

CHAPTER 8. PHA APPEAL PROCESS

8-1 OBJECTIVE. The objective of this Chapter is to provide instruction regarding the PHA appeal process.

8-2 PHA RESPONSIBILITY.

A. A PHA has the statutory right to:

1. Appeal troubled and mod-troubled designation to the Field Office for Field Office recommendation and Regional Office determination; (6)(j)(2)(A)(iii) of the Act and 24 CFR 901.130(a)
2. Petition for the removal of troubled and mod-troubled designation to the Field Office for Field Office recommendation and Regional Office determination; and (6)(j)(2)(A)(iii) of the Act and 24 CFR § 901.130(a) and 901.142(a)
3. Appeal any refusal to remove troubled or mod-troubled designation to the Assistant Secretary. (6)(j)(2)(A)(iii) of the Act and 24 CFR 901.130(d) and 901.142(b)

B. A PHA may appeal:

1. Its management assessment rating on the basis of data errors, or high), unusual circumstances that occurred after a PHA submitted its certification and request for modifications and exclusions; or 24 CFR 901.130(a)
2. The Regional Administrator's failure to consider physical condition and neighborhood environment of its developments in the designation of a PHA's status; or 24 CFR 901.130(a)
3. The denial of exclusion or modification requests when their denial affects a PHA's total weighted score. 24 CFR 901.130(a)
4. A PHA may appeal its management assessment rating only for the reasons stated in paragraphs 8-2B1, B2 and B3, above, and only if the PHA can produce new documentation not previously submitted at the time it submitted its certification and request for modifications and exclusions. 24 CFR 901.130(a)(1)

5. The appeal shall be submitted to the Field Office in

accordance with paragraph 8-3A, below, and shall include supporting documentary justification of the reasons for the appeal (refer to Chapter 7, paragraph 7-5, of this Handbook, for examples of supporting documentary justification). 24 CFR 901.130(a)(3)

6. Appeals submitted without appropriate documentation will not be considered and will be returned to the PHA. 24 CFR 901.130(a) (7)
 7. If a PHA is appealing on more than one basis (e.g., the Regional Administrator's failure to consider physical condition and neighborhood environment of its developments in the designation of a PHA's status, its management assessment rating on the basis of data errors and its designation as standard) all appeals shall be submitted in accordance with paragraph 8-3A, below.
- C. A PHA may appeal a determination of intentional false certification. 24 CFR 901.130(b)
1. The appeal shall be submitted to the Field Office in accordance with paragraph 8-3A, below, and shall include supporting documentary justification of the reasons for the appeal (refer to Chapter 7, paragraph 7-5, of this Handbook, for examples of of supporting documentary justification). 24 CFR 901.130(a)(3)
 2. Appeals submitted without appropriate documentation will not be considered and will be returned to the PHA. 24 CFR 901.130(a) (7)
 3. A PHA shall appeal the imposition of sanctions in accordance with 24 CFR 24.
- D. A PHA may appeal a rescission of high performer designation. 24 CFR 901.130(a)(6)
1. The appeal shall be submitted to the Assistant Secretary and shall include supporting documentary justification of the reasons for the appeal (refer to Chapter 7, paragraph 7-5, of this Handbook, for examples of supporting documentary justification). 24 CFR 901.130 (a) (6)

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Chapter 8, paragraph 8-2D (continued)

2. Appeals submitted without appropriate documentation will not be considered and will be returned to the PHA. 24 CFR 901.130(c) (1)
- E. A PHA may appeal the denial of an initial appeal by the Regional Administrator, which includes the denial of high performer

designation, the rescission of high performer designation, its designation as standard, troubled or mod-troubled, and the denial of an appeal of a determination of intentional false certification. 24 CFR 901.130(c)

