

section 18 of the 1937 Act. Further, as noted above, the PHA must provide the RAB with the opportunity to review and comment on proposed changes to its policies concerning demolition and disposition. The PHA must also provide assurance that these changes were duly approved by the PHA board of directors (or similar governing body) and must make the revised policies available to the public upon request.

*Comment: The final rule should provide additional guidance regarding what constitutes a challenge of a Plan element for purposes of triggering HUD review.* One commenter made this suggestion. The commenter noted the language of the proposed rule providing that HUD would limit its review of Annual Plans to certain specified elements, and “[a]s required by section 5A(i)(2) [of the 1937 Act], . . . any other plan element that has been challenged” (67 FR 53276, 523277, first column).

*HUD response.* HUD has not revised the rule in response to this comment. HUD may issue future additional guidance regarding challenges to the Annual Plans should it determine that such guidance is necessary.

*Comment: HUD should not eliminate from its review PHA policies on rent computation and rent redeterminations.* One commenter wrote that these policies should be reviewed annually to ensure compliance with the law. According to the commenter, evictions often result from improper PHA rent computations. The commenter wrote that HUD’s continued review of these policies would help to ensure that PHAs comply with all applicable legal requirements.

*HUD response.* HUD has not revised the rule in response to this public comment. As with other PHA policies and programs, any changes to the rent computation and redetermination policies must be reviewed by the RAB, approved by the PHA governing board, and made available to the public for inspection. The existence of such changes must be listed in the PHA’s streamlined Annual Plan and may be flagged by HUD for further monitoring and oversight, depending on the scope and nature of the changes. Inclusion of this information in the Annual Plan is, therefore, unlikely to provide much further assurance that proper rent calculations will be made.

#### *E. Questions Regarding Implementation*

*Comment:* How soon will HUD make available a streamlined electronic PHA Annual Plan? One commenter posed this question. The commenter also asked whether small PHAs would be expected to continue to use the current

electronic Plan template, but simply enter “not applicable” for the reporting requirements eliminated by the regulatory changes.

*HUD response.* HUD is working on the necessary modifications to the electronic PHA Plan template. HUD is also considering further regulatory changes that may affect revisions to the template. When completed, the availability of the revised template will be announced through PIH Notice or other non-regulatory means.

*Comment: How will staggered review of the 5-Year Plans be implemented?* One commenter asked this question. Specifically, the commenter, a small PHA, asked when its 5-Year Plan would be due. The commenter wrote that it is currently preparing its fourth year Annual Plan for submission in 2003.

*HUD response.* This is an implementation issue that will be addressed by HUD in separate non-regulatory guidance. HUD will issue a PIH Notice describing how the staggered review provisions of the final rule will be implemented. The PIH Notice will provide PHAs with sufficient time to bring their policies and procedures governing Annual Plan submissions into compliance with the timelines for staggered HUD review.

#### **VI. Discussion of Public Comments Regarding the Proposed Changes to the PHAS**

*Comment: Questions regarding effective date of deregulatory changes.* Two commenters posed questions regarding the effective date of the deregulatory changes being made by HUD. One of the commenters asked if small PHAs would still be required to electronically submit the currently required PHAS reporting data for Fiscal Year 2002 should the final rule become effective by January 1, 2003.

*HUD response.* The deregulatory changes made by this final rule will become effective on July 24, 2003. The final rule continues to provide for biennial PHAS assessments for small PHAs. To facilitate compliance with biennial PHAS assessments, PHAs with fiscal years ending in the first four quarters following the effective date of this final rule will not be evaluated under PHAS for that fiscal year.

#### **VII. Discussion of Public Comments Regarding the Proposed Changes to SEMAP**

*Comment: HUD should not exempt non-audit PHAs from SEMAP.* One commenter objected to the proposed exemption from SEMAP assessment and scoring of small PHAs not subject to the requirements of the Single Audit Act.

The commenter objected that the proposed rule would not provide any alternative oversight mechanism for assessing whether exempt PHAs are complying with federal law in administering their voucher programs. The commenter also objected to the number of PHAs that would be exempt from SEMAP, writing that approximately one-third of all PHAs may be exempt from management oversight as a result of the proposed rule. Further, the commenter wrote that if the dollar threshold for federal expenditures subject to the Single Audit Act is ever raised, even more PHAs might be exempt from SEMAP.

The commenter wrote that if HUD is concerned about the unfair impacts of using a fewer number of indicators to conduct SEMAP assessments for non-audit PHAs, there are two alternative solutions that are far less drastic than exempting these PHAs altogether from federal oversight. The first alternative is to allow these small PHAs to self-certify their compliance with the seven SEMAP indicators that are independently verified for other PHAs. The second alternative is to alter the percentage threshold for designation as troubled for these small PHAs. The commenter wrote that either of these alternatives, combined with HUD’s other proposed changes to SEMAP, would reduce the burden on small PHAs and HUD staff, while retaining some federal oversight of program integrity and accountability, which is the purpose of SEMAP.

*HUD response.* Upon reconsideration, HUD agrees with the concerns raised by the commenter and has revised the proposed rule accordingly. Small, non-audit PHAs will continue to be subject to SEMAP assessment and scoring, in accordance with the current SEMAP regulations. Those regulations at § 985.3 provide that non-audit PHAs are exempt from assessment under seven of the SEMAP indicators (indicators (a) through (g)) for which the annual independent audit report is a HUD verification method. However, non-audit PHAs must still complete the SEMAP certification for these indicators, and performance under the indicators is subject to HUD confirmatory review.

*Comment: HUD should consider making SEMAP scores advisory altogether.* One commenter made this recommendation based on the perceived deficiencies with the PIC electronic reporting system. The commenter wrote that PIC does not accept records properly due to a system failure, that it is difficult to clearly identify on PIC which PHA records are being counted towards the PHA’s final SEMAP score,