



ASSISTED HOUSING MANAGEMENT INSIDER®

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How to Handle 'Exigent' Health and Safety Hazards Cited in REAC Inspection

During an inspection, Real Estate Assessment Center (REAC) inspectors look at specific areas of the site for health and safety hazards. Most of these hazards can cost you big points on your inspection score but don't necessarily subject you to other, more serious penalties. But some health and safety hazards are so dangerous—even life-threatening—that HUD requires you to take steps to correct these hazards immediately and certify within three days that you've done so, says Jack T. Smith, director of training for the Inspection Group in Westerville, Ohio.

HUD calls these types of life-threatening hazards "exigent health and safety hazards" because of the urgent need to correct them in view of the risk of physical injury and death that they pose. Uncorrected exigent health and safety hazards have serious repercussions for your site. These include possible administrative enforcement, which can lead to suspension and debarment from HUD programs.

We'll tell you what conditions HUD considers to be exigent health and safety hazards requiring immediate action. And we'll tell you what steps to take to correct these conditions and to show HUD that you've done so. To help you do this, we've given you a Model Certification like the one HUD requires you to send to show you've corrected any exigent health and safety hazards (see p. 3). And we've created a Model Report you can adapt and send with the certification (see p. 2).

How Uncorrected Exigent Health and Safety Hazards Can Cause Trouble

By ignoring exigent health and safety hazards, you may:

Get in trouble with HUD. REAC inspectors notify REAC of their inspection results, including any exigent health and safety hazards. And both REAC and your local HUD office or contract administrator will monitor whether you've corrected these hazards. If you don't certify to your local HUD office or your contract administrator that you've corrected them within three business days of the inspection, they or REAC may report you to HUD's Enforcement Center for administrative review. If this hap-

pens, the Enforcement Center will conduct a review and require you to make a compliance plan. If you don't cooperate with the Enforcement Center's review or don't follow the required compliance plan, HUD could suspend or debar you from participating in HUD programs, or take any other action necessary "to protect HUD's financial interests" in the site.

Get hit with local fines. If REAC inspectors found these hazards, so will other local inspectors who come to your site. And even if you're not scheduled for an inspection any time soon, residents who see your inspection results (under HUD rules you must make them available to residents) may report you to local fire or health and safety authorities.

Be at risk of lawsuits. Most exigent health and safety hazards are considered urgent for a reason—they pose a risk of serious injury or even death. So these hazards can also put you at risk of lawsuits if residents or others are injured by these dangerous conditions. Residents may also withhold rent until you fix the hazards. And if you sue the residents for nonpayment, the judge may even give them a rent abatement based on the hazard.

What Conditions Are Exigent Health and Safety Hazards?

During an inspection, REAC inspectors look at eight categories of health and safety hazards: air quality, electrical, elevator, emergency and fire exits, flammable materials, garbage and debris, infestation, and physical hazards. Within these eight categories, there are 13 types of conditions that HUD considers to be exigent (what HUD previously called life-threatening). These are:

- Missing electrical outlets and switches;
- Missing or broken cover plates for electrical outlets or switches;
- Missing circuit breakers on electrical panels or boxes;
- Missing covers for electrical panels or boxes;
- Water leaks on or near electrical equipment;

- Missing or inoperable smoke detectors;
- Missing, damaged, or expired fire extinguishers;
- Blocked or unusable emergency or fire exits;
- Visibly missing components of fire escapes;
- Security bars preventing exit through windows;
- Misaligned flue or ventilation systems on water heaters;
- Misaligned flue or ventilation systems on HVAC systems; and
- Detection of propane, natural, or methane gas.

Four Steps to Take if You Get Cited

If an inspector cites you for an exigent health and safety hazard, take the following four steps:

Step #1: Repair hazard immediately. HUD rules require you to repair all exigent health and safety hazards immediately, if possible, but no later than three business days after the inspection. Once an inspector finishes an inspection, the inspection software summarizes all exigent health and safety hazards into one report, which the inspector will give you in writing (called a Notification of Exigent and Fire Safety Hazards), says Smith.

It's important to repair each hazard properly. For instance, if you're cited for open electrical panels, the proper way to repair this type of hazard is to insert a circuit breaker, a fuse, or a blank plastic insert made by the proper panel manufacturer, notes Smith. But some sites

have tried to fix this type of hazard in improper ways—for example, by covering the slots with electrical or duct tape or gluing inappropriate material over the slots. If you don't repair the hazard properly, REAC won't consider it corrected, says Smith.

And you must use the right person to make the repair. For example, your maintenance staff can change the battery on a smoke detector. But you may need to hire a trained contractor to repair gas leaks or electrical hazards.

AHMI Says: To make sure you repair each hazard properly, go over the exigent health and safety report with the inspector to find out what repairs would put the cited hazard in acceptable condition, suggests Smith. Then determine whether your staff has the expertise to make these repairs or whether you need to hire an outside contractor, he says.

Step #2: Discuss with local HUD office or contract administrator. Once REAC gets your inspection results, it will post any findings of exigent health and safety hazards on the Real Estate Management System (REMS) 48 hours after the inspection, as well as on the REAC Web site. HUD has instructed local HUD offices and contract administrators to check for these results. Then they must call you to confirm that you've gotten the Notification of Exigent and Fire Safety Hazards. They should also ask you if you've corrected the hazards, and will discuss the hazards with you. During the conversation, discuss any problems you're having making repairs. Your local HUD

MODEL REPORT

Use Report to Document Repairs of Exigent Health and Safety Hazards

Here's an example of a report you can use to document that you've repaired any exigent health and safety hazards found by the REAC inspector. For each hazard, you should record the location of the cited hazard, the type of hazard, how you repaired the hazard, and the date and time of repair. It's a good idea to list the hazards in the same order the REAC

inspector listed them on the Notification of Exigent and Fire Safety Hazards. You'll need to include a copy of this report with the certification you send or fax to your local HUD office or contract administrator. Talk to your attorney about adapting this report for use at your site.