1. In cases where an appeal is denied by the Regional Administrator, the PHA may appeal to the Assistant Secretary, with new supporting documentary justification not previously submitted to the Field Office, of the PHA's reason(s) for the appeal. 24 CFR 901.130(c)(1)
 2. Appeals submitted without appropriate documentation will not be considered and will be returned to the PHA. 24 CFR 901.130 (c) (2)
- F. A PHA must demonstrate that a successful appeal will have a significant impact on its score (e.g., at least a 5% point increase) or its performance standing (e.g., it will remove a PHA from troubled or mod-troubled designation, or move a PHA into high performer status). 24 CFR 901.130(a)(2)
1. If a PHA appeals on the basis of incorrect data, the PHA must document the corrections, demonstrate the impact of these corrections on its score and supply reasons for the error.
 2. If a PHA appeals on the basis of incorrect calculations, the PHA must clearly document the calculation errors, demonstrate the impact of these corrections on its score and provide corrected calculations.
 3. If a PHA appeals on the basis of highly unusual circumstances that were discovered after a PHA submitted its certification and request for exclusions and modifications, the PHA must demonstrate the impact of these unusual circumstances on its score, state why the unusual circumstances could not be discovered sooner and submit a request for exclusions or modifications, with supporting justifying documentation.

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Chapter 8, paragraph 8-2F (continued)

4. An appeal on the basis of the Regional Administrator's failure to consider physical condition and/or neighborhood environment of a PHA's developments must demonstrate the presence of these factors and their direct and substantial impact on the management of the affected PHA.
- G. Whenever possible, a PHA should consider transmitting appeals via priority mail to expedite the process and to ensure receipt of the appeal.

8-3 FIELD OFFICE RESPONSIBILITY.

- A. The date and place by which any appeal must be submitted shall be specified in the notification letter from the Field Office notifying the PHA of any determination made or action taken. 24 CFR 901.130(e)
 - 1. The date specified shall be the 15th calendar day after the letter is mailed, not counting the day the letter is mailed. 24 CFR 901.130 (e)
 - 2. If the 15th calendar day falls on a weekend or holiday, the date specified will be the next day that is not on a weekend or a holiday. 24 CFR 901.130(e)
 - 3. Any appeal not received by the specified time and place will not be considered. 24 CFR 901.130(e)
- B. The Field Office shall make recommendations on petitions to remove troubled or mod-troubled designation to the Regional Administrator. 24 CFR 901.120(d)
- C. The Field Office shall review the issues presented in an appeal and forward its recommendation for their resolution to the Regional Administrator. 24 CFR 901.120(d) and 901.130(a)(4)
- D. The Field Office shall forward its recommendation to the Regional Administrator and the Regional Administrator shall make determinations of all initial appeals within 30 calendar days. 24 CFR 901.130(f)
- E. The Field Office shall notify the local appointing officials of a PHA's Board of Commissioners and State officials of a PHA's status after an appeal

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Chapter 8, paragraph 8-3E (continued)

decision has been made by the Regional Office, and after the PHA and Field Office have been notified of the Regional Office's appeal decision.

- 1. The local community, residents, and the local and State officials should know whether or not a PHA is performing in a capacity to preserve and protect its public housing developments and operate them in accordance with Federal law and regulations.
- 2. Elected officials, in particular, as representatives of the public, should be aware of the status of PHAs within their jurisdictions.

3. Notifications of these parties shall not occur until after any appeals have been determined.

F. The Field Office shall maintain PHMAP files, including appeals and designations based on physical condition and/or neighborhood environment of a PHA's developments, as open records, available for public inspection for three years in accordance with any procedures established by the Field Office to minimize disruption of normal office operations. 24 CFR 901.120(f) and 901.155

1. The Field Office's recommendation shall be part of the open record of the appeal. 24 CFR 901-155

2. The Regional Administrator's decision shall be part of the open record of the appeal. 24 CFR 901.155

8-4 REGIONAL OFFICE RESPONSIBILITY.

A. The Regional Administrator shall make determinations of all initial appeals, including those based on a failure to consider physical condition and/or neighborhood environment of a PHA's developments in the designation of a PHA's status. 24 CFR 901.130(a)(5)

B. The Regional Administrator shall transmit the determination of a PHA's appeal to the PHA within 30 calendar days after the PHA's appeal is mailed, not counting the day the PHA's appeal is mailed, in a notification letter that shall also include the date and place for submitting any further appeal. If the 30th calendar day falls on a weekend or holiday, the date for the Regional Administrator to determine the PHA's appeal will be the next day that is not on a weekend or a holiday. If an appeal is denied by the

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Chapter 8, paragraph 8-4B (continued)

Regional Administrator, the reason for the denial shall be stated in the letter to the PHA. 24 CFR 901.130(f)

C. Due to the limited time frame of the appeals process, whenever possible, the Regional Office should consider transmitting determinations of appeals via priority mail to expedite the process and to ensure receipt of the appeal decision.

