeadingAge analysis*)
- Scoring Notice (*forthcoming*)
- Administrative Notice (*forthcoming*)

HUD will publish Standards and Scoring notices “at least” once every three years, to make updates as needed and with opportunity for public comment.

What is included in the NSPIRE Final Rule?

To better identify properties that are unsafe for residents, HUD is attempting to close “loopholes” in its inspection approach. Through NSPIRE, HUD is both *focusing* housing inspections (by narrowing the inspectable areas and elevating the emphasis on in-unit conditions) and *improving HUD oversight* (by adjusting criticality levels, correction timeframes, and enforcement thresholds) within the inspection protocol.

HUD’s NSPIRE goals are to ensure that properties are “functionally adequate, operable, and free of health and safety hazards.” This is achieved by changes to inspectable areas, building standards, scoring methodology, administrative procedures, tenant involvement, and enforcement procedures.

Building Standards

A revision of HUD’s building standards is critical to inspecting for resident safety. HUD will issue a standards notice, prior to July 2023, to set out several new elements of building safety standards.

The standards notice will be updated by HUD, with the opportunity for public comment, at least every three years. While generally supportive of regular updates to standards as needed (at least every three years, per the NSPIRE final rule), LeadingAge has urged HUD to consider the financial impact of constantly changing building standards requirements on both housing providers and residents.

Functionality and Criticality The standards notice will outline the technical elements of “functionality” for each building component, as well as the criticality level (how important the component and each aspect of functionality is for health and safety). The standards notice will be used by both inspectors and by property staff to maintain HUD-assisted buildings at specific levels of safety.

Consolidation Instead of maintaining separate Housing Quality Standards (HQS) and Uniform Physical Condition Standards (UPCS) standards for different HUD programs, NSPIRE consolidates all applicable programs under one set of standards.

Modernization The NSPIRE rule and standards notice, modernizes building standards to currently accepted safety levels. Significant updates are being implemented on mold, fire safety, and pest infestation.

In addition to updates to existing standards under UPCS, HUD has also implemented new, “affirmative” safety requirements. These are primarily in the area of safe drinking water, requirements for a permanent heating source, minimum unit temperatures, and electrical outlets (GFCIs).

Correction Timeframes Lastly, the NSPIRE final rule updates the list of life-threatening (LT) conditions at properties and shortens deficiency correction time frames. The new timeline for correcting LT and Severe health or safety deficiencies remains 24 hours after the inspection. The timeline for repairing Moderate and Low deficiencies has been revised to “within 30 days,” and HUD can authorize permanent repair timelines that exceed 30 days if the deficiency cannot be permanently repaired in 30 days.

HUD’s forthcoming NSPIRE Administration notice will outline the process for submitting evidence of deficiency correction.

LeadingAge Comments to HUD on Proposed Standards To implement the final set of standards under NSPIRE, HUD will publish an NSPIRE standards notice (separate from the NSPIRE final rule) before July, 2023. In LeadingAge’s comments to HUD on an earlier proposed version of the NSPIRE standards, LeadingAge stressed the importance of strong but appropriate safety standards under NSPIRE. LeadingAge supported many of the material enhancements related to health and safety proposed by HUD – like the addition of carbon monoxide detectors, improvements to fire-rated door criteria, prohibitions on fuel-burning space heaters, and other much-needed fire safety measures.

At the same time, LeadingAge cautioned HUD on other proposed standards that would be highly impractical, fall outside of the owner’s control, or represent an “overreach” into tenant home environments – like creating a deficiency for certain inspector-observe in-unit temperatures or holding the housing provider responsible for water quality levels controlled by the municipal water authority.

Overall, LeadingAge urged HUD to emphasize feasibility, clarity, and support for housing providers updating building standards for resident safety. LeadingAge also requested that HUD provide resources, like an update unit self-inspection checklist, based on NSPIRE in-unit standards, that housing providers can utilize throughout the year.

Inspection Scoring

Under NSPIRE, housing conditions will be evaluated using a new scoring method. As with NSPIRE standards, HUD will issue a Notice outlining a new scoring method before HUD begins inspections under NSPIRE. HUD’s goal is to simplify the approach to scoring while elevating the importance of in-unit conditions.

Inspectable Areas NSPIRE outlines a new framework for housing inspections with a focus on where residents spend the most time. In contrast to the previous five inspectable areas under UPCS, NSPIRE establishes three inspectable areas:

- Outside the building – low emphasis throughout scoring model
- Inside the building, but not in the unit (common areas, etc.) – medium emphasis throughout scoring model
- Within the units of HUD housing – high emphasis throughout scoring model

Weighting, Gradations, and Severity Levels NSPIRE adjusts the scoring methodology for inspections by focusing on two criteria: location and severity of deficiencies. To achieve this, NSPIRE assigns a different weight to deficiencies found during inspections depending on where it is located and how critical it is to resident health. NSPIRE will also adjust the gradations and severity levels of the inspection scoring system, including thresholds for potential enforcement action.

Regular Scoring Model Updates Similar to the standards notice, HUD envisions updating the scoring notice at least every three years, with the opportunity for public comment.

