

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION TO FHA PROGRAMS

Sec.

200.1 Purpose.

Subpart A—Requirements for Application, Commitment, and Endorsement Generally Applicable to Multifamily and Health Care Facility Mortgage Insurance Programs; and Continuing Eligibility Requirements for Existing Projects

200.3 Definitions.

ELIGIBLE MORTGAGOR

200.5 Eligible mortgagor.

200.6 Employer identification and social security numbers.

ELIGIBLE MORTGAGEE

200.10 Lender requirements.

200.11 Audit requirements for State and local governments as mortgagees.

ELIGIBLE MORTGAGE

200.15 Maximum mortgage.

200.16 Project mortgage adjustments and reductions.

200.17 Mortgage coverage.

200.18 Minimum loan prohibition.

MISCELLANEOUS PROJECT MORTGAGE INSURANCE

200.20 Refinancing insured mortgages.

200.21 Reinsurance of Commissioner held mortgages.

200.22 Operating loss loans.

200.23 Projects in declining neighborhoods.

200.24 Existing projects.

200.25 Supplemental loans.

MISCELLANEOUS CROSS CUTTING REGULATIONS

200.30 Nondiscrimination and equal opportunity.

200.31 Debarment and suspension.

200.32 Participation and compliance requirements.

200.33 Labor standards.

200.34 Property and mortgage assessment.

200.35 Appraisal standards—nondiscrimination requirements.

200.36 Financial reporting requirements.

200.37 Preventing crime in federally assisted housing.

200.38 Protections for victims of domestic violence.

FEES AND CHARGES

200.40 HUD fees.

200.41 Maximum mortgagee fees and charges.

COMMITMENT APPLICATIONS

200.45 Processing of applications.

200.46 Commitment issuance.

200.47 Firm commitments.

REQUIREMENTS INCIDENT TO INSURED ADVANCES

200.50 Building loan agreement.

200.51 Mortgagee certificate.

200.52 Construction contract.

200.53 Initial operating funds.

200.54 Project completion funding.

200.55 Financing fees and charges.

200.56 Assurance of completion for on-site improvements.

GENERAL REQUIREMENTS

200.60 Assurance of completion for offsite facilities.

200.61 Title.

200.62 Certifications.

200.63 Required deposits and letters of credit.

PROPERTY REQUIREMENTS

200.70 Location and fee interest.

200.71 Liens.

200.72 Zoning, deed and building restrictions.

200.73 Property development.

200.74 Minimum property standards.

200.75 Environmental quality determinations and standards.

200.76 Smoke detectors.

200.77 Lead-based paint poisoning prevention.

200.78 Energy conservation.

MORTGAGE PROVISIONS

200.80 Mortgage form.

200.81 Disbursement of mortgage proceeds.

200.82 Maturity.

200.83 Interest rate.

200.84 Payment requirements.

200.85 Covenant against liens.

200.86 Covenant for fire and other hazard insurance.

200.87 Mortgage prepayment.

200.88 Late charge.

COST CERTIFICATION

200.95 Certification of cost requirements.

200.96 Certificates of actual cost.

200.97 Adjustments resulting from cost certification.

ENDORSEMENT

200.100 Insurance endorsement.

Pt. 200

200.101 Mortgagor lien certificate.

REGULATION OF MORTGAGORS

200.105 Mortgagor supervision.

200.106 Projects with limited distribution mortgagors and program assistance.

Subpart B—Electronic Submission of Required Data for Mortgage Defaults and Mortgage Insurance Claims for Insured Multifamily Mortgages

200.120 Purpose and applicability.

200.121 Requirements and effectiveness.

Subparts C–D [Reserved]

Subpart E—Mortgage Insurance Procedures and Processing

APPLICATION FOR INSURANCE

200.145 Property and mortgage assessment.

CLAIMS FOR LOSSES

200.153 Presentation of claim.

200.156 Settlement of claims.

200.157 Provisions and characteristics of debentures.

200.158 Applicability of Treasury regulations to debenture transactions.

200.159 Relief on account of lost, stolen, destroyed, mutilated or defaced debentures.

200.160 Redemption of debentures prior to maturity.

200.161 Administration of debenture transactions.

200.162 Certificates of claim.

Subpart F—Placement and Removal Procedures for Participation in FHA Programs

SECTION 203(k) REHABILITATION LOAN CONSULTANTS

200.190 HUD list of qualified 203(k) consultants.

200.191 Placement of 203(k) consultant.

200.192 Removal of 203(k) consultant.

200.193 Responsibilities of 203(k) consultants on the list.

NONPROFIT ORGANIZATIONS

200.194 Placement of nonprofit organization on Nonprofit Organization Roster.

200.195 Removal of nonprofit organization from Nonprofit Organization Roster.

Subpart G—Appraiser Roster

200.200 What is the Appraiser Roster?

200.202 How do I apply for placement on the Appraiser Roster?

200.204 What actions may HUD take against unsatisfactory appraisers on the Appraiser Roster?

24 CFR Ch. II (4–1–23 Edition)

200.206 What are my responsibilities as an appraiser listed on the Appraiser Roster?

Subpart H—Participation and Compliance Requirements

200.210 Policy.

200.212 Definitions.

200.214 Covered Projects.

200.216 Controlling Participants.

200.218 Triggering Events.

200.220 Previous Participation review.

200.222 Request for reconsideration.

Subpart I—Nondiscrimination and Fair Housing

200.300 Nondiscrimination and fair housing policy.

Subpart J—Equal Employment Opportunity

200.400 Purpose.

200.405 Notice to public.

200.410 Definition of term “applicant”.

200.415 Agreement of applicant.

200.420 Equal opportunity clause to be included in contracts and subcontracts.

200.425 Exemptions.

200.430 Sanctions.

Subparts K–L [Reserved]

Subpart M—Affirmative Fair Housing Marketing Regulations

200.600 Purpose.

200.605 Authority.

200.610 Policy.

200.615 Applicability.

200.620 Requirements.

200.625 Affirmative fair housing marketing plan.

200.630 Notice of housing opportunities.

200.635 Compliance.

200.640 Effect on other requirements.

APPENDIX TO SUBPART M OF PART 200—EQUAL HOUSING OPPORTUNITY INSIGNIA

Subpart N [Reserved]

Subpart O—Lead-Based Paint Poisoning Prevention

200.800 Lead-based paint.

200.805 Definitions.

200.810 Single family insurance and coinsurance.

Subpart P—Physical Condition of Multifamily Properties

200.850 Purpose.

200.853 Applicability.

200.855 Physical condition standards and physical inspection requirements.

200.857 Administrative process for scoring and ranking the physical condition of multifamily housing properties.

Subpart R [Reserved]

Subpart S—Minimum Property Standards

200.925 Applicability of minimum property standards.

200.925a Multifamily and care-type minimum property standards.

200.925b Residential and institutional building code comparison items.

200.925c Model codes.

200.926 Minimum property standards for one and two family dwellings.

200.926a Residential building code comparison items.

200.926b Model codes.

200.926c Model code provisions for use in partially accepted code jurisdictions.

200.926d Construction requirements.

200.926e Supplemental information for use with the CABO One and Two Family Dwelling Code.

200.927 Incorporation by reference of minimum property standards.

200.929 Description and identification of minimum property standards.

200.929a Fair Housing Accessibility Guidelines.

200.931 Statement of availability.

200.933 Changes in minimum property standards.

200.934 User fee system for the technical suitability of products program.

200.935 Administrator qualifications and procedures for HUD building products certification programs.

200.936 Supplementary specific procedural requirements under HUD building products certification program for solid fuel type room heaters and fireplace stoves.

200.937 Supplementary specific procedural requirements under HUD building product standards and certification program for plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, plastic water closet bowls and tanks.

200.940 Supplementary specific requirements under the HUD building product standards and certification program for sealed insulating glass units.

200.942 Supplementary specific procedural requirements under HUD building product standards and certification program for carpet and carpet with attached cushion.

200.943 Supplementary specific requirements under the HUD building product standards and certification program for the grademarking of lumber.

200.944 Supplementary specific requirements under the HUD building product standards and certification program for

plywood and other performance rated wood-based structural-use panels.

200.945 Supplementary specific requirements under the HUD building product standards and certification program for carpet.

200.946 Building product standards and certification program for exterior finish and insulation systems, use of Materials Bulletin UM 101.

200.947 Building product standards and certification program for polystyrene foam insulation board.

200.948 Building product standards and certification program for carpet cushion.

200.949 Building product standards and certification program for exterior insulated steel door systems.

200.950 Building product standards and certification program for solar water heating system.

200.952 Supplementary specific requirements under the HUD building product standards and certification program for particleboard interior stair treads.

200.954 Supplementary specific requirements under the HUD building product standard and certification program for construction adhesives for wood floor systems.

200.955 Supplementary specific requirements under the HUD building product standard and certification program for fenestration products (windows and doors).

Subpart T—Social Security Numbers and Employer Identification Numbers; Assistance Applicants and Participants

200.1001 Cross-reference.

Subpart U—Social Security Numbers and Employer Identification Numbers; Applicants in Unassisted Programs

200.1101 Cross-reference.

Subpart V—Income Information; Assistance Applicants and Participants

200.1201 Cross-reference.

Subpart W—Administrative Matters

200.1301 Expiring programs—Savings clause.

200.1303 Annual income exclusions for the Rent Supplement Program.

Subpart Y—Multifamily Accelerated Processing (MAP): MAP Lender Quality Assurance Enforcement

200.1500 Sanctions against a MAP lender.

200.1505 Warning letter.

200.1510 Probation.

200.1515 Suspension of MAP privileges.

§ 200.1

- 200.1520 Termination of MAP privileges.
200.1525 Settlement agreements.
200.1530 Bases for sanctioning a MAP lender.
200.1535 MAP Lender Review Board.
200.1540 Imminent harm notice of action.
200.1545 Appeals of MAP Lender Review Board decisions.

APPENDIX A TO PART 200—STANDARDS INCORPORATED BY REFERENCE IN THE MINIMUM PROPERTY STANDARDS FOR HOUSING (HUD HANDBOOK 4910.1)

AUTHORITY: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

SOURCE: 36 FR 24467, Dec. 22, 1971, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 200 appear at 69 FR 18803, Apr. 9, 2004.

§ 200.1 Purpose.

This part sets forth requirements that are applicable to several of the programs of the Federal Housing Administration, an organizational unit within the Department of Housing and Urban Development. Program requirements applicable to FHA programs and other HUD programs also can be found in 24 CFR part 5. The specific program regulations should be consulted to determine which requirements in this part 200 or 24 CFR part 5 are applicable.

[61 FR 14398, Apr. 1, 1996]

Subpart A—Requirements for Application, Commitment, and Endorsement Generally Applicable to Multifamily and Health Care Facility Mortgage Insurance Programs; and Continuing Eligibility Requirements for Existing Projects

SOURCE: 61 FR 14399, Apr. 1, 1996, unless otherwise noted.

§ 200.3 Definitions.

(a) The definitions “department”, “elderly person”, “family”, “HUD”, and “Secretary”, as used in this subpart A, shall have the meanings given these terms in 24 CFR part 5.

(b) The terms “*first mortgage*”, “*hospital*”, “*maturity date*”, “*mortgage*”, “*mortgagee*”, and “*state*”, as used in this subpart A shall have the meaning given in the section of the National Housing Act (12 U.S.C. 1701), as amend-

24 CFR Ch. II (4–1–23 Edition)

ed, under which the project mortgage is insured.

(c) As used in this subpart A:

Act means the National Housing Act, (12 U.S.C. 1701) as amended.

Commissioner means the Federal Housing Commissioner.

FHA means the Federal Housing Administration.

Insured mortgage means a mortgage which has been insured by the endorsement of the credit instrument by the Commissioner, or the Commissioner’s duly authorized representative.

Project means a property consisting of site, improvements and, where permitted, equipment meeting the provisions of the applicable section of the Act, other applicable statutes and regulations, and terms, conditions and standards established by the Commissioner.

[61 FR 14399, Apr. 1, 1996, as amended at 77 FR 5675, Feb. 3, 2012]

ELIGIBLE MORTGAGOR

§ 200.5 Eligible mortgagor.

(a) Except as provided in paragraph (b) of this section, the mortgagor:

(1) Shall be a single asset mortgagor entity acceptable to the Commissioner, as limited by the applicable section of the Act, and shall possess the powers necessary and incidental to operating the project, except that the Commissioner may approve a non-single asset mortgagor entity under such circumstances, terms and conditions determined and specified as acceptable to the Commissioner; and

(2) Shall not be a natural person or tenant in common.

(b)(1) For multifamily project mortgages for which HUD issued a firm commitment for mortgage insurance before September 1, 2011, and for multifamily project mortgages insured under section 232 of the Act (12 U.S.C. 1715w), the mortgagor shall be a natural person or entity acceptable to the Commissioner, as limited by the applicable section of the Act, and shall possess the powers necessary and incidental to operating the project.

(2) For multifamily project mortgages for which HUD issued a firm commitment for mortgage insurance

on or after September 1, 2011, the regulations of paragraph (a) of this section shall apply, unless the mortgagor demonstrates to the satisfaction of the Commissioner that financial hardship to the mortgagor would result from application of the regulations in paragraph (a) of this section due to the reasonable expectations of the mortgagor that the transaction would close under the regulations in effect prior to September 1, 2011, in which case, the regulations of paragraph (b)(1) shall apply.

[76 FR 24369, May 2, 2011]

§ 200.6 Employer identification and social security numbers.

The requirements set forth in 24 CFR part 5, regarding the disclosure and verification of social security numbers and employer identification numbers by applicants and participants in assisted mortgage and loan insurance and related programs, apply to these programs.

ELIGIBLE MORTGAGEE

§ 200.10 Lender requirements.

The requirements set forth in part 202 of this chapter regarding approval, recertification, withdrawal of approval, approval for servicing, report requirements and conditions for supervised mortgagees, nonsupervised mortgagees, investing mortgagees, and governmental and similar institutions, apply to these programs.

[62 FR 20081, Apr. 24, 1997]

§ 200.11 Audit requirements for State and local governments as mortgagees.

Requirements set forth in 2 CFR part 200, subpart F, apply to State and local governments (as defined at 2 CFR 200.90 and 200.64, respectively) that receive mortgage insurance as mortgagees.

[80 FR 75936, Dec. 7, 2015]

ELIGIBLE MORTGAGE

§ 200.15 Maximum mortgage.

Mortgages must not exceed either the statutory dollar amount or loan ratio limitations established by the section of the Act under which the mortgage is insured, except that the

Commissioner may increase the dollar amount limitations:

(a) By not to exceed 170 percent, in any geographical area, in which the Commissioner finds that cost levels so require; and

(b) By not to exceed 170 percent, or 215 percent in high-cost areas, where the Commissioner determines it necessary on a project-by-project basis.

[73 FR 17239, Mar. 31, 2008]

§ 200.16 Project mortgage adjustments and reductions.

The principal amount computed in accordance with the applicable section of the Act for the insured mortgage shall be subject to additional adjustments and reductions in accordance with terms and conditions established by the Commissioner.

§ 200.17 Mortgage coverage.

The mortgage shall cover the entire property included in the project.

§ 200.18 Minimum loan prohibition.

A mortgagee may not require that the mortgage exceed a minimum amount established by the mortgagee, as a condition of providing a loan secured by a mortgage insured under this part.

MISCELLANEOUS PROJECT MORTGAGE INSURANCE

§ 200.20 Refinancing insured mortgages.

An existing mortgage insured under the Act, or an existing mortgage held by the Secretary that is subject to a mortgage restructuring and rental assistance sufficiency plan under the Multifamily Assisted Housing Reform and Affordability Act, 42 U.S.C. 1437f note (MAHRA), may be refinanced pursuant to section 223(a)(7) of the Act and such terms and conditions as may be established by the Commissioner. The term of such refinancing in connection with the implementation of an approved restructuring plan under section 401, subpart C of this title, may be up to, but not more than, 30 years.

[72 FR 66037, Nov. 26, 2007]

§ 200.21

§ 200.21 Reinsurance of Commissioner held mortgages.

Any mortgage assigned to the Commissioner in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by the Commissioner of any property acquired under any section or title of the Act, may be insured pursuant to provisions of section 223(c) of the Act and such terms and conditions established by the Commissioner.

§ 200.22 Operating loss loans.

An insured loan to cover the operating losses of a project with an existing Commissioner insured mortgage may be made in accordance with provisions of section 223(d) of the Act and such terms and conditions established by the Commissioner.