D. The Regional Administrator shall determine the time frames for Field Office recommendation and Regional Administrator determination within the Regional Office's jurisdiction. 24 CFR 901.130(f)

8-5 HEADQUARTERS RESPONSIBILITY.

A. The Assistant Secretary shall decide a PHA's appeal of the

Regional Administrators denial of an initial appeal, including:
24 CFR 901.130 (c)(1)

1. An appeal of the refusal of a petition to remove troubled and mod-troubled designation; 24 CFR 901.130(d)
2. The denial of high performer designation; 24 CFR 901.130(c)
3. The designation of standard, troubled and mod-troubled; 24 CFR 901.130(c)
4. The rescission of high performer designation; 24 CFR 901.130(c)
5. The denial of any appeal of a determination of false certification; 24 CFR 901.130(c)
6. The denial of any appeal of exclusion and modification requests; and 24 CFR 901.130(c)
7. An appeal based on a failure of the Regional Administrator to consider physical condition and neighborhood environment of a PHA's developments in the designation of a PHA's status. 24 CFR 901.130 (c)

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Chapter 8, paragraph 8-5, (continued)

- B. The appeal to the Assistant Secretary shall be submitted with new supporting documentation not previously submitted to the Field Office, justifying the PHA's reason(s) for appeal. 24 CFR 901.130(c)(1)
- C. The Assistant Secretary shall determine an appeal within 30 calendar days after the PHA's appeal is mailed, not counting the day the PHA's appeal is mailed. If the 30th calendar day falls on a weekend or holiday, the date for the Assistant Secretary to respond to the PHA's appeal will be the next day that is not on a weekend or a holiday. If an appeal is denied by the Assistant Secretary, the reason for the denial shall be stated in the letter to the PHA. 24 CFR 901.130(f)

8-6 APPEAL SUMMARY. The following schedule summarizes the roles of a PHA, Field Office, Regional Office and Headquarters in the appeal process.

ACTIVITY

DUE DATE

PHA submits its PHMAP certification

No later than 90 calendar days after PHA FYB

In the initial year of the PHMAP implementation and for the purposes of the CGP, PHAs shall submit their certification

in accordance with Chapter 4, paragraph 4-2C, of this Handbook

PHA request for an exclusion or modification of an indicator or component

No later than 90 calendar days after PHA FYB, at the time a PHA submits its PHMAP certification

In the initial year of the PHMAP implementation and for the purposes of the CGP, PHAs shall submit their request for an exclusion or modification in accordance with Chapter 4, paragraphs 4-C1, C2 and C3, of this Handbook

Field Office (FO) performs the annual PHMAP assessment (and the on-site confirmatory review and schedules additional reviews in identified problem areas,

No later than 90 calendar days after the due date for the PHA to submit its certification and requests for exclusions and modifications

In the initial year of the PHMAP implementation and for the purposes of the CGP, FOs shall perform the annual PHMAP assessment in

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Chapter 8, paragraph 8-6 (continued)

ACTIVITY

DUE DATE

if any) and makes initial determinations;

accordance with Chapter 4, paragraph 4-3B, of this handbook

Regional Office (RO) may review FO's initial determination

FO transmits the initial notification letter to the PHA

Within 90 calendar days after the due date for PHAs to submit their certification and request for exclusion and modifications

In the initial year of the PHMAP implementation and for the purposes of the CGP, FOs shall notify PHAs in accordance with Chapter 4, paragraph 4-3B, of this Handbook

PHA may appeal the FO/RO annual PHMAP assessment

Within 15 calendar days after the notification letter is mailed by the FO

FO will make recommendations and RO will make a determination on the

Within 30 calendar days after the appeal is mailed by the PHA

PHA's appeal

PHA may appeal the RO determination of appeal to the Assistant Secretary (A/S)

Within 15 calendar days after the notification letter is mailed by the RO

A/S will make a determination on appeal, if any

Within 30 calendar days of receipt of PHA appeal

PHA petition to remove troubled or mod-troubled designation to FO/RO

At any time

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