



MUSCATINE MUNICIPAL HOUSING AGENCY

City Hall, 215 Sycamore Street
Muscatine, IA 52761-3840
(563) 264-1554
(563) 264-1550 Voice/TT
Fax (563) 263-3064

MEMORANDUM

TO: Gregg Mandsager, City Administrator
FROM: Richard Yerington, Housing Administrator
DATE: September 30, 2011
RE: Update to Section 8 Administrative Policy

INTRODUCTION: Muscatine Municipal Housing Agency (MMHA) operates the Housing Choice Voucher Program under the guidelines set forth by the Department of Housing and Urban Development.

BACKGROUND: A revision of the voucher program's administrative policy is necessary to more efficiently administer the program and to comply with recent federal regulatory requirements.

Staff has reviewed the federal requirements and has made recommendations for revising the policy.

The city council, acting as the MMHA Board of Commissioners must authorize and approve all policy changes to the Section 8 Tenant-Based Housing Choice Voucher Program Administrative Policy.

RECOMMENDATION/RATIONALE: It is recommended the city council approve the attached resolution to allow MMHA to implement changes to the administrative policy effective October 7, 2011.

BACKUP INFORMATION: Attached revision general list of changes
Attached 17 pages of changes as recommended

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING CHANGES TO
MUSCATINE MUNICIPAL HOUSING AGENCY
ADMINISTRATIVE POLICY FOR THE
SECTION 8 TENANT-BASED HOUSING CHOICE VOUCHER PROGRAM**

WHEREAS, a revision of the Section 8 Tenant-Based Housing Choice Voucher Program Administrative Policy is necessary to more efficiently administer the program and to comply with recent federal regulatory requirements; and,

WHEREAS, staff has reviewed the federal requirements and has made recommendations for revising the policy; and,

WHEREAS, revisions to the administrative policy has been completed by the Housing Administrator and are in the best interest of Muscatine Municipal Housing Agency and the community; and,

WHEREAS, the city council, acting as the MMHA Board of Commissioners must authorize and approve all policy changes to the Section 8 Tenant-Based Housing Choice Voucher Program Administrative Policy.

NOW THEREFORE, BE IT RESOLVED, the city council hereby approves and authorizes policy changes to the Section 8 Tenant-Base Administrative policy as presented.

MOVED, PASSED AND ADOPTED this 6th day of October 2011.

**BY THE CITY COUNCIL OF
THE CITY OF MUSCATINE, IA**

RICHARD O'BRIEN, MAYOR
CITY OF MUSCATINE, IOWA

ATTEST:

GREGG MANDSAGER, CITY CLERK
CITY OF MUSCATINE, IOWA

CHANGES TO THE HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE POLICIES 10/7/11

STRIKE-THROUGH AREAS REMOVED FROM PLAN / BLACK TYPE HAS BEEN ADDED

Introduction

Code of Federal Regulations

Pages 1-5

<http://www.gpoaccess.gov/cfr/index.html>

www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm

<http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf>

<http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf>

<http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm>

http://www.access.gpo.gov/su_docs/aces/fr-cont.html

www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm

www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm

<http://www.hud.gov/offices/pih/systems/pic/50058/pubs/ib/form50058ib.pdf>

<http://www.hud.gov/offices/fheo/library/huddojstatement.pdf>

http://www.hudclips.org/sub_nonhud/cgi/pdf/31267.pdf

Notice PIH 2010-3, Verification of Social Security Numbers (SSNs) and Supplemental Security Income (SSI) Benefits

<http://www.hud.gov/offices/pih/publications/notices/10/pih2010-3.pdf>

Notice PIH 2010-19, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System

<http://www.hud.gov/offices/pih/publications/notices/10/pih2010-19.pdf>

Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice

<http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>

<http://www.whitehouse.gov/omb/circulars/a133/a133.html>

http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010

PIH Notice 2002-01 (HA), Accessibility Notice

<http://www.hud.gov/offices/pih/publications/notices/02/pih2002-1.pdf>

PIH Notice 2004-18 (HA), Verification of Social Security (SS) and Supplemental Security Income (SSI) Benefits

<http://www.hud.gov/offices/pih/publications/notices/04/pih2004-18.pdf>

PIH Notice 2005-01 (HA), Implementation of the Consolidated Appropriations Act (HR 4818—H Rept 108-792), 2005 Funding Provisions for the Housing Choice Voucher Program