§ 200.23 Projects in declining neighborhoods.

A Mortgage financing the repair, rehabilitation or construction of a project located in an older declining urban area shall be eligible for insurance pursuant to provisions of section 223(e) of the Act and such terms and conditions established by the Commissioner.

§ 200.24 Existing projects.

A mortgage financing the purchase or refinance of an existing rental housing project or refinance of the existing debt of an existing cooperative project under section 207 of the Act, or for refinancing the existing debt of an existing nursing home, intermediate care facility, assisted living facility, or board and care home, or any combination thereof, under section 232 of the Act, may be insured pursuant to provisions of section 223(f) of the Act and such terms and conditions established by HUD.

[79 FR 42189, July 21, 2014]

§ 200.25 Supplemental loans.

A loan, advance of credit or purchase of an obligation representing a loan or advance of credit made for the purpose of financing improvements or additions to a project covered by a mortgage insured under any section of the Act or Commissioner-held mortgage, or equip-

24 CFR Ch. II (4–1–23 Edition)

ment for a nursing home, intermediate care facility, board and care home, assisted living facility, or group practices facility, may be insured pursuant to the provisions of section 241 of the Act and such terms and conditions established by HUD.

[72 FR 67545, Nov. 28, 2007]

MISCELLANEOUS CROSS CUTTING REGULATIONS

§ 200.30 Nondiscrimination and equal opportunity.

The requirements set forth in 24 CFR part 5, and subparts I, J, and M of this part pertaining to nondiscrimination and equal opportunity, apply to these programs.

§ 200.31 Debarment and suspension.

The requirements set forth in 2 CFR part 2424 apply to these programs.

[72 FR 73494, Dec. 27, 2007]

§ 200.32 Participation and compliance requirements.

The requirements set forth in 24 CFR part 200, subpart H, apply to these programs.

§ 200.33 Labor standards.

(a) The requirements set forth in 29 CFR parts 1, 3 and 5 for compliance with labor standards laws apply to projects under these programs to the extent that labor standards apply as provided in section 212 of the Act, provided that:

(1) The labor standards provisions do not apply to projects insured under sections 207 or 232 pursuant to section 223(f) of the Act; and

(2) Supplemental loans under section 241 of the Act are subject to the provisions of section 212 applicable to the section or title pursuant to which the mortgage covering the project is insured or pursuant to which the original mortgage was insured.

(b) The requirements set forth in 24 CFR part 70 apply to those programs with respect to which there is a statutory provision allowing HUD waiver of Davis-Bacon prevailing wage rates for volunteers.

(c) Project commitments, contracts and agreements, as determined by the

Commissioner, and construction contracts and subcontracts, shall include terms, conditions and standards for compliance with applicable requirements set forth in 29 CFR parts 1, 3 and 5 and section 212 of the Act.

(d) No advance under a loan or mortgage that is subject to the requirements of section 212 shall be eligible for insurance unless there is filed with the application for the advance a certificate as required by the Commissioner certifying that the laborers and mechanics employed in construction of the project have been paid not less than the wage rates required under section 212.

§ 200.34 Property and mortgage assessment.

The requirements set forth in 24 CFR part 200, subpart E, regarding the mortgagor's responsibility for making those investigations, analysis and inspections it deems necessary for protecting its interests in the property apply to these programs.

§ 200.35 Appraisal standards—non-discrimination requirements.

(a) *Nondiscrimination in the selection of appraiser.* In the selection of an appraiser, there shall be no discrimination on the basis of race, color, religion, national origin, sex, age, or disability.

(b) *Nondiscrimination in appraisal determination.* The certification required by the Uniform Standards of Professional Appraisal Practice must include a statement that the racial/ethnic composition of the neighborhood surrounding the property in no way affected the appraisal determination.

§ 200.36 Financial reporting requirements.

The mortgagor must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

[63 FR 46592, Sept. 1, 1998]

§ 200.37 Preventing crime in federally assisted housing.

See part 5, subparts I and J of this title, for provisions concerning preventing crime in federally assisted housing, including programs administered under section 236 and under sec-

tions 221(d)(3) and 221(d)(5) of the National Housing Act.

[66 FR 28797, May 24, 2001]

§ 200.38 Protections for victims of domestic violence.

(a) The requirements for protection for victims of domestic violence, dating violence, sexual assault, or stalking in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) apply to programs administered under section 236 and under sections 221(d)(3) and (d)(5) of the National Housing Act, as follows:

(1) Multifamily rental housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715l(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5), with implementing regulations at 24 CFR part 221. The Section 221(d)(3) BMIR program insured and subsidized mortgage loans to facilitate new construction or substantial rehabilitation of multifamily rental cooperative housing for low- and moderate-income families. The program is no longer active, but Section 221(d)(3) BMIR properties that remain in existence are covered by VAWA. Coverage of section 221(d)(3) and (d)(5) BMIR housing does not include section 221(d)(3) and (d)(5) BMIR projects that refinance under section 223(a)(7) or 223(f) of the National Housing Act where the interest rate is no longer determined under section 221(d)(5).

(2) Multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1), with implementing regulations at 24 CFR part 236. Coverage of the section 236 program includes not only those projects with FHA-insured project mortgages under section 236(j), but also non-FHA-insured projects that receive interest reduction payments ("IRP") under section 236(b) and formerly insured section 236 projects that continue to receive interest reduction payments through a "decoupled" IRP contract under section 236(e)(2). Coverage also includes projects that receive rental assistance payments authorized under section 236(f)(2).

(b) For the programs administered under paragraph (a) of this section,

§ 200.40

24 CFR Ch. II (4–1–23 Edition)

“covered housing provider” as such term is used in 24 CFR part 5, subpart L, refers to the mortgagor, or owner, as applicable.

[81 FR 80805, Nov. 16, 2016]

FEES AND CHARGES

§ 200.40 HUD fees.

The following fees apply to mortgages to be insured under this part.

(a) *Application fee—SAMA letter (for new construction).* An application fee of \$1 per thousand dollars of the requested mortgage shall accompany the application for a SAMA letter. An additional fee of \$1 per thousand dollars of the requested mortgage amount shall be charged for the review of plans and specifications.

(b) *Application fee—feasibility letter (for substantial rehabilitation).* An application fee of \$3 per thousand dollars of the requested mortgage amount shall accompany the application for a feasibility letter.

(c) *Application fee—conditional commitment.* For a mortgage being insured under section 223(f) of the Act (12 U.S.C. 1715n), an application-commitment fee of \$3 per thousand dollars of the requested mortgage amount shall accompany an application for conditional commitment.

(d)(1) *Application fee—firm commitment: General.* An application for firm commitment shall be accompanied by an application-commitment fee in an amount determined by the Secretary, which when added to any prior fees received in connection with the same application, shall not exceed \$5.00 per thousand dollars of the requested mortgage amount to be insured. The payment of an application-commitment fee shall not be required in connection with an insured mortgage involving the sale by the government of housing or property acquired, held, or contracted pursuant to the Atomic Energy Community Act of 1955 (42 U.S.C. 2301 *et seq.*).

(2) *Application fee—Section 232 Programs.* For purposes of mortgages insured under HUD’s regulations in 24 CFR part 232, subpart C, an application for firm commitment shall be accompanied by an application fee in an amount determined by the Secretary,

which shall not exceed \$5.00 per thousand dollars of the requested mortgage amount to be insured.

(e) *Inspection fee—(1) In general.* The firm commitment may provide for the payment of an inspection fee in an amount not to exceed \$5 per thousand dollars of the commitment. If an inspection fee is required, it shall be paid as follows:

(i) If the case involves insurance of advances, at the time of initial endorsement; or

(ii) If the case involves insurance upon completion, before the date construction is begun.

(2) *Existing projects.* For a mortgage being insured under section 223(f) of the Act, if the application provides for the completion of repairs, replacements and/or improvements (repairs), the Commissioner will charge an inspection fee equal to one percent (1%) of the cost of the repairs. However, where the Commissioner determines the cost of repairs is minimal, the Commissioner may establish a minimum inspection fee that exceeds one percent of the cost of repairs and can periodically increase or decrease this minimum fee.

(f) *Fees on increases—in general.* This section applies to all applications except applications involving hospitals, which are covered in 24 CFR part 242.

(1) *Increase in firm commitment before endorsement.* An application, filed before initial endorsement (or before endorsement in a case involving insurance upon completion), for an increase in the amount of an outstanding firm commitment, shall be accompanied by a combined additional application and commitment fee. This combined additional fee shall be in an amount that will aggregate \$5 per thousand dollars of the amount of the requested increase. If an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount computed at the same dollar rate per thousand dollars of the amount of increase in commitment as was used for the inspection fee required in the original commitment. When insurance of advances is involved, the additional inspection fee shall be paid at the time of initial endorsement. When insurance upon completion is involved,

the additional inspection fee shall be paid before the date construction is begun; or, if construction has begun, it shall be paid with the application for increase.

(2) *Increase in mortgage between initial and final endorsement.* Upon the filing of an application between initial and final endorsement, for an increase in the amount of the mortgage, either by amendment or by substitution of a new mortgage, a combined additional application and commitment fee shall accompany the application. This combined additional fee shall be in an amount that will aggregate \$5 per thousand dollars of the amount of the increase requested. If an inspection fee was required in the original commitment, an additional inspection fee shall accompany the application in an amount not to exceed the \$5 per thousand dollars of the amount of the increase requested.

(3) *Loan to cover operating losses.* In connection with a loan to cover operating losses (see Sec. 200.22), a combined application and commitment fee of \$5 per thousand dollars of the amount of the loan applied for shall be submitted with the application for a firm commitment. No inspection fee shall be required.

(g) *Reopening of expired commitments.* An expired commitment may be reopened if a request for reopening is received by the Commissioner within 90 days of the expiration of the commitment. The reopening request shall be accompanied by a fee of 50 cents per thousand dollars of the amount of the expired commitment. If the reopening request is not received by the Commissioner within the required 90-day period, a new application, accompanied by the required application and commitment fee, must be submitted.

(h) *Transfer fee.* Upon application for the approval of a transfer of physical assets or the substitution of mortgagors, a transfer fee of 50 cents per thousand dollars shall be paid on the original face amount of the mortgage in all cases, except that a transfer fee shall not be paid where both parties to the transfer transaction are nonprofit purchasers, or when the transfer of physical assets or the substitution of mortgagors occurs contemporaneously with

the restructuring of a mortgage pursuant to a restructuring plan under part 401, subpart C of this title.

(i) *Refund of fees.* If the amount of the commitment issued or increase in mortgage granted is less than the amount applied for, the Commissioner shall refund the excess amount of the application and commitment fees submitted by the applicant. If an application is rejected before it is assigned for processing, or in such other instances as the Commissioner may determine, the entire application and commitment fee or any portion thereof may be returned to the applicant. Commitment, inspection and reopening fees may be refunded, in whole or in part, if it is determined by the Commissioner that there is a lack of need for the housing or that the construction or financing of the project has been prevented because of condemnation proceedings or other legal action taken by a governmental body or public agency, or in such other instances as the Commissioner may determine. A transfer fee may be refunded only in such instances as the Commissioner may determine.

(j) *Fees not required.* (1) The payment of an application, commitment, inspection, or reopening fee shall not be required in connection with the insurance of a mortgage involving the sale by the Secretary of any property acquired under any section or title of the Act.

(2) The payment of an application or commitment fee shall not be required in connection with the insurance of a mortgage used to facilitate a restructuring plan under part 401, subpart C of this title.

[61 FR 14414, Apr. 1, 1996, as amended at 72 FR 66037, Nov. 26, 2007; 72 FR 67545, Nov. 28, 2007; 80 FR 48027, Aug. 11, 2015]

§ 200.41 Maximum mortgagee fees and charges.

(a) Mortgagee fees and charges included in the mortgage must be for actual required services provided to the mortgagor by the mortgagee, and shall not exceed common market rates for such services as determined by the Commissioner.

(b) Mortgagee charges for prepayment of the mortgage and late mortgage payments shall not exceed that

§ 200.45

24 CFR Ch. II (4–1–23 Edition)

determined appropriate by the Commissioner.

COMMITMENT APPLICATIONS

§ 200.45 Processing of applications.

(a) *Preapplication conference.* Except for mortgages insured under section 241(f) or 242 of the Act, the local HUD Office will determine whether participation in such a conference is required as a condition to submission of an initial application for either a site appraisal and market analysis (SAMA) letter (for new construction), a feasibility letter (for substantial rehabilitation), or for a firm commitment. The project sponsor may elect (after the preapplication conference if required) to submit an application for a SAMA or a feasibility letter (as appropriate), or for a firm commitment for insurance depending upon the completeness of the drawings, specifications and other required exhibits. An application for a SAMA or feasibility letter may be submitted by the project sponsor. An application for a firm commitment for insurance must be submitted by both the project sponsor and an approved mortgagee. Applications shall be submitted to the local HUD Office on HUD-approved forms. No application will be considered unless accompanied by all exhibits required by the form and program handbooks. At the option of the local HUD Office, the SAMA/Feasibility letter stage of processing can be combined with the firm commitment stage of processing.

(b) *Firm commitment requirement.* An application for a firm commitment must be made by an approved mortgagee for any project for which a mortgagor seeks mortgage insurance under the Act.

(c) *Staged applications.* Staged applications leading to an application for firm commitment shall be made as determined appropriate by the Commissioner, and in accordance with such terms and conditions established by the Commissioner. The intermediate stages to firm commitment may include a site appraisal and market analysis (SAMA) letter stage or a feasibility letter stage and a conditional commitment. The conditional commitment stage applies only to mortgages

to be insured pursuant to section 223(f) of the Act.

(d) *Effect of SAMA letter, feasibility letter, and firm commitment—*(1) *SAMA letter.* (i) The issuance of a SAMA letter indicates completion of the site appraisal and market analysis stage to determine initial acceptability of the site and recognition of a specific market need. The SAMA letter is not a commitment to insure a mortgage for the proposed project and does not bind the Commissioner to issue a firm commitment to insure. The SAMA letter precedes the later submission of acceptable plans and specifications for the proposed project and is limited to advising the applicant as to the following determinations of the Commissioner, which shall not be changed to the detriment of an applicant, if the application for a firm commitment is received before expiration of the SAMA letter:

(A) The land value fully improved (with off-site improvements installed);

(B) The acceptability of the proposed project site, the proposed composition, number and size of the units and the market for the number of proposed units. Where the application is not acceptable as submitted, but can be made acceptable by a change in the number, size, or composition of the units, the SAMA letter may establish the specific lesser number of units which would be acceptable and any acceptable alternative plan for the composition and size of units; and

(C) The acceptability of the unit rents proposed. Where rent levels are unacceptable, the SAMA letter may establish specific rents which are acceptable.

(ii) After receiving a SAMA letter, the sponsor shall submit design drawings and specifications in a timeframe prescribed by the Commissioner. The Commissioner will review and comment on design development and the drawings and specifications. The comments will be provided to the sponsor for use in preparing a firm commitment application.

(2) *Feasibility letter.* The issuance of a feasibility letter indicates approval of the preliminary work write-up and outline specifications and completion of

technical processing involving the estimated rehabilitation cost of the project, the “as is” value of the site, the detailed estimates of operating expenses and taxes, the specific unit rents, the vacancy allowance, and the estimated mortgage amount. The issuance of a feasibility letter is not a commitment to insure a mortgage for the proposed project and does not bind the Commissioner to issue a firm commitment to insure. Determinations found in a feasibility letter are not to be binding upon the Department and may be changed in whole or in part at any later point in time. The letter may even be unilaterally terminated by the Commissioner if found necessary.

(3) *Conditional commitment.* The issuance of a Section 223(f) conditional commitment indicates completion of technical processing involving the estimated value of the property, the detailed estimates of rents, operating expenses and taxes and an estimated mortgage amount.

(e) *Term of SAMA letter, feasibility letter, and conditional commitment.* A SAMA letter, a feasibility letter, and a conditional commitment shall be effective for whatever term is specified in the respective letter or commitment.

(f) *Rejection of an application.* A significant deviation in an application from the Commissioner’s terms or conditions in an earlier stage application commitment or agreement shall be grounds for rejection. The fees paid to such date shall be considered as having been earned notwithstanding such rejection.

(Approved by the Office of Management and Budget under control number 2502-0029)

[61 FR 14415, Apr. 1, 1996]

§ 200.46 Commitment issuance.