LeadingAge Comments to HUD on New Scoring Model Overall, LeadingAge commended HUD for the thoughtful approach to adjusting inspection scoring, including to simplify the process and build in processes for improved consistency. However, LeadingAge also recommended several changes to aid with the feasibility of implementation and fairness for housing communities adjusting to new model. For example, because HUD removed the previous “point loss caps,” and LeadingAge recommended that HUD expand the categories of unscored deficiencies (still required to be fixed by the housing provider, but does not result in a point loss) to include repetitive deficiencies that are often outside of the owner’s control, like pull cord access.

Because of the elevated focus (through point loss) on deficiencies deemed “life-threatening” LeadingAge also strongly urged HUD to narrow the new list of life-threatening deficiencies, and to give owners additional time to implement the changes before receiving an official score through NSPIRE (delay point loss during a property’s first NSPIRE inspection for newly added building standards).

Administrative Procedures

The NSPIRE final rule adjusts procedures for inspections, including the inspection scheduling (and re-scheduling) timeframes and the tenant involvement topics discussed below. Shortly after the NSPIRE final rule, HUD will issue an NSPIRE Administrative notice to implement the updated NSPIRE process for inspections, including:

- Submitting evidence of deficiency correction
- Technical reviews
- Administrative referrals and appeals
- The process HUD will use to gather resident feedback on property conditions
- The process for properties to perform unit self-inspections
- Other administrative requirements

The Administrative notice will replace all UPCS guidance that REAC previously issued, including compilation bulletins, inspector notices, web-based guidance on requesting appeals, exigent health and safety reporting, and other inspection process topics.

Unit Self-Inspections

Previously, HUD had proposed to require electronic reporting to HUD of the results of properties’ own unit inspections. However, HUD agreed with LeadingAge and other commenters who suggested a universal reporting requirement for self-inspection results would pose an additional administrative burden.

The NSPIRE final rule removes the electronic reporting requirement of self-inspections; the reversal brings NSPIRE requirements in line with current requirements for MFH, where no additional electronic reporting of unit inspections is required.

Instead, the NSPIRE final rule requires that the owner or PHA maintain records related to the self-inspection for three years. HUD will not use the results of self-inspections as proposed to determine risk

or the frequency of REAC inspections, and the results of self-inspections will also not affect a property's score. The process to perform self-inspections will be in the NSPIRE Administrative notice.

Tenant Involvement and Notice

HUD has considered many public comments related to improved tenant protections through the property inspection process. As a result, the NSPIRE final rule outlines changes to tenant involvement during the inspection, as well as owner requirements to notify tenant of the inspection results following the final inspection score.

Tenant Involvement in the Inspection Process The final rule states that HUD will allow, through an additional notice, for tenant involvement in the inspection process by making recommendations of particular units to be inspected. The new process will apply to both Public Housing and Multifamily housing programs. Any units inspected in addition to the standard unit sample will not be part of the property's score, but the owner or PHA will be required to repair any identified deficiencies.

The NSPIRE rule states that HUD made this addition with the aim to "balance the need for tenant input with the procedural integrity of the inspection process." More details are forthcoming from HUD via a subordinate notice.

Posting on the availability of materials HUD has revised this section to clarify that the owner or PHA must post a notice to residents on the date that HUD submits the inspection score to the owner. The notice must advise the residents of the availability of the inspection materials and must be translated into other languages if necessary to provide meaningful access for limited English proficient (LEP) individuals, consistent with HUD's LEP guidance.

LeadingAge Comments to HUD on Tenant Involvement LeadingAge generally urged HUD to use the tools already under its authority to ensure quality housing, and stressed the important of fairness and data integrity related to increased tenant involvement in the inspection process. Any expanded avenues for tenant input should be broad, representative, and verifiable.

Departmental Enforcement Center (DEC) evaluation

HUD is revising current inspection regulations to add that HUD will also take administrative review action against properties with two successive scores under 60.

HUD also clarifies that while a score of 30 points or less automatically leads to DEC referral, referral is not automatic for the two successive scores under 60. Regarding the two successive scores under 60, HUD recognizes that there may be mitigating circumstances and HUD will take other review actions before HUD decides whether DEC referral is necessary.

Inspection Timing During the Transition to NSPIRE

3-2-1 Performance-Based Schedule Currently, REAC conducts housing inspections on a three, two, or one year cycle, depending on the outcome of the previous inspection. Under NSPIRE, HUD is maintaining the 3-2-1 year performance-based inspection schedule.

Inspection Anniversary Grace Period Inspections are currently scheduled on the anniversary date of the previous inspection, +/- three months. However, for one year after the effective date of the NSPIRE final rule, inspections will take place on the anniversary date of the previous inspection, +/- 6 months; HUD has stated this is needed for additional flexibility during the transition to NSPIRE. After the first year of NSPIRE effectiveness, HUD will return to the +/- 3 month scheduling framework. In the final rule, HUD

also removed language that requires an inspection to be completed in the calendar year in which they are due.

Rescheduling Inspections HUD will maintain a process for inspections to be rescheduled. The final rule strengthens language allowing PHAs or owners to request a reschedule for good cause, and it allows HUD to extend inspection due dates as necessary, without a PHA/owner request.

Get Ready for NSPIRE with LeadingAge

LeadingAge will continue to work with members to prepare for the implementation of NSPIRE, including by providing member feedback to HUD, as well as updates to members via workgroup calls and trainings.

To join the LeadingAge monthly workgroup on HUD Oversight and Compliance, email Juliana Bilowich (jbilowich@leadingage.org).