<http://www.hud.gov/offices/pih/publications/notices/05/pih2005-1.pdf>

PIH Notice 2005-7 (HA), Rental Integrity Monitoring (RIM) Disallowed Costs and Sanctions Under the Rental Housing Integrity Improvement Project (RHIP) Initiative

<http://www.hud.gov/offices/pih/publications/notices/05/pih2005-7.pdf>

PIH Notice 2005-9 (HA), Public Housing Agency (PHA) Flexibility to Manage the Housing Choice Voucher Program in 2005

<http://www.hud.gov/offices/pih/publications/notices/05/pih2005-9.pdf>

http://www.hudclips.org/sub_nonhud/cgi/pdf/20035.pdf

www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm

VAWA Final Rule

<http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf>

www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm

<http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf>

<http://www.hud.gov/index.html>.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

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In the event that the PHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of it. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

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overall size of the PHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family,

Chapter 3

ELIGIBILITY

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The Except under the following conditions, the. However, :

If the family breakup results from an occurrence of domestic violence, dating violence, or stalking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, and stalking, see section 16-IX.D of this plan.)

the interest of any family member who is the victim of domestic violence, dating violence, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4)

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The PHA may not disclose to the owner any confidential information provided in response to a PHA request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

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24 CFR Part 5, Subpart L

The Violence against Women Reauthorization Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program ~~prohibits denial of admission to an otherwise qualified applicant~~ "on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking, if the applicant otherwise qualifies for assistance or admission."

Definitions of key terms used in VAWA are provided in section 16-IX of this plan, where

general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located. Specifically, Section 606(4)(A) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

~~That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission [24 CFR 5.2005].~~

Definitions [24 CFR 5.2003]

As used in VAWA:

~~The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.~~

~~The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.~~

~~The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~The length of the relationship~~

~~The type of relationship~~

~~The frequency of interaction between the persons involved in the relationship~~

~~The term *stalking* means:~~

~~To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or~~

~~To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and~~

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~~In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.~~

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~~The term *immediate family member* means, with respect to a person:~~

~~A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or~~

~~Any other person living in the household of that person and related to that person by blood and marriage.~~

Notification

:the VAWA information described in section 16-IX.C of this plan and will request that an applicant wishing to claim protection under VAWA notify the PHA within 10 business days.

~~A statement of the protection against denial provided by VAWA~~
~~A description of PHA confidentiality requirements~~
~~A request that an applicant wishing to claim this protection submit to the PHA~~
~~documentation meeting the specifications below with her or his request for an~~
~~informal review (see section 16-III.D).~~

Documentation

Victim Documentation [24 CFR 5.2007]

PHA Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, or stalking, the PHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

~~An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:~~

~~A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking~~

~~A police or court record documenting the domestic violence, dating violence, or stalking~~

~~Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This~~

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~~person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.~~

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Time Frame for Submitting Documentation

PHA Policy

The applicant must submit the required documentation with her or his request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, the PHA will grant an extension of 10 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the PHA determines that the family is eligible for assistance, no informal review will be scheduled and the PHA will proceed with admission of the applicant family.

PHA Confidentiality Requirements [24 CFR 5.2007(a)(1)(v)]

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in

~~writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.~~

PHA Policy

~~If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.~~

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

Page 5

Information about the protections afforded by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, and stalking (see section 16-IX.C)

Chapter 9

GENERAL LEASING POLICIES

Page 2

The PHA may not disclose to the owner any confidential information provided in response to a PHA request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Page 1

~~HUD lists five-six regulatory conditions and the statutory condition under VAWA in which an —The Violence against Women Reauthorization Act of 2005 provides that “a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenantbased assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit” [24 CFR 982.353(b)].~~

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The family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.314(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4), 24 CFR 982.353(b)].

PHA Policy

If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking, the PHA will request documentation in accordance with section 16-IX.D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the PHA will document the waiver in the family's file.

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However, Notice PIH 2008-432011-3 significantly restricts the ability of PHAs to deny permission to move under portability due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory. ~~For moves outside the PHA's jurisdiction under portability, no policy decisions are required.~~

The PHA will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. ~~VAWA allows exceptions to these grounds for denial or termination of assistance for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].~~

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~~Refer to sections 3-III.G and 12-II.E for VAWA provisions.~~

Restrictions on Elective Moves [24 CFR 982.314(c)]

However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.)