Upon approval of an application for insurance, a commitment shall be issued by the Commissioner setting forth the terms and conditions upon which the mortgage will be insured. The commitment term and any extension or reopening of an expired commitment shall be in accordance with standards established by the Commissioner.

§ 200.47 Firm commitments.

A valid firm commitment must be in effect at the time the mortgage instrument is endorsed.

(a) *Insurance upon completion.* The commitment shall provide the terms and conditions for the insurance of the mortgage:

(1) After completion of construction or substantial rehabilitation of the project; or

(2) Upon completion of required work, except as deferred by the Commissioner in accordance with terms, conditions and standards established by the Commissioner, for an existing project without substantial rehabilitation.

(b) *Insured advances.* The commitment shall provide for insurance of the mortgage as provided in paragraph (a) of this section, and for the insurance of mortgage money advanced in accordance with terms and conditions established by the Commissioner during: construction; substantial rehabilitation; or other work acceptable to the Commissioner.

REQUIREMENTS INCIDENT TO INSURED ADVANCES

§ 200.50 Building loan agreement.

The mortgagor and mortgagee must execute a building loan agreement approved by the Commissioner, that sets forth the terms and conditions under which progress payments may be advanced during construction, before initial endorsement of the mortgage for insurance.

§ 200.51 Mortgagee certificate.

The mortgagee shall certify to the Commissioner that it will conform with terms and conditions established by the Commissioner for the mortgagee’s control of project funds, and other incidental requirements established by the Commissioner.

§ 200.52 Construction contract.

The form of contract between the mortgagor and builder shall be as prescribed by the Commissioner in accordance with terms and conditions established by the Commissioner.

§ 200.53

§ 200.53 Initial operating funds.

The mortgagor shall deposit cash with the mortgagee, or in a depository satisfactory to the mortgagee and under control of the mortgagee, in accordance with terms, conditions and standards established by the Commissioner for:

(a) Accruals for taxes, ground rates, mortgage insurance premiums, and property insurance premiums, during the course of construction;

(b) Meeting the cost of equipping and renting the project subsequent to its completion in whole or part; and

(c) Allocation by the mortgagee for assessments required by the terms of the mortgage in an amount acceptable to the Commissioner.

§ 200.54 Project completion funding.

(a) Except as provided in paragraph (d) of this section, the mortgagor shall deposit with the mortgagee cash deemed by the Commissioner to be sufficient, when added to the proceeds of the insured mortgage, to assure completion of the project and to pay the initial service charge, carrying charges, and legal and organizational expenses incident to the construction of the project. The Commissioner may accept a lesser cash deposit or an alternative to a cash deposit in accordance with terms and conditions established by the Commissioner, where the required funding is to be provided by a grant or loan from a Federal, State, or local government agency or instrumentality.

(b) An agreement acceptable to the Commissioner shall require that funds provided by the mortgagor under requirements of this section must be disbursed in full for project work, material, and incidental charges and expenses before disbursement of any mortgage proceeds, except:

(c) Low-income housing tax credit syndication proceeds, historic tax-credit syndication proceeds, New Markets Tax Credits proceeds, or funds provided by a grant or loan from a Federal, State, or local governmental agency or instrumentality under requirements of this section need not be fully disbursed before the disbursement of mortgage proceeds, where approved by the Commissioner in accordance with terms,

24 CFR Ch. II (4-1-23 Edition)

conditions, and standards established by the Commissioner;

(d) In the case of a mortgage insured under any provision of this title executed in connection with the purchase, construction, rehabilitation, or refinancing of a multifamily tax credit project, the Commissioner may not require:

(1) The escrowing of equity provided by Low-Income Housing Tax Credits for the project pursuant to Title 26, section 42 of the Internal Revenue Code of 1986;

(2) The escrowing of equity provided by historic rehabilitation tax credits, New Markets Tax Credits, or any other form of security, such as a letter of credit.

[75 FR 51915, Aug. 23, 2010]

§ 200.55 Financing fees and charges.

Fees and charges approved by the Commissioner in excess of the initial service charge shall be deposited with the mortgagee in cash before initial endorsement, except as otherwise preapproved by the Commissioner.

§ 200.56 Assurance of completion for on-site improvements.

The mortgagor shall furnish assurance of completion of the project in the form and amount provided by terms, conditions and standards established by the Commissioner.

GENERAL REQUIREMENTS

§ 200.60 Assurance of completion for offsite facilities.

An assurance of completion for offsite utilities, streets, and other facilities required for a buildable site shall be provided in an amount and form acceptable to the Commissioner, except where a municipality or other public body has, in a manner acceptable to the Commissioner, agreed to install such improvements without cost to the mortgagor.

§ 200.61 Title.

(a) Marketable title to the project must be vested in the mortgagor as of the date the mortgage is filed for record.

(b) Title evidence for the Commissioner's examination shall include a

lender's title insurance policy, which title policy provides survey coverage based on a survey acceptable to the title company and the Commissioner; or as the Commissioner may otherwise require, in accordance with terms, conditions and standards established by the Commissioner.

(c) Endorsement of the credit instrument for insurance shall evidence the acceptability of title evidence.

§ 200.62 **Certifications.**

Any agreement, undertaking, statement or certification required by the Commissioner shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the FHA, and of the Commissioner, and may be relied upon by the Commissioner as a true statement of the facts contained therein.

§ 200.63 **Required deposits and letters of credit.**

(a) *Deposits.* Where the Commissioner requires the mortgagor to make a deposit of cash or securities, such deposit shall be with the mortgagee or a depository acceptable to the mortgagee. The deposit shall be held by the mortgagee in a special account or by the depository under an appropriate agreement approved by the Commissioner.

(b) *Letter of credit.* Where the use of a letter of credit is acceptable to the Commissioner in lieu of a deposit of cash or securities, the letter of credit shall be issued to the mortgagee by a banking institution and shall be unconditional and irrevocable:

(1) The mortgagee of record may not be the issuer of any letter of credit without the prior written consent of the Commissioner.

(2) The mortgagee shall be responsible to the Commissioner for collection under the letter of credit. In the event a demand for payment thereunder is not immediately met, the mortgagee shall immediately provide a cash deposit equivalent to the undrawn balance of the letter of credit.

PROPERTY REQUIREMENTS

§ 200.70 **Location and fee interest.**

The property must be held by an eligible mortgagor, and must conform with requirements pertaining to property location and fee or lease interests of the section of the Act under which the mortgage is insured.

§ 200.71 **Liens.**

The project must be free and clear of all liens other than the insured mortgage, except that the property may be subject to an inferior lien as provided by terms and conditions established by the Commissioner for an inferior lien:

(a) Made or held by a Federal, State or local government instrumentality;

(b) Required in connection with: an operating loss loan insured pursuant to a section 223(d) of the Act; a supplemental loan insured pursuant to section 241 of the Act; or a mortgage to purchase or refinance an existing project pursuant to section 223(f) of the Act; or

(c) As otherwise provided by the Commissioner.

§ 200.72 **Zoning, deed and building restrictions.**

The project when completed shall not violate any material zoning or deed restrictions applicable to the project site, and shall comply with all applicable building and other governmental codes, ordinances, regulations and requirements.

§ 200.73 **Property development.**

(a) The property shall be suitable and principally designed for the intended use, as provided by the applicable section of the Act under which the mortgage is insured, and have long-term marketability. Design, construction, substantial rehabilitation and repairs shall be in accordance with standards established by the Commissioner.

(b) A project may include such commercial and community facilities as the Commissioner deems acceptable.

(c) The improvements shall constitute a single project. Not less than five rental dwelling units or personal care units, 20 medical care beds, or 50 manufactured home pads, shall be on one site, except that such limitations

§ 200.74

do not apply to group practice facilities.

§ 200.74 Minimum property standards.

The requirements set forth in subpart S of this part apply to these programs, except for hospitals insured under section 242 of the Act and group practice facilities insured under title XI of the Act.

§ 200.75 Environmental quality determinations and standards.

Requirements set forth in 24 CFR part 50, Protection and Enhancement of Environmental Quality, 24 CFR part 51, Environmental Criteria and Standards, 24 CFR part 55, Implementation of Executive Order 11988, Flood Plain Management, and as otherwise required by the Commissioner apply to these programs.

§ 200.76 Smoke detectors.

Smoke detectors and alarm devices must be installed in accordance with standards and criteria acceptable to the Commissioner for the protection of occupants in any dwelling or facility bedroom or other primary sleeping area.

§ 200.77 Lead-based paint poisoning prevention.

Requirements set forth in 24 CFR part 35 apply to these programs.

§ 200.78 Energy conservation.

Construction, mechanical equipment, and energy and metering selections shall provide cost effective energy conservation in accordance with standards established by the Commissioner.

MORTGAGE PROVISIONS

§ 200.80 Mortgage form.

The mortgage shall be:

- (a) Executed on a form approved by the Commissioner for use in the jurisdiction in which the property securing the mortgage is situated, which form shall not be changed without the prior written approval of the Commissioner.
- (b) Executed by an eligible mortgagor.
- (c) A first lien on the property securing the mortgage, which property con-

24 CFR Ch. II (4–1–23 Edition)

forms with the property standards prescribed by the Commissioner.

§ 200.81 Disbursement of mortgage proceeds.

The mortgagee shall be obligated, as a part of the mortgage transaction, to disburse the principal amount of the mortgage to the:

- (a) Mortgagor or mortgagor's account;
- (b) Mortgagor's creditors for the mortgagor's account, subject to the mortgagor's consent.

§ 200.82 Maturity.

The mortgage shall have a maturity satisfactory to the Commissioner, and shall contain complete amortization or sinking-fund provisions satisfactory to the Commissioner.

(a) The maximum mortgage term may not exceed the lesser of:

- (1) Any limits included under the applicable section of the Act.
- (2) Thirty-five years for existing projects, except that the mortgage term may be up to 40 years under terms and conditions established by the Commissioner, and 40 years for proposed construction and substantial rehabilitation projects.

(3) Seventy-five percent of the estimated remaining economic life of the physical improvements.

(b) The minimum mortgage term shall not be less than 10 years.

§ 200.83 Interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

(b) Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

(c) The amount of any increase approved by the Commissioner in the mortgage amount between initial and final endorsement in excess of the amount that the Commissioner had committed to insure at initial endorsement shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

§ 200.84 Payment requirements.

The mortgage shall provide for:

(a) A single aggregate payment each month for all payments to be made by the mortgagor to the mortgagee.

(b) The mortgagor to pay to the mortgagee:

(1) Interest and principal on the first day of each month in accordance with an amortization plan agreed upon by the mortgagor, the mortgagee and the Commissioner.

(i) Date of first payment to interest shall be the endorsement date or, where there are insured advances, the initial endorsement date.

(ii) Date of first payment to principal. The Commissioner shall estimate the time necessary to complete the project and shall establish the date of the first payment to principal so that the lapse of time between completion of the project and commencement of amortization will not be longer than necessary to obtain sustaining occupancy.

(2) An amount on each interest payment date sufficient to accumulate in the hands of the mortgagee one payment period prior to its due date, the next annual mortgage insurance premium payable by the mortgagee to the Commissioner. Such payments shall continue only so long as the contract of insurance shall remain in effect.

(3) Equal monthly payments as will amortize the ground rents, if any, and the estimated amount of all taxes, water charges, special assessments, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become delinquent.

(4) The mortgage shall further provide:

(i) That such payments shall be held by the mortgagee, for the purpose of paying such items before they become delinquent.

(ii) For adjustments in case such estimated amounts shall prove to be more, or less, than the actual amounts so paid therefor by the mortgagor.

(c) The mortgagee to apply each mortgagor payment received to the following items in the order set forth:

(1) Premium charges under the contract of mortgage insurance.

(2) Ground rents, taxes, special assessments, and fire and other hazard insurance premiums.

(3) Interest on the mortgage.

(4) Amortization of the principal of the mortgage.

§ 200.85 Covenant against liens.

(a) The mortgage shall contain a covenant against the creation by the mortgagor of liens against the property superior or inferior to the lien of the mortgage except for such inferior lien as may be approved by the Commissioner in accordance with provisions of § 200.71; and

(b) A covenant against repayment of a Commissioner approved inferior lien from mortgage proceeds other than surplus cash or residual receipts, except in the case of an inferior lien created by an operating loss loan insured pursuant to section 223(d) of the Act, or a supplemental loan insured pursuant to section 241 of the Act.

§ 200.86 Covenant for fire and other hazard insurance.

The mortgage shall contain a covenant binding the mortgagor to maintain fire and extended coverage insurance on the property in accordance with terms and conditions established by the Commissioner.

§ 200.87 Mortgage prepayment.

(a) *Prepayment privilege.* Except as provided in paragraph (c) of this section or otherwise established by the Commissioner, the mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date, after giving the mortgagee 30 days' notice in writing in advance of its intention to so prepay.

(b) *Prepayment charge.* The mortgage may contain a provision for such charge, in the event of prepayment of principal, as may be agreed upon between the mortgagor and the mortgagee, subject to the following:

(1) The mortgagor shall be permitted to prepay up to 15 percent of the original principal amount of the mortgage in any one calendar year without any such charge.

(2) Any reduction in the original principal amount of the mortgage resulting from the certification of cost which the Commissioner may require

§ 200.88

shall not be construed as a prepayment of the mortgage.

(c) *Prepayment of bond-financed or GNMA securitized mortgages.* Where the mortgage is given to secure GNMA mortgage-backed securities or a loan made by a lender that has obtained the funds for the loan by the issuance and sale of bonds or bond anticipation notes, or both, the mortgage may contain a prepayment restriction and prepayment penalty charge acceptable to the Commissioner as to term, amount, and conditions.

(d) *HUD override of prepayment restrictions.* In the event of a default, the Commissioner may override any lock-out, prepayment penalty or combination thereof in order to facilitate a partial or full refinancing of the mortgaged property and avoid a claim.

§ 200.88 Late charge.

(a) The mortgage may provide for the collection by the mortgagee of a late charge in accordance with terms, conditions, and standards of the Commissioner for each dollar of each payment to interest or principal:

(1) More than 10 days in arrears to cover the expense involved in handling delinquent payments;

(2) For multifamily project mortgages for which HUD issued a firm commitment for mortgage insurance before September 1, 2011, and for multifamily project mortgages insured under section 232 of the Act (12 U.S.C. 1715w), more than 15 days in arrears to cover the expense involved in handling delinquent payments.

(b) Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

[76 FR 24369, May 2, 2011]

COST CERTIFICATION

§ 200.95 Certification of cost requirements.

(a) Before initial endorsement of the mortgage for insurance, the mortgagor, the mortgagee, and the Commissioner shall enter into an agreement in form and content satisfactory to the Commissioner for the purpose of precluding any excess of mortgage proceeds over statutory limitations. Under this

24 CFR Ch. II (4–1–23 Edition)

agreement, the mortgagor shall disclose its relationship with the builder, including any collateral agreement, and shall agree:

(1) To enter into a construction contract, the terms of which shall depend on whether or not there exists an identity of interest between the mortgagor and the builder.

(2) To execute a Certificate of Actual Costs, upon completion of all physical improvements on the mortgaged property.

(3) To apply in reduction of the outstanding balance of the principal of the mortgage any excess of mortgage proceeds over statutory limitations based on actual cost.

(b) The provisions of paragraph (a) of this section relating to disclosure and the requirement for a construction contract shall not apply where the mortgagor is the general contractor.

§ 200.96 Certificates of actual cost.

(a) The mortgagor's certificate of actual cost, in a form prescribed by the Commissioner, shall be submitted upon completion of the physical improvements to the satisfaction of the Commissioner and before final endorsement, except that in the case of an existing project that does not require substantial rehabilitation and where the commitment provides for completion of specified repairs after endorsement, a supplemental certificate of actual cost will be submitted covering the completed costs of any such repairs. The certificate shall show the actual cost to the mortgagor, after deduction of any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor, or to any of its officers, directors, stockholders, partners or other entity member ownership, of construction and other costs, as prescribed by the Commissioner.

(b) The Certificate of Actual Cost shall be verified by an independent Certified Public Accountant or independent public accountant in a manner acceptable to the Commissioner.

(c) Upon the Commissioner's approval of the mortgagor's certification of actual cost such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

§ 200.97 Adjustments resulting from cost certification.

(a) *Fee simple site.* Upon receipt of the mortgagor's certification of actual cost there shall be added to the total amount thereof the Commissioner's estimate of the fair market value of any land included in the mortgage security and owned by the mortgagor in fee, such value being prior to the construction of the improvements.