EXIGENT HEALTH AND SAFETY HAZARD REPAIR REPORT				
PROPERTY ID#: XXX-XXXX				
PROPERTY NAME & ADDRESS: ABC Apartments, 123 Main St., Anytown, USA 12345				
NAME & TEL. # OF MANAGING AGENT: John Manager, (555) 555-5555				
INSPECTION ID#: XXXXX		DATE OF INSPECTION: 3/14/01		NAME OF INSPECTOR: Jane Inspector
ITEM #	LOCATION OF HAZARD	TYPE OF HAZARD	HOW REPAIRED	DATE & TIME OF REPAIR
1.	Building 1, basement	Open slots in electrical panels	Inserted blank plastic inserts	3/14/01, 1:15 P.M.
2.	Building 1, Unit 3E	Inoperable smoke detector	Replaced battery on smoke detector	3/14/01, 2:00 P.M.
3.	Building 2, rear fire exit door	Door blocked by maintenance tool shelf	Removed tool shelf	3/14/01, 4:30 P.M.

office or contract administrator may decide to refer you to HUD's Enforcement Center for administrative enforcement. By discussing any problems with them beforehand and working out a solution, you may be able to avoid getting referred for enforcement.

Step #3: Document repairs. REAC requires you to document in writing your repairs of exigent health and safety hazards. Use a repair report like our Model Report. This report must be attached to your certification, as Step #4 explains. At the top of your report, give basic informa-

tion about the site and the inspection. Below this information, your report should have columns to record the following:

► *Item number.* Keep track of the number of exigent hazards cited. It's a good idea to list the hazards in the same order they were listed on the notification. For instance, if you were cited for three exigent health and safety hazards, list them on the report in the same order they're listed on the notification, and number them 1, 2, and 3, so there's no confusion about which hazards you corrected.

MODEL CERTIFICATION

Send or Fax Signed Certification Within Three Days of Inspection

Send or fax a signed certification, like the one below, on the owner's letterhead within three business days of your inspection to certify that you've corrected any exigent health and safety hazards. HUD requires standard certification language, so make sure your certification uses exactly the same words as the version we've given you. Complete the blanks in our Model

Certification with the appropriate information about your site. Then have the owner sign the certification or, if you sign it as managing agent on behalf of the owner, be sure to describe your relationship to the owner in the second numbered paragraph. Finally, attach a completed repair report (see our Model Report on p. 2 for an example).

**PROJECT OWNER'S CERTIFICATION THAT ALL EXIGENT
HEALTH AND SAFETY ITEMS HAVE BEEN CORRECTED**

SEND OR FAX SIGNED COPY TO LOCAL MF OFFICE

[Name of Project Owner:] _____

(the "Project Owner"), the owner of [Project Name:] _____

[City:] _____ [State:] _____ [Project Number:] _____

(the "Project"), by and through its duly authorized representative identified below, hereby certifies that:

1. All Exigent Health and Safety ("EH&S") items at the Project have been corrected. Such EHS items include those identified in the Notification of Exigent and Fire Safety Hazards Observed, dated _____.
2. The attached Report accurately identifies the repairs that have been made to correct the EHS items, the location of those repairs, and the date or dates the repairs were made. If repairs were not made, the dangerous condition was eliminated.

This certification is made by the Project Owner and is signed by a duly authorized representative of the Project Owner, who is so authorized by reason of his/her position as the [State Fully Relationship Between Signer of Certification and Project Owner:] _____

All of the foregoing statements, as well as the date, signature and identifying information of the signer and the Project Owner that follows, are HEREBY CERTIFIED as true and accurate this _____ day of _____, 20____.

Project Owner: _____

By: Signature: _____

Print Name: _____

Title: _____

► *Location of hazard.* For each item, state where the inspector found the hazard. Give the building and unit number, if applicable, and specify the area, such as “basement storage area,” “second-floor hallway,” or “rear exit door.”

► *Type of hazard.* State the hazard you were cited for—for instance, blocked fire exit or open electrical panels.

► *How you or staff repaired the hazard.* Describe what action you, your maintenance staff, or, if necessary, a hired contractor took to repair the hazard, such as replacing a missing fire extinguisher or unblocking fire exits.

► *Date and time of repair.* Record the date and time you or your staff repaired the hazard, to show you made the repairs right away.

AHMI Says: Even though REAC doesn’t require you to submit physical documentation, it’s a good idea to take a photograph of the repaired area, with a date and time stamp if possible, in case you need proof later that you’ve made the repairs.

Step #4: Send or fax certification to local HUD office or contract administrator within three days.

Send or fax a signed certification, like our Model Certification, on the owner’s letterhead within three business days of the REAC inspection. Our certification contains standard language that HUD requires you to use, so make sure your certification uses exactly the same words as ours. When preparing your certification, fill in the blanks in our Model Certification with the appropriate information about your site. Only the owner or its “duly authorized representative” can sign the certification, so have the owner sign it, if possible. If you sign the certification as managing agent on behalf of the owner, be sure to describe your relationship to the owner. Finally, attach a completed repair report as referred to in the second numbered paragraph. 📌

AHMI SOURCE

Jack T. Smith: Director of Training, The Inspection Group, 6656 Lower Lake Dr., Westerville, OH 43082; 1-866-PASS-REAC.

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