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Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [Notice PIH 2011-3].

PHA Policy

The PHA will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

Initial Contact with Notification to the Receiving PHA

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10-II.C. RECEIVING PHA ROLE

Responding to Initial PHA's Request

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date [Notice PIH 2011-3].

PHA Policy

The PHA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

2008-432011-3].

~~When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(e)(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2008-43]. (See later under "Absorbing a Portable Family" for more on this topic.)~~

PHA Policy

~~Within 10 business days after a portable family requests assistance, the receiving PHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.~~

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

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~~TERMINATING THE ASSISTANCE OF~~ONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [24 CFR 5.2005]

This section addresses the protections against termination of assistance that the Violence against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, and stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan, where definitions of key VAWA terms are also located.

VAWA Protections against Termination

~~The Violence Against Women Reauthorization Act of 2005 (VAWA) provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. So do the limitations discussed under the next heading.)~~

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking. ~~criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.~~ [24 CFR 5.2005(c)(2)].

~~VAWA also~~Fourth, it gives PHAs the authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing, the victim of such the violence who is also a tenant or lawful occupant." [24 CFR 5.2009(a)].

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Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of the a PHA to terminate the assistance of any a victim participant of domestic violence, dating violence, or stalking if the PHA "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted the property if that tenant the victim is not evicted or terminated from assistance." [24 CFR 5.2005(d)(2)].

~~However, situations where this might be relevant are extremely rare.~~ HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk

- The nature and severity of the potential harm

- The likelihood that the potential harm will occur

- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the ~~tenant~~ participant wishes to contest the PHA's determination that he or she is an actual and imminent threat to other tenants or employees, the ~~tenant~~ participant may do

so as part of the informal hearing.

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Victim Documentation of Abuse [24 CFR 5.2007]

PHA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file. ~~When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the PHA will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.~~

~~The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the PHA will accept either of the following forms of documentation: A police or court record documenting the actual or threatened abuse Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.~~

~~The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.~~

~~The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the PHA's written request or must request an extension within that time frame. The PHA may, at its discretion, extend the deadline for 10 business days.~~

~~If the individual provides the requested documentation within 14 business days, or any PHA approved extension, the PHA will reconsider its termination decision in light of the documentation.~~

~~If the individual does not provide the requested documentation within 14 business days, or any PHA approved extension, the PHA will proceed with termination of the family's assistance in accordance with applicable law, program regulations, and the policies in this plan.~~

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Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2005(e)]
PHA Confidentiality Requirements [24 CFR 5.2007(a)(1)(v)]

~~All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.~~

PHA Policy

~~If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.~~

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12-II.F. TERMINATION NOTICE ~~[HCV-GB, p. 15-7]~~

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

PHA Policy

Whenever a family's assistance will be terminated, the PHA will send a written notice of termination to the family and to the owner of the family's unit. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When the PHA notifies an owner that a family's assistance will be terminated, the PHA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. Although HUD does not require PHAs to include information about the protections against termination of assistance provided by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, or stalking, PHAs have the discretion to include such information.

PHA Policy

Whenever the PHA decides to terminate a family's assistance because of the family's action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and will request that a family member wishing to claim protection under VAWA notify the PHA within 10 business days.

Still other notice requirements apply in two situations:

If a criminal record is the basis of a family's termination, a copy of the record must accompany (or precede) the termination notice, and a copy of the record must also be provided to the subject of the record [24 CFR 982.553(d)].