(b) *Leasehold site.* In the event the land is held under a leasehold or other interest less than a fee, the cost, if any, of acquiring the leasehold or other interest is considered an allowable expense which may be added to actual cost provided that in no event shall such amount be in excess of the fair market value of such leasehold or other interest exclusive of proposed improvements.

(c) *Adjustment.* If the amount calculated in accordance with paragraphs (a) or (b) of this section exceeds the statutory dollar amount limits or loan ratio limits permitted by the section of Act under which the mortgage is to be insured, or program loan ratio limits established by the Commissioner in the absence of statutory limits, the amount must be reduced to the applicable limits before final endorsement.

ENDORSEMENT

§ 200.100 Insurance endorsement.

The credit instrument shall be initially and finally endorsed simultaneously for insurance pursuant to a commitment to insure upon completion. Where the advances of construction funds are to be insured pursuant to a commitment for insured advances, initial endorsement of the credit instrument shall occur before any mortgage proceeds are insured and the time of final endorsement shall be as set forth in paragraph (b) of this section.

(a) *Initial endorsement.* The Commissioner shall indicate the insurance of the mortgage by endorsing the original credit instrument and identifying the section of the Act and the regulations under which the mortgage is insured and the date of insurance.

(b) *Final endorsement.* When all advances of mortgage proceeds have been made and all the terms and conditions

of the commitment have been met to the Commissioner's satisfaction the Commissioner shall indicate on the original credit instrument the total of all advances approved for insurance and again endorse such instrument.

(c) *Contract rights and obligations.* The Commissioner and the mortgagee or lender shall be bound from the date of initial endorsement, whether the initial and final endorsement occur simultaneously or are split, by the provisions of the Contract Rights and Obligations set forth in the respective regulations for each section of the Act, as follows: Section 207 of the Act (24 CFR part 207); Section 213 of the Act (24 CFR part 213); Section 220 of the Act (24 CFR part 220); Section 221 of the Act (24 CFR part 221); Section 231 of the Act (24 CFR part 231); Section 232 of the Act (24 CFR part 232); Section 234 of the Act (24 CFR part 234); Section 241 of the Act (24 CFR part 241); Section 242 of the Act (24 CFR part 242); title XI of the Act (24 CFR part 244).

§ 200.101 Mortgagor lien certificate.

The mortgagor shall certify at the final endorsement of the mortgage for insurance as to each of the following:

(a) That the mortgage is the first lien upon and covers the entire project, including any equipment financed with mortgage proceeds.

(b) That the property upon which the improvements have been made or constructed and the equipment financed with mortgage proceeds are free and clear of all liens other than the insured mortgage and such other liens as may be approved by the Commissioner.

(c) That the certificate sets forth all unpaid obligations in connection with the mortgage transaction, the purchase of the mortgaged property, the construction or rehabilitation of the project or the purchase of the equipment financed with mortgage proceeds.

REGULATION OF MORTGAGORS

§ 200.105 Mortgagor supervision.

(a) As long as the Commissioner is the insurer or holder of the mortgage, the Commissioner shall regulate the mortgagor by means of a regulatory agreement providing terms, conditions

§ 200.106

and standards established by the Commissioner, or by such other means as the Commissioner may prescribe.

(b) The Commissioner may delegate to the mortgagee or other party the Commissioner's authority, in whole or in part, in accordance with the terms, conditions and standards established by the Commissioner in any executed Regulatory Agreement or other instrument granting the Commissioner supervision of the mortgagor.

[61 FR 14399, Apr. 1, 1996, as amended at 65 FR 61074, Oct. 13, 2000]

§ 200.106 Projects with limited distribution mortgagors and program assistance.

(a) *Regulation as limited distribution mortgagors.* In addition to regulation under § 200.105, limited distribution mortgagors for projects receiving "assistance within the jurisdiction of the Department" (as defined in § 4.3 of this title) may be regulated by the Commissioner as to additional matters, by regulation or otherwise, including as to the amount of the permissible distribution to the mortgagor.

(b) *Increased distributions.* The Commissioner may permit increased distributions of surplus cash, in excess of the amounts the Commissioner otherwise permits for limited distribution mortgagors, to a limited distribution mortgagor who participates in a HUD-approved initiative or program to preserve housing stock with below-market rents as affordable housing. The increased distribution will be limited to a maximum amount based on market rents and calculated according to HUD instructions. Funds that the mortgagor is authorized to retain under section 236(g)(2) of the National Housing Act are not considered distributions to the mortgagor.

(c) *Pre-emption.* Any State or local law or regulation that restricts distributions to an amount lower than permitted by the Commissioner under authority of this section is preempted to the extent provided in section 524(f) of the Multifamily Assisted Housing Reform and Affordability Act of 1997.

[65 FR 61074, Oct. 13, 2000]

24 CFR Ch. II (4-1-23 Edition)

Subpart B—Electronic Submission of Required Data for Mortgage Defaults and Mortgage Insurance Claims for Insured Multifamily Mortgages

SOURCE: 64 FR 4769, Jan. 29, 1999, unless otherwise noted.

§ 200.120 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart B is to require mortgagees of all multifamily projects whose mortgages are insured or coinsured by HUD to submit electronically information regarding mortgage delinquencies, defaults, reinstatements, elections to assign, and withdrawals of assignment elections, and related information, as that information is required by 24 CFR part 207 and Form HUD-92426 (which is available at the Department of Housing and Urban Development, HUD Customer Service Center, 451 7th Street, SW, Room B-100, Washington, DC 20410; telephone (800) 767-7468).

(b) *Applicability.* This subpart applies to all HUD multifamily mortgage insurance and coinsurance programs.

§ 200.121 Requirements and effectiveness.

(a) Multifamily mortgagees, which are required by 24 CFR part 207 to report mortgage delinquencies, defaults, reinstatements, assignment elections, withdrawals of assignment elections, and related information, must submit this information electronically, over the Internet, in accordance with the following schedule of effectiveness:

(1) Mortgagees having 70 or more insured mortgage loans must comply with this section by no later than March 1, 1999;

(2) Mortgagees having from 26 to 69 insured mortgage loans must comply with this section by no later than January 1, 2000;

(3) Mortgagees having from 11 to 25 insured mortgage loans must comply with this section by no later than January 1, 2001;

(4) Mortgagees having 10 or fewer insured mortgage loans must comply with this section by no later than January 1, 2002.

(b) *Exception.* On or after January 1, 2002, mortgagees that hold or service fewer than 10 multifamily mortgages may continue to report mortgage delinquencies, defaults, reinstatements, assignment elections, withdrawals of assignment elections, and related information in writing on Form HUD-92426 only with specific HUD approval. HUD will grant such approval, upon application by the mortgagee, for reasons of hardship due to insufficient financial resources to purchase the required hardware and Internet access.

(c) HUD will not accept reports of information regarding defaults, reinstatements, assignment elections, and related information in a manner that is not in accordance with this section. Failure on the part of mortgagees to report this information as required by 24 CFR part 207 and this section may result in HUD's application of the sanctions and surcharges specified in 24 CFR part 207.

one- to four-unit property is acceptable as security for an FHA-insured loan, the following requirements apply:

(1)(i) In areas where local jurisdictions provide building code enforcement and the requisite documentation, the lender shall provide a copy of:

(A) The building permit, or its equivalent, and a copy of the certificate of occupancy, or its equivalent; or

(B) A satisfactory inspection notice for work completed, or its equivalent.

(ii) The documentation provided under paragraph (c)(1)(i) of this section shall be considered satisfactory evidence of completion of the work.

(2) In jurisdictions that do not provide building code enforcement and requisite documentation, three inspections are required for new construction. For existing construction, only one inspection and certification of work completed for structural repairs and renovations is required. For both new and existing construction, the lender shall, in order to ensure compliance with FHA requirements:

(i) Select a Residential Combination Inspector (or its successor designation) or a Combination Inspector (or its successor designation) certified by the International Code Council (or its successor organization) who is licensed or certified as a home inspector in accordance with the applicable State and local requirements governing the licensing or certification of those jurisdictions that license or certify such inspectors in the respective jurisdiction. The lender shall provide a certification from such inspector that the new construction and/or structural repair or renovation work is completed satisfactorily and in compliance with any applicable building code.

(ii) In the absence of such Residential Combination Inspector and Combination Inspector, the lender shall obtain an inspection performed by a third party, who is a registered architect, a professional engineer, or a trades person or contractor, and who has met the licensing and bonding requirements of the State in which the property is located. The lender shall provide a certification from such inspector that the inspector is licensed and bonded under applicable State law, and that the new construction and/or structural repair

Subparts C–D [Reserved]

Subpart E—Mortgage Insurance Procedures and Processing

APPLICATION FOR INSURANCE

§ 200.145 Property and mortgage assessment.

(a) The mortgagor is responsible for making those investigations, analyses and inspections it deems necessary for protecting its interests in the property.

(b) Any appraisals, inspections, environmental assessments, and technical or financial evaluations conducted by or for the Commissioner are performed to determine the maximum insurable mortgage, and to protect the Commissioner and the FHA insurance funds. Such appraisals, inspections, assessments and evaluations neither create nor imply a duty or obligation from HUD to the mortgagor, or to any other party, and are not to be regarded as a warranty by HUD to the mortgagor, or any other party, of the value or condition of the property.

(c) For all new construction as well as structural repairs and/or renovations of existing properties, to the extent that an inspection is required to determine if construction quality of a

§ 200.153

or renovation work is completed satisfactorily and in compliance with any applicable building code.

[61 FR 14404, Apr. 1, 1996, as amended at 83 FR 31042, July 3, 2018]

CLAIMS FOR LOSSES

§ 200.153 Presentation of claim.

In the event the insured lender is entitled under the contract of mortgage insurance to receive a claim settlement, the mortgagee presents a claim for insurance benefits in accordance with the Secretary's instructions.

[61 FR 14404, Apr. 1, 1996]

§ 200.156 Settlement of claims.

Upon the Secretary's approval of a claim, the claim will be settled by issuance of cash, debentures or both, and, in certain cases, by issuance of a certificate of claim. However, in the event a final claim is in a negative amount, the claim will be settled by the mortgagee's payment of cash or surrender of debentures at par plus accrued interest to the Secretary.

[61 FR 14404, Apr. 1, 1996]

§ 200.157 Provisions and characteristics of debentures.

(a) *Series and fund.* Debentures are issued in appropriate series and are the obligation of and issued in the name of the particular mortgage insurance fund under which the mortgage is insured.

(b) *Registration and denominations.* Debentures in certificated form are issued in denominations of \$50, \$100, \$500, \$1,000 and \$10,000 with the name of the owner inscribed on the face of the certificate. Debentures in book entry form are issued in a minimum amount of one dollar and in increments of one cent with the name of the owner recorded in an account master record on the books of the Treasury.

(c) *Rate of interest and interchangeability.* Debentures carry a rate of interest prescribed by the Commissioner but not in excess of an annual rate determined by the Secretary of the Treasury in accordance with prescribed statutory formula involving yields or prices of outstanding marketable obligations of the United States. Debentures in certificated form of the same

24 CFR Ch. II (4–1–23 Edition)

series bearing the same interest rate and having the same maturity date shall be freely interchangeable between the various authorized denominations and may be exchanged for similar debentures in book entry form. Debentures in book entry form cannot be exchanged for debentures in certificated form.

(d) *Negotiability and Redemption.* Debentures in certificated form are negotiable and, if in book entry form, are transferable in the manner described in applicable Treasury regulations. Debentures are fully guaranteed as to principal and interest by the United States. Debentures are redeemable on call issued by the Commissioner.

(e) *Payment of principal and interest.* Principal and interest on debentures shall be payable when due at the Department of the Treasury, Washington, DC, or any Government agency or agencies in the United States which the Secretary of the Treasury may from time to time designate for that purpose. The principal and interest shall be payable to the owner whose name shall be inscribed on the debenture in certificated form, to the owner designated as assignee as shown by executed assignments for maturing or called certificated debentures, or to the owner whose name shall be recorded in the account master record of the book entry debentures.

(f) *Transfer and use—(1) In general.* Debentures in certificated form are negotiable and, if in book entry form, are transferable in the manner described in applicable Treasury regulations. They may be used by approved mortgagees in lieu of cash for payment of FHA mortgage insurance premiums.

(2) *Mutual Mortgage Insurance Fund debentures.* Debentures of the Mutual Mortgage Insurance Fund may be used to pay mortgage insurance premiums on mortgages insured under sections 203(b), 203(h), and 203(i), of the National Housing Act.

(3) *Cooperative Management Housing Insurance Fund debentures.* Debentures which are the obligation of the Cooperative Management Housing Insurance Fund may be used to pay premiums on mortgages and loans which are insured under that Fund. Where the insurance of a mortgage or loan is transferred

from the General Insurance Fund to the Cooperative Management Housing Insurance Fund, or where a mortgage or loan is endorsed for insurance pursuant to a commitment transferred to the Cooperative Management Housing Insurance Fund, debentures issued in connection with such mortgage or loan may be used to pay insurance premiums of either the Cooperative Management Housing Insurance Fund or the General Insurance Fund.

(4) *General Insurance Fund and debentures of other funds.* Debentures of the General Insurance Fund and those debentures issued as obligations of mortgage insurance funds and accounts in existence prior to the enactment of the Housing and Urban Development Act of 1965 (other than the Mutual Mortgage Insurance Fund) which are transferred by the 1965 Act to the General Insurance Fund may be used to pay mortgage insurance premiums only on the following mortgages and loans:

(i) Those which are the obligation of the General Insurance Fund.

(ii) Those transferred from the General Insurance Fund to the Cooperative Management Housing Insurance Fund.

(iii) Those endorsed for insurance pursuant to commitments transferred to the Cooperative Management Housing Insurance Fund.

[36 FR 24467, Dec. 22, 1971, as amended at 59 FR 49815, Sept. 30, 1994]

§ 200.158 Applicability of Treasury regulations to debenture transactions.

The Department of the Treasury acts as fiscal agent for the Commissioner in connection with transactions and operations relating to debentures. Treasury's General Regulations Governing U.S. Securities (31 CFR part 306) and its Supplemental Regulations Governing Federal Housing Administration Debentures (31 CFR part 337) have been and are adopted as revised and amended, to the extent applicable, as the regulations of the Commissioner governing the issuance of, transactions in and redemption of debentures, including the payment of interest thereon with the following exceptions:

(a) *Payment of final interest on maturing or called debentures.* If the notice of maturity or call for redemption shall so provide, the final installment of in-

terest payable on any debentures at maturity or earlier redemption date may be paid with the principal in accordance with the assignments on the debentures instead of by separate check drawn to the order of the registered payee and forwarded to him at his address of record.

(b) *Closing of transfer books.* If the call for redemption shall so provide, the books maintained by the Treasury Department may be closed against transfers and denominational exchanges in debentures for three full months preceding any interest payment date with respect to any debentures called for redemption on such interest payment date.

[36 FR 24467, Dec. 22, 1971, as amended at 59 FR 49815, Sept. 30, 1994]

§ 200.159 Relief on account of lost, stolen, destroyed, mutilated or defaced debentures.

The statutes of the United States and the regulations of the Treasury Department governing relief on account of the loss, theft, destruction, mutilation or defacement of United States securities, so far as applicable and as necessarily modified to relate to debentures, are adopted as the regulations of the Commissioner for the issuance of substitute debentures or the payment of lost, stolen, destroyed, mutilated or defaced debentures.

§ 200.160 Redemption of debentures prior to maturity.

Debentures shall, at the option of the Commissioner and with the approval of the Secretary of the Treasury, be redeemable at par plus accrued interest on any semiannual interest payment date on 3 months' notice of redemption given in such manner as the Commissioner shall prescribe. The debenture interest on the debentures called for redemption shall cease on the semiannual interest payment date designated in the call notice. The Commissioner may include with the notice of redemption an offer to purchase the debentures at par plus accrued interest at any time during the period between the notice of redemption and the redemption date. If the debentures are purchased by the Commissioner after

§ 200.161

such call and prior to the named redemption date, the debenture interest shall cease on the date of purchase.

§ 200.161 Administration of debenture transactions.

The Secretary of the Treasury or the Acting Secretary of the Treasury is authorized and empowered, on behalf of the Commissioner, to administer the regulations governing any transactions and operations in debentures, to do all things necessary to conduct such transactions and operations, and to delegate such authority at his discretion to other officers, employees, and agents of the U.S. Treasury Department. At his discretion the Secretary, the Under Secretary, or any Assistant Secretary of the Treasury acting by direction of the Secretary, is authorized to waive any such regulation on behalf of the Commissioner in any particular case where a similar regulation of the Treasury Department with respect to United States bonds or interest thereon would be waived.

§ 200.162 Certificates of claim.

The certificate of claim issued to the mortgagee at the time debentures are issued constitutes an agreement by the FHA that after the FHA has recovered its investment in a particular property any excess over and above such investment is available for payment on the certificate of claim. Certificates of claim bear interest at the rate of 3 percent per annum.

Subpart F—Placement and Removal Procedures for Participation in FHA Programs

SECTION 203(k) REHABILITATION LOAN CONSULTANTS

§ 200.190 HUD list of qualified 203(k) consultants.

(a) *Qualified consultant list.* HUD maintains a list of qualified consultants for use in the rehabilitation loan insurance program authorized by section 203(k) of the National Housing Act (12 U.S.C. 1709(k)) (referred to as the “203(k) Program”).

(b) *Consultant functions.* Only a consultant included on the list may be selected by the lender to conduct any

24 CFR Ch. II (4–1–23 Edition)

consultant function under the 203(k) Program (see § 203.50(1) of this title).

(c) *Disclaimer.* The inclusion of a consultant on the list means only that the consultant has met the qualifications and conditions prescribed by the Secretary for placement on the list of consultants qualified for the 203(k) Program. The inclusion of a consultant on the list does not create or imply a warranty or endorsement by HUD of the consultant, nor does it represent a warranty of any work performed by the consultant.

[67 FR 52380, Aug. 9, 2002]

§ 200.191 Placement of 203(k) consultant.

(a) *Application.* To be considered for placement on the list, a consultant must apply to HUD using an application (or materials) in a form prescribed by HUD.

(b) *Eligibility.* To be eligible for placement on the list:

(1) The consultant must demonstrate to HUD that it either:

(i) Has at least three years’ experience as a remodeling contractor, general contractor or home inspector; or

(ii) Is a state-licensed architect or state-licensed engineer;

(2) If located in a state that requires the licensing of home inspectors, the consultant must submit proof of such licensing;

(3) The consultant must submit a narrative description of the consultant’s ability to perform home inspections, prepare architectural drawings, use proper methods of cost estimating and complete draw inspections.

(4) The consultant must certify that it has read and fully understands the requirements of the HUD handbook on the 203(k) Program (4240.4) and all HUD Mortgagee Letters and other instructions relating to the 203(k) Program.

(5) The consultant must not be listed on:

(i) The General Services Administration’s Suspension and Debarment List;

(ii) HUD’s Limited Denial of Participation List; or

(iii) HUD’s Credit Alert Interactive Voice Response System.

(6) The consultant must have passed a comprehensive examination on the

203(k) Program, if HUD has developed such an exam.

(c) *Delayed effective date of examination requirement for consultants currently on the list.* Consultants who are included on the list on the date when the requirement for the examination described in paragraph (b)(6) of this section becomes effective have until 6 months following this date to pass the comprehensive exam. Failure to pass the examination by the deadline date constitutes cause for removal under § 200.192.

[67 FR 52380, Aug. 9, 2002]

§ 200.192 Removal of 203(k) consultant.

(a) *Cause for removal.* HUD may remove a consultant from the list for any cause that HUD determines to be detrimental to HUD or its programs. Cause for removal includes, but is not limited to:

- (1) Poor performance on a HUD quality control field review;
- (2) Failure to comply with applicable regulations or other written instructions or standards issued by HUD;
- (3) Failure to comply with applicable Civil Rights requirements;
- (4) Being debarred or suspended, or subject to a limited denial of participation;
- (5) Misrepresentation or fraudulent statements;
- (6) Failure to retain standing as a state licensed architect or state-licensed engineer (unless the consultant can demonstrate the required three years experience as a home inspector or remodeling contractor);
- (7) Failure to retain standing as a state licensed home inspector, if the consultant is located in a state that requires such licensing; or
- (8) Failure to respond within a reasonable time to HUD inquiries or requests for documentation.

(b) *Procedure for removal.* A consultant that is debarred or suspended, or subject to a limited denial of participation will be *automatically* removed from the list. In all other cases, the following procedure for removal will be followed:

- (1) HUD will give the consultant written notice of the proposed removal. The notice will state the reasons for,

and the duration of, the proposed removal.

(2) The consultant will have 20 days from the date of the notice (or longer, if provided in the notice) to submit a written response appealing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with the written response.

(3) A HUD official will review the appeal and send a response either affirming, modifying, or canceling the removal. The HUD official will not be someone who was involved in HUD's initial removal decision. HUD will respond with a decision within 30 days of receiving the appeal or, if the consultant has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the consultant.

(4) If the consultant does not submit a timely written response, the removal will be effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If a written response is submitted, and the removal decision is affirmed or modified, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(c) *Placement on the list after removal.* A consultant that has been removed from the list may apply for placement on the list (in accordance with § 200.191) after the period of the consultant's removal from the list has expired. An application will be rejected if the period for the consultant's removal from the list has not expired.

(d) *Other action.* Nothing in this section prohibits HUD from taking such other action against a consultant, as provided in 2 CFR part 2424, or from seeking any other remedy against a consultant, available to HUD by statute or otherwise.

[67 FR 52380, Aug. 9, 2002, as amended at 72 FR 73494, Dec. 27, 2007]

§ 200.193 Responsibilities of 203(k) consultants on the list.

All consultants included on the list are responsible for:

§ 200.194

(a) Obtaining and reading the HUD handbook on the 203(k) Program (4240.4) and any updates to the handbook.

(b) Complying with the HUD handbook on the 203(k) Program (4240.4), and any updates to the handbook, when performing any consultant function under the 203(k) Program.

(c) Obtaining and reading all Mortgagee Letters and other instructions issued by HUD relating to the 203(k) Program.

(d) Complying with all Mortgagee Letters and other instructions issued by HUD relating to the 203(k) Program, when undertaking any consultant function under the 203(k) Program.

(e) Complying with HUD's request for documentation relating to any 203(k) project on which the consultant has worked.

(f) Complying with HUD's monitoring requirements relating to the 203(k) Program.

[67 FR 52381, Aug. 9, 2002]

NONPROFIT ORGANIZATION

§ 200.194 Placement of nonprofit organization on Nonprofit Organization Roster.

(a) *Nonprofit Organization Roster.* HUD maintains a roster of nonprofit organizations that are qualified to participate in certain specified FHA activities. In order to be recognized as a nonprofit organization for purposes of single family regulations in this chapter, an organization must:

(1) Be included in the Roster; and
(2) Comply with any requirements stated in a specific applicable provision of the single family regulations in this chapter.

(b) *Application.* To be included in the Roster, a nonprofit organization must apply to HUD using an application (or materials) in a form prescribed by HUD (which may require an affordable housing program narrative for the activities the nonprofit organization proposes to carry out). The nonprofit organization must specify in its application the FHA activities it proposes to carry out.

(c) *HUD response to application.* HUD's review of the application will result in one of the following:

24 CFR Ch. II (4–1–23 Edition)

(1) Approval of the nonprofit organization to participate in all, or some, of the FHA activities specified in its application and the addition of the nonprofit organization to the Roster.

(2) Rejection due to deficiencies in the application. HUD will provide the nonprofit organization with a period to correct these deficiencies.

(3) Rejection due to the nonprofit organization's failure to submit a program that complies with applicable single family regulations in this chapter, Mortgagee Letters, or other standards or instructions issued by HUD.

(d) *Reapplication after two years.* The placement of a nonprofit organization on the Roster expires after two years. The nonprofit organization must reapply for placement on the Roster, in accordance with paragraph (b) of this section, before expiration of the two-year period.

[67 FR 39239, June 6, 2002]

§ 200.195 Removal of nonprofit organization from Nonprofit Organization Roster.

(a) *Cause for removal.* HUD may remove a nonprofit organization from the FHA Nonprofit Organization Roster established under § 200.194. Removal may be for any cause that HUD determines to be detrimental to FHA or any of its programs, including but not limited to:

(1) Failure to comply with applicable single family regulations in this chapter, Mortgagee Letters or other written instructions or standards issued by HUD;

(2) Failure to comply with applicable Civil Rights requirements;

(3) Holding a significant number of FHA-insured mortgages that are in default, foreclosure, or claim status (in determining the number considered "significant," HUD may compare the number of insured mortgages held by the nonprofit organization against the similar holdings of other nonprofit organizations);

(4) Being debarred or suspended, subject to a limited denial of participation, or otherwise sanctioned by HUD;

(5) Failure to further all objectives described in the affordable housing program narrative;

(6) Misrepresentation or fraudulent statements; or

(7) Failure to respond within a reasonable time to HUD inquiries, including recertification requests or other requests for further documentation.

(b) *Procedure for removal.* A nonprofit organization that is debarred or suspended or subject to a limited denial of participation will be automatically removed from the FHA Nonprofit Organization Roster. In all other cases, the following procedure for removal applies:

(1) HUD will give the nonprofit organization written notice of the proposed removal. The notice will include the reasons for the proposed removal and the duration of the proposed removal.

(2) The nonprofit organization will have 20 days from the date of the notice (or longer, if provided in the notice) to submit a written response appealing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with the written response.

(3) A HUD official will review the appeal and provide an informal conference if requested. The HUD official will send a response either affirming, modifying, or canceling the removal. The HUD official will not be someone who was involved in HUD's initial removal decision. HUD will respond with a decision within 30 days of receiving the response, or, if the nonprofit organization has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the nonprofit organization.

(4) If the nonprofit organization does not submit a timely written response, the removal will be effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If a written response is submitted, and the initial removal decision is affirmed or modified, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(c) *Placement on the Roster after removal.* A nonprofit organization that has been removed from the FHA Nonprofit Organization Roster may apply for placement on the Roster (in accordance with § 200.194) after the nonprofit organization's removal from the Roster

has expired. An application will be rejected if the period for the nonprofit organization's removal from the Roster has not expired.

(d) *Other action.* Nothing in this section prohibits HUD from taking such other action against a nonprofit organization, as provided in 2 CFR part 2424, or from seeking any other remedy against a nonprofit organization, available to HUD by statute or otherwise.

[67 FR 39239, June 6, 2002, as amended at 72 FR 73494, Dec. 27, 2007]

Subpart G—Appraiser Roster

SOURCE: 64 FR 72869, Dec. 28, 1999, unless otherwise noted.

§ 200.200 What is the Appraiser Roster?

(a) *Appraiser Roster.* HUD maintains a list of appraisers. A mortgagee must select only an appraiser from this list for the appraisal of a property that is to be the security for an FHA-insured single family mortgage.

(b) *Disclaimer.* Since an appraisal is performed to determine the maximum insurable mortgage and to also protect the FHA insurance funds, the inclusion of an appraiser on the Appraiser Roster does not create or imply a warranty or endorsement to a prospective homebuyer or to any other organization or individual by HUD of the listed appraiser nor does it represent a warranty of any appraisal performed by the listed appraiser. The inclusion of an appraiser on the Appraiser Roster means only that a listed appraiser has met the qualifications and conditions, prescribed by the Secretary, for inclusion on the Appraiser Roster.

§ 200.202 How do I apply for placement on the Appraiser Roster?

(a) *Application.* To apply for placement on the Appraiser Roster, you must submit an application to HUD.

(b) *Eligibility.* To be eligible for placement on the Appraiser Roster:

(1) You must be a state-certified appraiser with credentials that complied with the applicable certification criteria established by the Appraiser Qualification Board (AQB) of the Appraisal Foundation and in effect at the

§ 200.204

24 CFR Ch. II (4–1–23 Edition)

time the certification was awarded by the issuing jurisdiction; and

(2) You must not be listed on:

- (i) The General Services Administration's Suspension and Debarment List;
- (ii) HUD's Limited Denial of Participation List; or
- (iii) HUD's Credit Alert Verification Reporting System.

[73 FR 1432, Jan. 8, 2008, as amended at 76 FR 72308, Nov. 23, 2011]

§ 200.204 What actions may HUD take against unsatisfactory appraisers on the Appraiser Roster?

An unsatisfactory appraiser may be subject to removal, education requirements, or other actions, as follows:

(a) *Removal from the Appraiser Roster.* HUD officials, as designated by the Secretary, may at any time remove a listed appraiser from the Appraiser Roster for cause, in accordance with paragraphs (a)(1) through (a)(3) of this section. The provisions of paragraphs (a)(1) through (a)(3) of this section do not apply to removal actions taken under any section in 2 CFR part 2424 or to any other remedy against an appraiser, available to HUD by statute or otherwise.

(1) *Cause for removal.* Cause for removal includes, but is not limited to:

(i) Significant deficiencies in appraisals, including non-compliance with Civil Rights requirements regarding appraisals;

(ii) Losing standing as a state-certified appraiser due to disciplinary action in any state in which the appraiser is certified;

(iii) Prosecution for committing, attempting to commit, or conspiring to commit fraud, misrepresentation, or any other offense that may reflect on the appraiser's character or integrity;

(iv) Failure to perform appraisal functions in accordance with instructions and standards issued by HUD;

(v) Failure to comply with any agreement made between the appraiser and HUD or with any certification made by the appraiser;

(vi) Being issued a final debarment, suspension, or limited denial of participation;

(vii) Failure to maintain eligibility requirements for placement on the Appraiser Roster as set forth under this

subpart or any other instructions or standards issued by HUD; or,

(viii) Failure to comply with HUD-imposed education requirements under paragraph (d) of this section within the specified period for complying with such education requirements.

(2) *Procedure for removal.* If you are a listed appraiser and HUD decides to remove you for cause from the Appraiser Roster, the following procedure applies to you unless you have been issued a final debarment, suspension, or limited denial of participation, in which case you are subject to paragraph (a)(3) of this section:

(i) You will be given written notice of your proposed removal. The notice will include the reasons for your proposed removal and the duration of your proposed removal.

(ii) You will have 20 days from the date of your notice of proposed removal to submit a written response appealing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with a written response.

(iii) Within 30 days of receiving your written response, or if you have requested a conference, within 30 days after the completion of your conference, a HUD official, designated by the Secretary, will review your appeal and will send you a final decision either affirming, modifying, or canceling your removal from the Appraiser Roster. HUD may extend this time upon giving you notice. The HUD official designated by the Secretary to review your appeal will not be someone involved in HUD's initial removal decision nor will it be someone who reports to a person involved in that initial decision.

(iv) If you do not submit a written response, your removal will be effective 20 days after the date of HUD's initial removal notice. If you submit a written response, and the removal decision is affirmed or modified, your removal or modification will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(3) *Automatic removal for issuance of final debarment, suspension, or limited denial of participation.* If you are a listed appraiser and you have been issued a final debarment, a suspension, or a

limited denial of participation, the provisions of paragraph (a)(2) of this section do not apply to you, and you will be automatically removed from the Appraiser Roster.

(b) *Reinstatement.* If an appraiser who has been removed from the Roster wants to be reinstated on the Roster, the appraiser must follow the procedures and requirements contained in this subpart for placement on the Roster. Before an appraiser is eligible to reapply for placement on the Roster, the appraiser shall comply with the terms of any applicable remedial training education requirements, and the time period for the appraiser's removal from the Roster shall have expired.

(c) *Automatic suspension from Appraiser Roster—(1) Appraisers subject to state disciplinary action.* An appraiser whose state certification in any state has been revoked, suspended, or surrendered as a result of a state disciplinary action is automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals in any state until HUD receives evidence demonstrating that the state-imposed sanction has been lifted.

(2) *Expirations not due to state disciplinary action.* An appraiser whose certification in a state has expired is automatically suspended from the Appraiser Roster in that state and may not conduct FHA appraisals in that state until HUD receives evidence that demonstrates renewal, but may continue to perform FHA appraisals in other states in which the appraiser is certified.

(d) *Education requirements.* Where there is evidence that an appraiser is deficient in FHA appraisal requirements, HUD may require an appraiser to undergo professional training.

(e) *Other action.* Nothing in this section prohibits HUD from taking any other action against an appraiser, as provided under 2 CFR part 2424, or from seeking any other remedy against an appraiser, available to HUD by statute or otherwise.

[65 FR 17977, Apr. 5, 2000, as amended at 68 FR 26950, May 16, 2003; 72 FR 73494, Dec. 27, 2007; 73 FR 1432, Jan. 8, 2008; 76 FR 72308, Nov. 23, 2011]

§ 200.206 What are my responsibilities as an appraiser listed on the Appraiser Roster?