If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

~~If a family's assistance is to be terminated, whether voluntarily or involuntarily, the PHA must~~

give the family and the owner written notice that specifies:

- ~~–The reasons for which assistance has been terminated~~
- ~~–The effective date of the termination~~
- ~~–The family's right to an informal hearing as described in Chapter 16~~

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~~If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].~~

PHA Policy

~~When termination is initiated by the PHA, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the PHA, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the PHA learns the family has vacated the unit.~~

~~When a family requests to be terminated from the program they must do so in writing to the PHA (see section 12 I.C.). The PHA will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).~~

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Notice of Termination Based on Citizenship Status [24 CFR 5.514 (e) and (d)]

~~The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.~~

~~The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.~~

PHA Policy

~~The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.~~

12-III.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

~~When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].~~

~~The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].~~

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12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, ~~including failure to pay rent or other amounts due under the lease,~~ except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking ~~against that participant~~ and the victim is protected from eviction by the Violence against Women Act of 2005 (see section 12-II.E). ~~This~~ A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

However, in the case of criminal activity directly related to domestic violence, dating violence, or stalking, if the tenant or an immediate member of the tenant's family is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

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~~The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.~~

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines ~~they~~ the covered person ~~has~~ engaged in the criminal activity, regardless of whether the covered person has been arrested or ~~conviction~~ convicted for such activity and without satisfying the standard of proof used for a criminal conviction, ~~except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking. (See Section 12-II.E.).~~

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Any incidents of, or criminal activity related to, domestic violence, dating violence, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

Chapter 13 **OWNERS**

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Complying with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening prospective HCV tenants ~~and/or terminating~~ terminating the tenancy of an HCV ~~tenants~~ family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1))

Chapter 16 **PROGRAM ADMINISTRATION**

Page 1

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence,

and stalking; and maintaining the confidentiality of information obtained from victims.

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24 CFR 982.505(d), Notice PIH 2010-26]

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~~Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)~~

Page 16 ~~The person conducting the review will make a recommendation to the PHA, but the PHA is responsible for making the final decision as to whether assistance should be granted or denied.~~

Page 14 ~~A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.~~

Page 39 Documentation of Domestic Violence, Dating Violence, or Stalking

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, or stalking, see section 16-IX.E.

NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence against Women Act of 2005 (VAWA) provides special protections for victims of domestic violence, dating violence, and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA. In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an

adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

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The term *immediate family member* means, with respect to a person:

- A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
- Any other person living in the household of that person and related to that person by blood and marriage.

The term *stalking* means:

- To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
- To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
- In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

~~requires PHAs to inform assisted tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, PHAs may elect to provide the same information to applicants. VAWA also requires PHAs to inform owners and managers of their obligations under this law [24 CFR 5.2007(3)]. This part describes the steps that the PHA will take housing choice voucher notified about and that owners and managers are notified of their obligations~~

Notification to Public

The PHA adopts the following policy ~~This part describes the steps that the PHA will take to help ensure that all actual and potential beneficiaries of its housing choice voucher HCV program are notified about aware of their rights and that owners and managers are notified of their obligations under VAWA.~~

~~16-IX.A. NOTIFICATION TO PARTICIPANTS [24 CFR 5.2007(3)(i)]~~

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

PHAs are required to inform program participants of their rights under VAWA, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as participants, PHAs may elect to provide the same information to applicants. ~~VAWA requires PHAs to notify HCV program participants of their rights under this law, including their right to confidentiality and the limits thereof.~~

PHA Policy

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The PHA will provide all participants with ~~notification of their protections and rights under~~ information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

~~The notice will explain the protections afforded under the law, inform the participant of PHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.~~

~~The PHA will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12 II.E).~~

Notification to Owners and Managers [24 CFR 5.2005(a)(2)]~~16-IX.B. NOTIFICATION TO APPLICANTS~~

~~PHA Policy~~

~~The PHA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.~~

~~The notice will explain the protections afforded under the law, inform each applicant of PHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.~~

~~The PHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3 III.G).~~

~~16-IX.C. NOTIFICATION TO OWNERS AND MANAGERS [24 CFR 5.2007(3)(ii)]~~

~~VAWA requires PHAs are required to notify owners and managers participating in the HCV program of their rights and responsibilities obligations under this law VAWA.~~

~~Inform property owners and managers of their screening and termination responsibilities related to VAWA. The PHA may utilize any or all of the following means to notify owners of their VAWA responsibilities:~~

~~As appropriate in day to day interactions with owners and managers.~~

~~Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.~~

~~Signs in the PHA lobby and/or mass mailings which include model VAWA certification forms~~

The PHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms

of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking), which must include the name of the perpetrator

(2) A federal, state, tribal, territorial, or local police report or court record

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

PHA Policy

Any request for documentation of domestic violence, dating violence, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. Any extension granted by the PHA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

PHA Policy

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

PHA Policy

If the PHA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to

provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, ex

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PROJECT-BASED VOUCHERS

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~~, FR Notice 11/24/08]~~

~~At their discretion PHAs may specify in the HAP contract that the maximum rent on a unit will not be less than the initial rent.~~

Page 34The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation[24 CFR 5.2007(a)(4)].