All appraisers listed on the Appraiser Roster are responsible for:

(a) Obtaining and reading the HUD Appraiser Handbook (4150.2) and any updates to the Handbook;

(b) Complying with the HUD Appraiser Handbook (4150.2), and any updates to the Handbook, when performing all appraisals of properties for HUD single family mortgage insurance purposes; and

(c) Complying with all other instructions and standards issued by HUD when performing all appraisals of properties for HUD single family mortgage insurance purposes.

Subpart H—Participation and Compliance Requirements

SOURCE: 81 FR 71263, Oct. 14, 2016, unless otherwise noted.

§ 200.210 Policy.

(a) *Regulations.* It is HUD's policy that, in accordance with the intent of the National Housing Act (12 U.S.C. 1701 *et seq.*), and with other applicable federal statutes, participants in HUD's housing and healthcare programs be responsible individuals and organizations who will honor their legal, financial and contractual obligations. Accordingly, as provided in this subpart, HUD will review the prior participation of Controlling Participants, as defined in § 200.212 and § 200.216, as a prerequisite to participation in HUD's multifamily housing and healthcare programs listed in § 200.214.

(b) *Processing Guide.* The regulations in this subpart are supplemented by the Processing Guide for Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs' Participants (Guide), which is found on HUD's Web site at www.hud.gov. This Guide elaborates on the basic procedures involved in the previous participation review process. For any significant changes made to this Guide, HUD will provide advance notice and the opportunity to comment, providing a comment period of no less than 30 days.

§ 200.212

24 CFR Ch. II (4–1–23 Edition)

§ 200.212 Definitions.

As used in this subpart:

Commissioner means the Assistant Secretary for Housing-Federal Housing Commissioner, or the Commissioner's delegates and designees.

Controlling Participant means an individual or entity serving in a capacity for a Covered Project that makes the individual or entity subject to Previous Participation review under this subpart, as further described in § 200.216.

Covered Project means a project in which the participation of a Controlling Participant is conditioned on Previous Participation review under this subpart, as further described in § 200.214.

Previous Participation means a Controlling Participant's previous participation in Covered Projects, and, if applicable, other federal, state and local housing programs, in accordance with the definition of Risk.

Risk. In order to determine whether a Controlling Participant's participation in a project would constitute an unacceptable risk, the Commissioner must determine whether the Controlling Participant could be expected to participate in the Covered Project in a manner consistent with furthering the Department's purposes. The Commissioner's review of Previous Participation shall consider compliance with applicable statutes, regulations and program requirements. The Commissioner must consider the Controlling Participant's previous financial and operational performance in Covered Projects that may indicate a financial or operating risk in approving the Controlling Participant's participation in the subject Triggering Event. At the Commissioner's discretion, as necessary to determine financial or operating risk and to the extent the Commissioner determines such information to be reliably available, the Commissioner may consider the Controlling Participant's participation and performance in any federal, state or local government program. The Commissioner may exclude any Previous Participation the Commissioner determines to be of limited value, unreliable or irrelevant in evaluating risk and/or any Previous Participation in which the Controlling Participant did not ex-

ercise, actually or constructively, control. Any information collection in connection with review of Previous Participation must follow all applicable requirements for information collection.

Triggering Event means an occurrence in connection with a Covered Project that subjects a Controlling Participant to Previous Participation review under this subpart, as further described in § 200.218.

§ 200.214 Covered Projects.

The following types of multifamily and healthcare projects are Covered Projects subject to the requirements of this subpart, provided however that single family projects are excluded from the definition of Covered Projects:

(a) *FHA insured projects.* A project financed or which is proposed to be financed with a mortgage insured under the National Housing Act, a project subject to a mortgage held by the Secretary under the National Housing Act, or a project acquired by the Secretary under the National Housing Act.

(b) *Housing for the elderly or persons with disabilities.* Housing for the elderly financed or to be financed with direct loans or capital advances under section 202 of the Housing Act of 1959, as amended; and housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(c) *Risk Share projects.* A project that is insured under section 542(b) or 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 17107 note).

(d) *Projects subject to continuing HUD requirements.* A project that is subject to a use agreement or any other affordability restrictions pursuant to a program administered by HUD's Office of Housing.

(e) *Subsidized Projects.* Any project in which 20 percent or more of the units now receive or will receive a subsidy in the form of:

(1) Interest reduction payments under section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(2) Rental Assistance Payments under section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(3) Rent Supplement payments under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); or

(4) Project-based housing assistance payment contracts under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) administered by HUD's Office of Housing.

§ 200.216 Controlling Participants.

(a) *Definition.* Controlling Participants are those entities and individuals (i) serving as a Specified Capacity with respect to a Covered Project and (ii) the entities and individuals in control of the Specified Capacities. Each of the following capacities for a Covered Project is a "Specified Capacity:"

(1) An owner of a Covered Project;

(2) A borrower of a loan financing a Covered Project;

(3) A management agent;

(4) An operator (in connection with healthcare projects insured under the following section of the National Housing Act: Section 232 (12 U.S.C. 1715w) and section 242 (12 U.S.C. 1715z-7));

(5) A master tenant (in connection with any multifamily housing project insured under the National Housing Act (12 U.S.C. 1701 *et seq.*) and in connection with certain healthcare projects insured under sections 232 or section 242 of the National Housing Act);

(6) A general contractor; and

(7) In connection with a hospital project insured under section 242 of the National Housing Act (12 U.S.C. 1715z-7), a construction manager;

(b) *Control of entities.* To the extent any Specified Capacity listed in paragraph (a) of this section is an entity, any individual(s) or entities determined by HUD to control the financial or operational decisions of such Specified Capacity shall also be considered Controlling Participants. Without limiting the foregoing and unless otherwise determined by HUD, the following individuals or entities shall be considered Controlling Participants:

(1) Individuals or entities with the ability to direct the day-to-day operations of a Specified Capacity or a Covered Project;

(2) Individuals or entities that own at least 25 percent of an entity that is a Specified Capacity;

(3) Individuals or entities with the ability to direct the entity to enter into agreements relating to the Triggering Event that necessitates review of Previous Participation, including without limitation individuals or entities that own at least 25 percent of entities determined to control an entity that is a Specified Capacity; and

(4) In connection with a hospital project insured under section 242 of the National Housing Act (12 U.S.C. 1715z-7), members of a hospital Board of Directors (or similar body) and executive management (such as the Chief Executive Officer and Chief Financial Officer) that HUD determines to have control over the finances or operation of a Covered Project.

(c) *Exclusions from definition.* The following individuals or entities are not Controlling Participants for purposes of this subpart:

(1) Passive investors and investor entities with limited liability in Covered Projects benefiting from tax credits, including but not limited to low-income housing tax credits pursuant to section 42 of title 26 of the United States Code, whether such investors are syndicators, direct investors or investors in such syndicators and/or investors;

(2) Individuals or entities that do not exercise financial or operational control over the Covered Project, a Specified Capacity or another Controlling Participant;

(3) Unless determined by HUD to exercise day-to-day control over the operations or finances of a Specified Capacity or Covered Project, board members of a non-profit corporation who are not officers or otherwise part of the executive management teams of the non-profit;

(4) Mortgagees acting in their capacity as such; and

(5) Public housing agencies (PHAs).

§ 200.218 Triggering Events.

(a) Each of the following is a Triggering Event that may subject a Controlling Participant to Previous Participation review under § 200.220:

§ 200.220

24 CFR Ch. II (4–1–23 Edition)

(1) An application for FHA mortgage insurance;

(2) An application for funds provided by HUD pursuant to a program administered by HUD's Office of Housing, such as but not limited to supplemental loans;

(3) A request to change any Controlling Participant for which HUD consent is required with respect to a Covered Project; or

(4) A request for consent to an assignment of a housing assistance payment contract under section 8 of the United States Housing Act of 1937 or of another contract pursuant to which a Controlling Participant will receive funds in connection with a Covered Project.

(b) The Commissioner may also require a review of a potential owner's Previous Participation in connection with a loan sale or other form of property disposition, including foreclosure sale. Notwithstanding anything contained in the regulations in this subpart to the contrary, any such review shall be in accordance with the terms, conditions, provisions and other requirements set forth by the Commissioner in connection with such loan sale or property disposition which may differ, in whole or in part, from the regulations in this subpart.

§ 200.220 Previous Participation review.

(a) *Scope of review.* (1) Upon the occurrence of a Triggering Event, as provided in § 200.218, the Commissioner shall review the Previous Participation of the relevant Controlling Participants in considering whether to approve the participation of the Controlling Participants in connection with the Triggering Event in accordance with the definition of Risk in § 200.212.

(2) The Commissioner will not review Previous Participation for interests acquired by inheritance or by court decree.

(3) In connection with the submittal of an application for any Triggering Event, applicants shall identify the Controlling Participants and, to the extent requested by HUD, make available to HUD the Controlling Participant's Previous Participation in Covered Projects.

(b) *Results of review.* (1) Based upon the review under paragraph (a) of this section, the Commissioner will approve, disapprove, limit, or otherwise condition the continued participation of the Controlling Participant in the Triggering Event, in accordance with paragraphs (c) and (d) of this section.

(2) The Commissioner shall provide notice of the determination to the Controlling Participant including the reasons for disapproval or limitation. The Commissioner may provide notice of the determination to other parties as well, such as the FHA-approved lender in the transaction.

(c) *Basis for disapproval.* (1) The Commissioner must disapprove a Controlling Participant if the Commissioner determines that the Controlling Participant is suspended, debarred or subject to other restriction pursuant to 24 CFR part 180 or 24 CFR part 2424;

(2) The Commissioner may disapprove a Controlling Participant if the Commissioner determines:

(i) The Controlling Participant is materially restricted, including voluntarily, from doing business with HUD (other than the restrictions listed in paragraph (c)(1) of this section) or any other governmental department or agency if the Commissioner determines that such restriction demonstrates a significant risk to proceeding with the Triggering Event; or

(ii) The Controlling Participant's record of Previous Participation reveals significant risk to proceeding with the Triggering Event.

(d) *Alternatives to disapproval.* In lieu of disapproval, the Commissioner may:

(1) Condition or limit the Controlling Participant's participation;

(2) Temporarily withhold issuing a determination in order to gather more necessary information; or

(3) Require the Controlling Participant to remedy or mitigate outstanding violations of HUD requirements to the Commissioner's satisfaction in order to participate in the Triggering Event.

§ 200.222 Request for reconsideration.

(a) Where participation in a Triggering Event has been disapproved, otherwise limited or conditioned because of Previous Participation review,

Office of Assistant Secretary for Housing, HUD

§ 200.415

the Controlling Participant may request reconsideration of such determination by a review committee or reviewing officer as established by the Commissioner. Reconsideration decisions shall not be rendered by the same individual who rendered the initial review.

(b) The Controlling Participant shall submit requests for such reconsideration in writing within 30 days of receipt of the Commissioner's notice of the determination under § 200.220.

(c) The review committee or reviewing officer shall schedule a review of such requests for reconsideration. The Controlling Participant shall be provided written notification of such a review; such notice shall provide at least 7 business days advanced notice of the reconsideration. The Controlling Participant shall be provided the opportunity to submit such supporting materials as the Controlling Participant desires or as the review committee or reviewing officer requests.

(d) Before making its decision, the review committee or reviewing officer will analyze the reasons for the decision(s) for which reconsideration is being requested, as well as the documents and arguments presented by the Controlling Participant. The review committee or reviewing officer may affirm, modify, or reverse the initial decision. Upon making its decision, the review committee or reviewing officer will provide written notice of its determination to the Controlling Participant setting forth the reasons for the determination(s).

Subpart I—Nondiscrimination and Fair Housing

§ 200.300 Nondiscrimination and fair housing policy.

Federal Housing Administration programs shall be administered in accordance with:

(a) The nondiscrimination and fair housing requirements set forth in 24 CFR part 5, including the prohibition on inquiries regarding sexual orientation or gender identity set forth in 24 CFR 5.105(a)(2); and

(b) The affirmative fair housing marketing requirements in 24 CFR part 200, subpart M and 24 CFR part 108.

[77 FR 5675, Feb. 3, 2012]

Subpart J—Equal Employment Opportunity

§ 200.400 Purpose.

The purpose of this subpart is to assist in achieving the aims of part III of Executive Order 11246 and the relevant regulations of the Secretary of Labor and the Secretary of Housing and Urban Development.

§ 200.405 Notice to public.

Participants in insurance programs under the National Housing Act shall be informed, as early as possible upon indicating their interest in any such program, of the established policy of nondiscrimination in employment in construction, repair or rehabilitation work financed with assistance under the Act.

§ 200.410 Definition of term “applicant”.

(a) In any mortgage or loan insurance transaction under this chapter where the Commissioner will control the mortgagor either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term *applicant* as used in § 200.415 shall mean the mortgagor.

(b) In any transaction other than one specified in paragraph (a) of this section, the term *applicant* as used in § 200.415 shall mean the developer, or the builder, dealer or contractor performing the construction, repair or rehabilitation work for the property owner.

§ 200.415 Agreement of applicant.

An applicant, prior to the Commissioner's issuance of any commitment or other loan approval, shall agree (in a form prescribed by the Commissioner) that there shall be no discrimination against anyone who is employed in carrying out work receiving assistance pursuant to this chapter, or

§ 200.420

against an applicant for such employment, because of race, color, religion, sex, handicap, age, or national origin.

[58 FR 41000, July 30, 1993]

§ 200.420 Equal opportunity clause to be included in contracts and subcontracts.

(a) The equal opportunity clause prescribed by the Commissioner pursuant to the regulations of the Secretary of Labor (41 CFR chapter 60) shall be included in each nonexempt contract and subcontract for work receiving FHA assistance.

(b) Subcontracts less than \$50,000 may incorporate by reference the equal opportunity clause.

(c) The equal opportunity clause shall be deemed to be a part of each nonexempt contract or subcontract whether or not it is physically incorporated in such contract.

§ 200.425 Exemptions.

(a) *Transactions of \$10,000 or under.* Contracts and subcontracts not exceeding \$10,000 are exempt from the requirements of the equal opportunity clause. No contractor or subcontractor shall procure supplies or services in less than usual quantities to avoid applicability of the equal opportunity clause.

(b) *Contracts and subcontracts for indefinite quantities.* Contracts and subcontracts for indefinite quantities are exempt from the requirements of the equal opportunity clause if the amount to be ordered in a single year under any such contract will not exceed \$10,000.

(c) *Work outside the United States.* Contracts and subcontracts with regard to work performed outside the United States by employees who were not recruited within the United States are exempt from the requirements of the equal opportunity clause.

(d) *Others.* Other exemptions set forth in the regulations of the Secretary of Labor at 41 CFR 60-1.5 apply to transactions under this subpart.

§ 200.430 Sanctions.

Failure or refusal to comply and give satisfactory assurances of future compliance with the requirements of this subpart shall be proper basis for applying sanctions. The sanctions shall be

24 CFR Ch. II (4-1-23 Edition)

applied in accordance with the provisions of Executive Order 11246 and the relevant regulations of the Secretary of Labor.

Subparts K-L [Reserved]

Subpart M—Affirmative Fair Housing Marketing Regulations

SOURCE: 37 FR 75, Jan. 5, 1972, unless otherwise noted.

§ 200.600 Purpose.

The purpose of this subpart is to set forth the Department's equal opportunity regulations for affirmative fair housing marketing under FHA subsidized and unsubsidized housing programs.

§ 200.605 Authority.

The regulations in this subpart are issued pursuant to the authority to issue regulations granted to the Secretary by section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d), and implement the functions, powers, and duties imposed on the Secretary by Executive Order 11063, 27 FR 11527, and title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3608.

[40 FR 20080, May 8, 1975]

§ 200.610 Policy.

It is the policy of the Department to administer its FHA housing programs affirmatively, as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, sex, handicap, familial status or national origin. Each applicant for participation in FHA subsidized and unsubsidized housing programs shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, in determining their eligibility, and in concluding sales and rental transactions.

[40 FR 20080, May 8, 1975, as amended at 58 FR 41337, Aug. 3, 1993]

§ 200.615 Applicability.

The affirmative fair housing marketing requirements, as set forth in paragraphs (a) through (f) of § 200.620, shall apply to all applicants for participation in FHA subsidized and unsubsidized housing programs whose application is hereafter approved for development or rehabilitation of:

(a) Multifamily projects and manufactured home parks of five or more lots, units or spaces, and initial submissions by a lender for an application for mortgage insurance on a single family property, where the property is located in a subdivision and the builder or developer intends to sell five or more properties in the subdivision; or

(b) Dwelling units, when the applicant's participation in FHA housing programs had exceeded or would thereby exceed development of five or more such dwelling units during the year preceding the application, except that there shall not be included in a determination of the number of dwelling units developed by an applicant those in which a single family dwelling is constructed or rehabilitated for occupancy by a mortgagor on property owned by the mortgagor and in which the applicant had no interest prior to entering into the contract for construction or rehabilitation.

[37 FR 75, Jan. 5, 1972, as amended at 50 FR 9268, Mar. 7, 1985; 58 FR 41337, Aug. 3, 1993]

§ 200.620 Requirements.

With respect to all FHA subsidized or unsubsidized programs in which the applicant hereafter participates (except for housing for which a conditional commitment has been issued prior to the effective date of these regulations), the applicant shall meet the following requirements or, if he contracts marketing responsibility to another party, be responsible for that party's carrying out the requirements:

(a) Carry out an affirmative program to attract buyers or tenants, regardless of sex, handicap or familial status, of all minority and majority groups to the housing for initial sale or rental. An affirmative marketing program shall be in effect for each multifamily project throughout the life of the mortgage. Such a program shall typically

involve publicizing to minority persons the availability of housing opportunities regardless of race, color, religion, sex, handicap or familial status or national origin, through the type of media customarily utilized by the applicant, including minority publications or other minority outlets which are available in the housing market area. All advertising shall include either the Department-approved Equal Housing Opportunity logo or slogan or statement and all advertising depicting persons shall depict persons of majority and minority groups, including both sexes.

(b) Maintain a nondiscriminatory hiring policy in recruiting from both minority and majority groups, including both sexes and the handicapped, for staff engaged in the sale or rental of properties.

(c) Instruct all employees and agents in writing and orally in the policy of nondiscrimination and fair housing.

(d) Specifically solicit eligible buyers or tenants reported to the applicant by the Area or Insuring Office.

(e) Prominently display in all offices in which sale or rental activity pertaining to the project or subdivision takes place the Department-approved Fair Housing Poster and include in any printed material used in connection with sales or rentals, the Department-approved Equal Housing Opportunity logo or slogan or statement.

(f) Post in a conspicuous position on all FHA project sites a sign displaying prominently either the Department-approved Equal Housing Opportunity logo or slogan or statement.

[37 FR 75, Jan. 5, 1972, as amended at 40 FR 20080, May 8, 1975; 40 FR 53008, Nov. 14, 1975; 58 FR 41337, Aug. 3, 1993]

§ 200.625 Affirmative fair housing marketing plan.

Each applicant for participation in FHA housing programs to which these regulations apply shall provide on a form to be supplied by the Department information indicating his affirmative fair housing marketing plan to comply with the requirements set forth in § 200.620. This form, once approved by HUD, will be available for public inspection at the sales or rental offices of the applicant.

§ 200.630

§ 200.630 Notice of housing opportunities.

The Director of each Field Office shall prepare monthly a list of all projects covered by this subpart, and of all initial submissions by lenders for single family mortgage insurance where the property is located in a subdivision and the builder or developer intends to sell five or more properties in the subdivision, on which commitments have been issued during the preceding 30 days. The Director shall maintain a roster of interested organizations and individuals (including public agencies responsible for providing relocation assistance and local housing authorities) who have expressed a wish to receive the monthly list, and shall provide the list to these organizations and individuals.

[58 FR 41337, Aug. 3, 1993]

§ 200.635 Compliance.

Applicants failing to comply with the requirements of this subpart will make themselves liable to sanctions authorized by regulations, rules or policies governing the program pursuant to which the application was made, including but not limited to denial of further participation in departmental programs and referral to the Department of Justice for suit by the United States for injunctive or other appropriate relief. The Department will enforce compliance through the procedures outlined in 24 CFR part 108.

[37 FR 75, Jan. 5, 1972, as amended at 58 FR 41337, Aug. 3, 1993]

§ 200.640 Effect on other requirements.

The requirement for compliance with this part is in addition to, and not in substitution for, any other requirements imposed by or under Executive Order 11063 or the Fair Housing Act.

[58 FR 41337, Aug. 3, 1993]

APPENDIX TO SUBPART M OF PART 200— EQUAL HOUSING OPPORTUNITY INSIGNIA

The Equal Housing Opportunity insignia are as follows:

Equal Housing Opportunity logo:

24 CFR Ch. II (4–1–23 Edition)



Equal Housing Opportunity statement: “We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, or national origin.”

Equal Housing Opportunity slogan: “Equal Housing Opportunity.”

[37 FR 75, Jan. 5, 1972, as amended at 40 FR 20080, May 8, 1975]

Subpart N [Reserved]

Subpart O—Lead-Based Paint Poisoning Prevention

SOURCE: 64 FR 50224, Sept. 15, 1999, unless otherwise noted.

§ 200.800 Lead-based paint.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at part 35, subparts A, B, F, G, I, and R of this title, apply to activities under these programs, except for single family mortgage insurance and guarantee programs administered by HUD.

§ 200.805 Definitions.

Applicable surface. All intact and non-intact interior and exterior painted surfaces of a residential structure.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Lead-based paint surface. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm².

§ 200.810 Single family insurance and coinsurance.

(a) *General.* (1) The requirements of this section apply to any one-to four-family dwelling which was constructed before 1978 and is the subject of an application for mortgage insurance under section 203(b) or other sections of the National Housing Act relating to the insurance or coinsurance of mortgages on one-to-four-family dwellings. Such other sections include:

- (i) Section 244 (coinsurance);
- (ii) Section 213 (cooperative housing insurance);
- (iii) Section 220 (rehabilitation and neighborhood conservation housing insurance);
- (iv) Section 221 (housing for moderate income and displaced families);
- (v) Section 222 (mortgagor insurance for servicemen);
- (vi) Section 809 (armed services housing for civilian employees);
- (vii) Section 810 (armed services housing in impacted areas);
- (viii) Section 234 (mortgage insurance for condominiums);
- (ix) Section 235 (mortgage assistance payments for home ownership and project rehabilitation);
- (x) Section 237 (special mortgage insurance for low and moderate income families); and
- (xi) Section 240 (mortgage insurance on loans for purchase of fee simple title from lessors).

(2) [Reserved]

(3) Applications for insurance in connection with a refinancing transaction where an appraisal is not required under the applicable procedures established by the Commissioner are excluded from the coverage of this section. Any housing assisted under the programs set out in this section for

which no new activity is applied for or required is not covered by this section.

(b) *Appraisal.* The appraiser shall, when appraising a dwelling constructed prior to 1978, inspect the dwelling for defective paint surfaces.

(c) *Treatment of defective paint surfaces.* For defective paint surfaces, treatment shall be provided to defective areas. Treatment of hazards shall consist of covering or removing defective paint surfaces. Covering may be accomplished by such means as adding a layer of wallboard to the wall surface. Depending on the wall condition, wallcoverings which are permanently attached may be used. Covering or replacing trim surfaces is also permitted. Paint removal may be accomplished by such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Machine sanding and use of propane or gasoline torches (open-flame methods) are not permitted. Washing and repainting without thorough removal or covering does not constitute adequate treatment. In the case of defective paint spots, scraping and repainting the defective area is considered adequate treatment. Treatment of a defective paint surface is not required if such a surface is found to not be a lead-based paint surface by a lead-based paint inspector certified pursuant to procedures of the U.S. Environmental Protection Agency at 40 CFR part 745.

(d) *Home equity conversion mortgage insurance.* The requirements of this section, as modified by the following sentence, apply to a dwelling which is the subject of an application for mortgage insurance under section 255 of the National Housing Act (home equity conversion insurance) unless the mortgagor provides the certification described in § 206.45(d) of this title. The defective paint surface may be treated after the mortgage is endorsed for insurance, provided that the defective paint surface is treated as expeditiously as possible in accordance with the repair work provisions contained in § 206.47 of this title.

[64 FR 50224, Sept. 15, 1999, as amended at 69 FR 34275, June 21, 2004]

§ 200.850

Subpart P—Physical Condition of Multifamily Properties

SOURCE: 65 FR 77240, Dec. 8, 2000, unless otherwise noted.

§ 200.850 Purpose.

The purpose of this subpart is to establish the physical conditions standards and physical inspection requirements that are applicable to certain multifamily housing properties.

§ 200.853 Applicability.

This subpart applies to:

(a) Housing assisted by HUD under the following programs:

(1) All Section 8 project-based assistance. “Project-based assistance” means Section 8 assistance that is attached to the structure (see 24 CFR 982.1(b)(1) regarding the distinction between “project-based” and “tenant-based” assistance);

(2) Section 202 Program of Supportive Housing for the Elderly (Capital Advances);

(3) Section 811 Program of Supportive Housing for Persons with Disabilities (Capital Advances); and

(4) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects).

(b) Housing with mortgages insured or held by HUD, or housing that is receiving insurance from HUD, under the following authorities:

(1) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

(2) Section 213 of the NHA (Cooperative Housing Insurance);

(3) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(4) Section 221(d)(3) of the NHA (Market Interest Rate (MIR) Program);

(5) Section 221(d)(3) and (5) of the NHA (Below Market Interest Rate (BMIR) Program);

(6) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(7) Section 231 of the NHA (Housing for Elderly Persons);

(8) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Inter-

24 CFR Ch. II (4–1–23 Edition)

mediate Care Facilities, Assisted Living Facilities, Board and Care Homes);

(9) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(10) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(11) Section 241 of the NHA (Supplemental Loans for Multifamily Projects). (Where, however, the primary mortgage of a Section 241 property is insured or assisted by HUD under a program covered in this part, the coverage by two HUD programs does not trigger two inspections); and

(12) Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

§ 200.855 Physical condition standards and physical inspection requirements.

(a) *Applicable standards and requirements.* The physical condition standards and physical inspection requirements in 24 CFR part 5, subpart G, are applicable to the properties assisted or insured that are listed in § 200.853.

(b) *Entity responsible for inspection of property.* The regulations that govern the programs listed in § 200.853, or regulatory agreements or contracts, identify the entity responsible for conducting the physical inspection of the property which is HUD, the lender or the owner. For properties with more than one HUD insured loan, only the first mortgage lender is required to conduct the physical inspection. The second mortgage lender will be provided a copy of the physical inspection report by the first mortgage lender.

(c) *Timing of inspections.* (1) For a property subject to an annual inspection under this subpart, the inspection shall be conducted no earlier than 9 months and no later than 15 months from the date of the last required inspection. In no event, however, shall the physical inspection be conducted after the end of the calendar year following the one year anniversary date of the last required inspection.

(2) For a property subject to an inspection every two years under this subpart, the inspection shall be conducted no earlier than 21 months and

no later than 27 months from the date of the last required inspection. In no event, however, shall the physical inspection be conducted after the end of the calendar year following the two year anniversary date of the last required inspection.

(3) For a property subject to an inspection every three years under this subpart, the inspection shall be conducted no earlier than 33 months and no later than 39 months from the date of the last required inspection. In no event, however, shall the physical inspection be conducted after the end of the calendar year following the three year anniversary date of the last required inspection.

(4) For a newly endorsed multifamily property, the first inspection required under this subpart will be conducted no earlier than 21 months but not later than 27 months from the date of final endorsement. In no event, however, shall the inspection be conducted after the end of the calendar year following the two year anniversary date of final endorsement.

(5)(i) For assisted-living facilities, board and care facilities, and intermediate care facilities, the initial inspection required under this subpart will be conducted within the same time restrictions set forth in paragraph (c)(4) of this section, and any further inspections will be conducted at a frequency determined consistent with § 200.857, except that HUD may exempt such facilities from physical inspections under this part if HUD determines that the State or local government has a reliable and adequate inspection system in place, with the results of the inspection being readily and timely available to HUD; and

(ii) For any other Section 232 facilities, the inspection will be conducted only when and if HUD determines, on the basis of information received, such as through a complaint, site inspection, or referral by a State agency, on a case-by-case basis, that inspection of a particular facility is needed to assure protection of the residents or the adequate preservation of the project.

[65 FR 77240, Dec. 8, 2000, as amended at 77 FR 55135, Sept. 7, 2012]

§ 200.857 Administrative process for scoring and ranking the physical condition of multifamily housing properties.

(a) *Scoring and ranking of the physical condition of multifamily housing properties.* (1) HUD's Real Estate Assessment Center (REAC) will score and rank the physical condition of certain multifamily housing insured properties listed in § 200.853 in accordance with the procedures described in this section. The physical condition inspection of the property, upon which REAC bases its score and ranking, is conducted by the responsible entity in accordance with § 200.855.

(2) Depending upon the results of its physical condition inspection, a multifamily housing property will be assigned one of three designations—standard 1 performing, standard 2 performing and standard 3 performing—in accordance with the ranking process described in paragraph (b) of this section.

(b) *Methodology for Ranking.* (1) Multifamily housing properties will be ranked in accordance with the methodology provided in this paragraph (b). Multifamily housing properties are scored on the basis of a 100 point scale. Because scores may include fractions, a score that includes a fraction below one half point will be rounded to the next lower full point and a score that includes a fraction of one half point or higher will be rounded to the next higher full point (*e.g.*, 89.4 will be rounded to 89, 89.5 will be rounded to 90).

(i) *Standard 1 Performing Property.* If a property receives a score of 90 points or higher on its physical condition inspection, the property will be designated a standard 1 performing property. Properties designated as standard 1 performing properties will be required to undergo a physical inspection once every three (3) years.

(ii) *Standard 2 Performing Property.* If a property receives a score of 80 points or higher but less than 90 on its physical condition inspection, the property will be designated a standard 2 performing property. Properties designated as standard 2 performing properties will be required to undergo a

physical inspection once every two (2) years.

(iii) *Standard 3 Performing Property.* If a property receives a score of less than 80 points, the property will be designated a standard 3 performing property. Properties designated as standard 3 performing properties will continue to undergo an annual physical inspection as currently required under covered HUD programs.

(2) Owners of multifamily housing properties scoring in a standard 1 or standard 2 range which have been cited by the REAC as having a Exigent Health and Safety (EHS) deficiency(s) must resolve the deficiency(s), as required by paragraph (c)(2) of this section, to be classified as standard 1 and standard 2 properties.

(3) Regardless of the performance designation assigned to an owner's property, an owner is obligated to maintain its property in accordance with HUD's uniform physical condition standards as required by 24 CFR part 5, subpart G, the Regulatory Agreement and/or the Housing Assistance Payment (HAP) Contract. Good management principles require an owner to conduct routine inspections of its projects, develop improvement plans, and again, maintain its property to meet the standard of decent, safe, sanitary and in good repair.

(c) *Owner's review of physical inspection report and identification of objectively verifiable and material error.* (1) Upon completion of a physical inspection of a multifamily housing property, the REAC will provide the owner or owner's representative, on the date of the physical inspection, notice of any items classified as EHS deficiencies. REAC also will provide the owner with the entire physical inspection report (electronically through the internet or by mail approximately 10 working days from the date of the report), which provides the physical inspection results and other information relevant to the inspection, including any items classified as EHS deficiencies and already provided to the owner, on the date of the inspection (EHS deficiencies are relayed by the inspector on the date of the inspection).

(2) The owner must carefully review the physical inspection report, particu-

larly those items classified as EHS. The owner is also responsible for conducting its own survey of the total project based on the REAC's physical inspection findings. The owner must mitigate all EHS items immediately, and the owner must file a written report with the applicable Multifamily Hub Director within 3 business days of the date of the inspection, which is the date the owner was provided with the EHS notice. The report filed by the owner must provide a certification and reasonable evidence that the EHS items have been resolved.

(3) If, following review of the physical inspection results and score, the owner reasonably believes that an objectively verifiable and material error (or errors) occurred in the inspection, which, if corrected, will result in a significant improvement in the property's overall score ("significant improvement" is defined in paragraph (d)(4) of this section), the owner may submit a written request for a technical review. The technical review request must be received in writing no later than 30 calendar days (as established by the postmark, if applicable) from the date the physical inspection results are transmitted to the owner by REAC, whether the results and score are transmitted to the owner via the Internet or by hard copy via certified mail.

(d) *Technical review of physical inspection results.* A request for a technical review of physical inspection results must be submitted in writing to REAC and must be received by REAC no later than the 30th calendar day, as applicable under paragraph (c)(3) of this section, following submission of the physical inspection report to the owner, as provided in paragraph (c)(1) of this section.