5/1/11 Revisions to Policy Instruction Guide

Remove Pages	Insert Pages	Changes Made in Policy Instruction Guide
Entire Guide TOC	TOC-1 thru TOC-14	Updated TOC
2-3/4	2-3/4	Added heading for 2..B. Nondiscrimination as a correction
3-3/4	3-3/4	Text changes for VAWA final rule
3-39/40	3-39/40	Changed reference on Prohibited Reasons for Denial of Assistance subsection for VAWA final rule
3-51/52	3-51/52	Text changes on p. 3-52 for VAWA final rule
3-61 thru 3-70	3-61 thru 3-66	Text changes throughout 3-III.G for VAWA final rule; Deleted subsection on Definitions; changed wording in Decision Point under Notification subsection, changed wording in Decision Point under Documentation/Victim Documentation and Perpetrator Documentation subsections, deleted Time Frame for Submitting Documentation and PHA Confidentiality Requirements subsections, pagination changes
5-7 thru 5-10	5-7 thru 5-10	Text changes on pp. 5-7, 5-8, and 5-10 for VAWA final rule; pagination changes
8-1/2	8-1/2	Corrected wording on p. 8-1 for Exhibits shown at end of the Chapter 8 policy file.
9-1/2	9-1/2	Text changes on p. 9-1 for VAWA final rule
10-1 thru 10-38 (Entire Chapter 10)	10-1 thru 10-44	Text changes, PIH notice reference changes, Model plan page number reference changes and pagination changes throughout for Portability Notice PIH 2011-3 and the VAWA final rule. Changes also include the following: Added new Decision Point under Allowable Moves (p. 10-2), added new Decision Points under Insufficient Funding (pp. 10-5 & 10-6), added text to Decision Point under Applicant Families (p. 10-16), added new subheading of Preapproval Contact with the Receiving PHA that includes a new Decision Point (p. 10-25) added new subheading of Responding to Initial PHA's Request that includes a new Decision Point (p. 10-31)

Remove Pages	Insert Pages	Changes Made in Policy Instruction Guide
12-3 thru 12-6	12-3 thru 12-6	Text and reference changes on pp. 12-4 & 12-5 for VAWA final rule
12-11/12	12-11/12	Text and reference changes on p. 12-11 for VAWA final rule
12-25 thru 12-40	12-25 thru 12-40	<p>Updated Section 12-II.E, which includes: Added new subsection on VAWA Protections against Termination (p. 12-27), added new subsection on Limitations on VAWA Protections and text changes in PHA Policy (p. 12-27), text changes in Decision Point under updated subheading title Documentation of Abuse (p. 12-29), deleted PHA Confidentiality Requirements subheading, pagination changes</p> <p>Updated Section 12-II.F to clarify issues of providing notice of termination and changes for the VAWA final rule. These changes include: Text changes throughout section, including within the first Decision Point text (p.12-33), added new Decision Point (p. 12-35), deleted Notice of Termination Based on Citizenship Status subsection</p> <p>Deleted Section 12.II.G. How Termination of Assistance Affects the HAP Contract and Lease</p> <p>Text and reference changes on pp. 12-37 & 12-39 for VAWA final rule.</p>
16-1/2	16-1/2	Added text for Part IX on VAWA on p. 16-1
16-9/10	16-9/10	Added reference to Unit-by-Unit Exceptions subheading for Nondiscrimination Notice PIH 2010-26
16-17/18	16-17/18	Changed reference in heading on p. 16-18 as a technical clarification
16-55/56	16-55/56	Added new subheading for Documentation of Domestic Violence, Dating Violence, or Stalking on p. 16-56 for VAWA final rule
16-61 thru 16-66	16-61 thru 16-72	<p>Revised information throughout Part IX on VAWA for the VAWA final rule, including: Decision Point changes and/or additions throughout this part.</p> <p>Pagination changes</p>
17-35/36	17-35/36	Reference change on p. 35 as a technical clarification