(1) *Request for technical review.* The request must be accompanied by the owner's reasonable evidence that an objectively verifiable and material error (or errors) occurred which if corrected will result in a significant improvement in the overall score of the owner's property. A technical review of physical inspection results will not be conducted based on conditions that were corrected subsequent to the inspection. Upon receipt of this request from the owner, the REAC will review

the physical inspection and the owner's evidence. If the REAC's review determines that an objectively verifiable and material error (or errors) has been documented and that it is likely to result in a significant improvement in the property's overall score, the REAC will take one or a combination of the following actions: undertake a new inspection; correct the original inspection; or issue a new physical condition score.

(2) *Burden of proof that error occurred rests with owner.* The burden of proof rests with the owner to demonstrate that an objectively verifiable and material error (or errors) occurred in the REAC's inspection through submission of evidence, which if corrected will result in a significant improvement in the property's overall score. To support its request for a technical review of the physical inspection results, the owner may submit photographic evidence, written material from an objective source such as a local fire marshal or building code official, or other similar evidence.

(3) *Material errors.* An objectively verifiable material error must be present to allow for a technical review of physical inspection results. Material errors are those that exhibit specific characteristics and meet specific thresholds. The three types of material errors are as follows.

(i) *Building data error.* A building data error occurs if the inspection includes the wrong building or a building that was not owned by the property, including common or site areas that were not a part of the property. Incorrect building data that does not affect the score, such as the address, building name, year built, etc., would not be considered material, but is of great interest to HUD and will be corrected upon notice to the REAC.

(ii) *Unit count error.* A unit count error occurs if the total number of units considered in scoring is incorrect. Since scoring uses total units, the REAC will examine instances where the participant can provide evidence that the total units used is incorrect.

(iii) *A non-existent deficiency error.* A non-existent deficiency error occurs if the inspection cites a deficiency that does not exist.

(4) *Significant improvement.* Significant improvement refers to the correction of a material error, asserted by the owner, which causes the score for the owner's property to cross an administratively significant threshold (for example, the property would be redesignated from standard 3 performing to standard 2 performing or from standard 2 performing to standard 1 performing), or to result in an increase of 10 points or more.

(5) *Determining whether material error occurred and what action is warranted.* Upon receipt of the owner's request for technical review of a property's physical inspection results, the REAC will evaluate the owner's property file and the evidence provided by the owner that an objectively verifiable and material error occurred which, if corrected, would result in a significant improvement in the property's overall score. If the REAC's evaluation determines that an objectively verifiable and material error (or errors) has been reasonably documented by the owner and if corrected would result in a significant improvement in the property's overall score, then the REAC shall take one or a combination of the following actions:

- (i) Undertake a new inspection;
- (ii) Correct the inspection report; or
- (iii) Issue a new physical condition score.

(6) *Responsibility for the cost of a new inspection.* If a new inspection is undertaken by the REAC and the new inspection score results in a significant improvement in the property's overall score, then HUD shall bear the expense of the new inspection. If no significant improvement occurs, then the owner must bear the expense of the new inspection. The inspection cost of a new inspection, if paid by the owner, is not a valid project operating expense. The new inspection score will be considered the final score.

(e) *Adjustment of physical condition score based on considerations other than technical review and reinspection.* (1) Under certain circumstances, HUD may find it appropriate to review the results of a physical inspection which are anomalous or have an incorrect result due to facts and circumstances affecting the inspected property which

are not reflected in the inspection or reflected inappropriately in the inspection. These circumstances include, but are not necessarily limited to, inconsistencies between local code requirements and the HUD physical inspection protocol; conditions which are permitted by variance or license or which are preexisting physical features non-conformities and are inconsistent with the HUD physical condition protocol; or cases where the owner has been scored for elements (e.g., roads, sidewalks, mail boxes, resident owned appliances, etc.) that it does not own and is not responsible for maintaining.

(2) To seek a score adjustment on the basis of these circumstances as provided in paragraph (e) of this section, the owner must submit a request for an adjustment to REAC with appropriate proof of the circumstances that resulted in the incorrect physical conditions results. This process may result in a reinspection and/or rescoring of the inspection after review and approval of the owner's submission of appropriate proof of the anomalous or inappropriate application.

(3) An owner may submit the request for this adjustment to REAC either prior to or after the physical inspection has been concluded. If the owner submits a request for adjustment after the physical inspection has been concluded, the owner must submit its request to REAC within 45 days following the submission of the physical inspection report, as provided in paragraph (c)(1) of this section. HUD may, but is not required to review a request made after this period has expired.

(4) This adjustment process, provided in this paragraph (g), may result in a reinspection and/or rescoring of the inspection after review and approval of the owner's submission of appropriate proof of the anomalous or inappropriate application.

(f) *Issuance of final score and publication of score.* (1) The physical condition score of the property is the final score if the owner files no request for technical review, as provided in paragraph (c) of this section, or for other adjustment of the physical condition score, as provided in paragraph (e) of this section. If the owner files a request for technical review or score adjustments

in accordance with paragraphs (c) and (e) of this section, the final physical condition score is the score issued by HUD after any adjustments are determined necessary and made by HUD at the conclusion of these processes.

(2) HUD will make public the final scores of the owners through posting on HUD's internet site, or through FEDERAL REGISTER publication or other appropriate means.

(g) *Owner's responsibility to notify residents of inspection; and availability of documents to residents—*(1) *Notification to residents.* An owner must notify its residents of any planned physical inspections of their units or the housing development generally.

(2) *Availability of documents for review.* Once the technical review and database adjustment periods have expired, as provided in paragraphs (d) and (e) of this section, respectively, the owner must make its physical inspection report and all related documents available to its residents during regular business hours upon reasonable request for review and copying. Related documents include the owner's survey plan, plan of correction, certification and related correspondence.

(i) Once the owner's final physical condition score is issued and published, the owner must make any additional information, such as the results of any reinspection, appeal requests, available for review and copying by its residents upon reasonable request during regular business hours.

(ii) The owner must maintain the documents related to the physical inspection of the property, as described in this paragraph (g)(2), available for review by residents for a period of 60 days from the date of submission to the owner of the physical condition score for the property in which the residents reside.

(3) The owner must post a notice to the residents in the owner's management office and on any bulletin boards in all common areas that advises residents of the availability of the materials described in paragraphs (g)(2) of this section. The notice should include the name, address and telephone number of the HUD Project Manager.

(4) Residents are encouraged to comment on this information provided by

the owners and submit any comments directly to the applicable Field Office. Should residents discover the owner provided HUD with a false certification during the review they are encouraged to notify the Hub or Program Center where appropriate inquiry and action will be taken.

(h) *Administrative review of properties.* The file of a multifamily property that receives a score of 30 points or less on its physical condition inspection will be referred to HUD's Departmental Enforcement Center (DEC) for evaluation. The files of any of the multifamily housing properties may be submitted to the DEC or to the appropriate HUD Multifamily Hub Director (MFD) for evaluation, or both, at the discretion of the Office of Housing.

(1) *Notification to owner of submission of property file to the MFD and DEC.* The Department will provide for notification to the owner that the file on the owner's property is being submitted to the MFD and/or the DEC for evaluation. The notification will be provided at the time the REAC issues the physical inspection report to the owner or at such other time as a referral occurs.

(2) *30-Day period for owner to provide the DEC with supporting and relevant information and documentation.* The owner has 30 calendar days, from the date of the REAC notification to the owner, to provide comments, proposals, or any other information to the DEC which will assist the MFD and DEC in conducting a comprehensive evaluation of the property. A proposal provided by an owner may include the owner's plan to correct deficiencies (corrective action plan). During the 30-day response time available to the owner, the DEC may encourage the owner to submit a corrective action plan. The corrective action plan, if timely submitted during the 30-day period (whether on the owner's initiative or at the request of the DEC), may serve as additional information for the DEC to consider in determining appropriate action to take at the conclusion of the evaluation period. If not submitted during the 30-day response time, a corrective action plan may be required of the owner at the conclusion of the DEC's evaluation of the property.

(3) *Evaluation of the property.* During the evaluation period, the DEC will perform an analysis of the multifamily housing property, which may include input from tenants, HUD multifamily officials, elected officials, and others as may be appropriate. Although the MFD will assist with the evaluation, for insured mortgages, the DEC will have primary responsibility for the conclusion of the evaluation of the property after taking into consideration the input of interested parties as described in this paragraph (h)(2). The DEC's evaluation may include a site visit to the owner's property.

(4) *Continuing responsibilities of HUD Multifamily Program Offices and Mortgagee.* During the period of DEC evaluation, HUD's multifamily program offices continue to be responsible for routine asset management tasks on properties and all servicing actions (e.g., rent increase decisions, releases from reserve account approvals). In addition, during this period of evaluation, the mortgagee shall continue to carry out its duties and responsibilities with respect to the mortgage.

(i) *Enforcement action.* If, at the conclusion of the evaluation period, the DEC determines that enforcement action is appropriate, the DEC will provide notification to the owner of the DEC's decision to formally accept the property for enforcement purposes.

(1) *DEC Owner Compliance Plan.* (i) After notification to the owner of the DEC's decision, the DEC will produce a proposed action plan (DEC Compliance Plan), the purpose of which is to improve the physical condition of the owner's property, and correct any other known violations by the owner of its legal obligations. The DEC Compliance Plan will describe:

(A) The actions that will be required of the owner to correct, mitigate or eliminate identified property deficiencies, problems, hazards, and/or correct any other known violations by the owner;

(B) The period of time within which these actions must be completed; and

(C) The compliance responsibilities of the owner.

(ii) The DEC Compliance Plan will be submitted to the MFD for review and

§ 200.925

concurrence. If the MFD does not concur, the DEC Compliance Plan will be submitted to the Deputy Assistant Secretary for Housing and the Deputy Director of the DEC for review and concurrence. If the DEC Compliance Plan remains unapproved, a final decision on the plan will be made by HUD's Deputy Secretary in consultation with the General Counsel, the Assistant Secretary for Housing, and the Director of the DEC.

(iii) Following submission of the DEC Compliance Plan to the owner, the owner will be provided a period of 30 calendar days to review and accept the DEC Compliance Plan. If the owner agrees to comply with the DEC Compliance Plan, the plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(2) *Counter compliance plan proposal by owner.* The owner may submit an acceptable counter proposal to the DEC Compliance Plan. An owner's counter proposal to a DEC Compliance Plan must be submitted no later than the 30th day following submission of the DEC Compliance Plan to the owner. The DEC, in coordination with the MFD, may enter into discussions with the owner to achieve agreement to a revised DEC Compliance Plan. If the owner and the DEC agree on a revised DEC Compliance Plan, the revised plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(3) *Non-cooperation and Non-compliance by owner.* If at the conclusion of the 30th calendar day following submission of the DEC Compliance Plan to the owner, the DEC receives no response from the owner, or the owner refuses to accept the DEC Compliance Plan, or to present a counter compliance plan proposal, or if the owner accepts the DEC Compliance Plan or revised DEC Compliance Plan, but refuses to take the actions required of the owner in the plan, the DEC may take appropriate enforcement action.

(4) *No limitation on existing enforcement authority.* The administrative process provided in this section does not prohibit the Office of Housing, the DEC, or HUD generally, to take what-

24 CFR Ch. II (4-1-23 Edition)

ever action may be necessary when necessary (notwithstanding the commencement of this process), as authorized under existing statutes, regulations, contracts or other documents, to protect HUD's financial interests in multifamily properties and to protect the residents of these properties.

(j) *Limitations on material alteration of physical inspection software.* HUD will not materially alter the physical inspection requirements in a manner which would materially increase the cost of performing the inspection.

[65 FR 77240, Dec. 8, 2000, as amended at 72 FR 54517, Sept. 25, 2007]

Subpart R [Reserved]

Subpart S—Minimum Property Standards

§ 200.925 Applicability of minimum property standards.

All housing constructed under HUD mortgage insurance and low-rent public housing programs shall meet or exceed HUD Minimum Property Standards, except that this requirement shall be applicable to manufactured homes eligible for insurance pursuant to § 203.43f of this chapter only to the extent provided therein. The Minimum Property Standards may be waived to the same extent as the other regulatory requirements for eligibility for insurance under the specific mortgage insurance program involved.

[58 FR 60248, Nov. 15, 1993]

§ 200.925a Multifamily and care-type minimum property standards.

(a) *Construction standards.* Multifamily or care-type properties shall comply with the minimum property standards contained in the handbook identified in § 200.929(b)(2). In addition, each such property shall, for the Department's purposes, comply with:

(1) The applicable State of local building code, if the property is located within a jurisdiction which has a building code accepted by the Secretary under § 200.925a(d); or

(2)(i) The applicable State or local building code, and

(ii) Those portions of the codes identified in § 200.295c which are designated

by the HUD Field Office serving the jurisdiction in which the property is to be located, if the property is located in a jurisdiction which has a building code partially accepted by the Secretary; or

(3) The appropriate codes, as identified in §200.925c(c), if the property is not located within a jurisdiction which has a building code accepted by the Secretary.

(b) *Conflicting standards.* The minimum property standards contained in the handbook identified in §200.929(b)(2) do not preempt state or local standards, nor do they alter or affect a builder's obligation to comply with any state or local requirements. However, a property shall be eligible for benefits only if it complies with all applicable minimum property standards, including referenced standards.

(c) *Standard for evaluating local building codes.* The Secretary shall compare the portions of a local or State building code applicable to residential or institutional occupancy, as appropriate, submitted under §200.925a(d) to the list of construction related areas contained in §200.925b.

(1) A State or local code will be accepted if it regulates each area on the list.

(2) A State or local building code will be partially accepted if it regulates most of the areas on the list. However, no code may be partially accepted if it fails to regulate the subarea for seismic design (see §200.925b(c)(5)), or if it fails to regulate subareas in more than one of the following major areas listed in §200.925b: fire safety, light and ventilation, structural loads and seismic design, foundation systems, materials standards, construction components, glass, mechanical, plumbing, electrical, and elevators.

(3) For purposes of this paragraph, a state or local code regulates an area if it establishes a standard concerning that area. However, for earthquake loads (see §200.925b(c)(5)), ASCE 7-88 is mandatory.

(d) *Review process and acceptance—(1) Jurisdictions without previously accepted building codes.* The following submission requirements apply to developers and other interested parties in jurisdictions without building codes, jurisdictions

with building codes which have never been submitted for acceptance, and jurisdictions with building codes which have been submitted for acceptance and neither accepted nor partially accepted by the Secretary.

(i) Developers or other interested parties must comply with one of the following by the time of application for insurance or other benefits:

(A) The developer or other interested party may choose to comply with the appropriate codes as identified in §200.925c. If the developer or other interested party so chooses, then the multifamily or care-type property shall be constructed in accordance with one of the model codes designated in paragraph (c)(1), (2) or (3) of §200.925c and with any other code or codes identified in the same paragraph. In such instances, the developer or other interested party shall notify the Department of the code or group of codes with which it intends to comply by the time of application for insurance or other benefits; or

(B) The developer or other interested party may choose to comply with the State or local building code, if such code is acceptable to the Secretary. To obtain the Secretary's acceptance, the developer or other interested party shall submit the material specified in paragraph (d)(1)(ii) of this section to the HUD Field Office serving the jurisdiction in which the property is to be constructed. Such material may be submitted at any time; provided, however, that it must be submitted no later than the time of application for mortgage insurance or other benefits.

(ii) If, under paragraph (d)(1)(i)(B) of this section, the developer or other interested party chooses to comply with the State or local building code as prescribed in paragraph (a)(1) of this section, it shall submit the following material to the HUD field Office serving the jurisdiction in which the property is to be constructed:

(A) A copy of the jurisdiction's building code, including all applicable service codes, appendices and referenced standards; and

(B) A copy of the statute, ordinance, regulation, or order establishing the

§ 200.925b

24 CFR Ch. II (4–1–23 Edition)

code, if such statute, ordinance, regulation or order is not contained in the building code itself.

However, the developer or other interested party need not submit any document already on file in the Field Office.

(2) *Jurisdictions with previously accepted or partially accepted building codes.* The following submission requirements apply to developers and other interested parties in any jurisdiction with a building code which has been accepted or partially accepted by the Secretary:

(i) At the time of application for mortgage insurance or other benefits, the developer or other interested party shall submit to the HUD Field Office serving the jurisdiction in which the property is to be constructed.

(A) A certificate stating that, since its acceptance by the Secretary, the jurisdiction's building code has not been changed; or

(B)(I) A copy of all changes to the jurisdiction's building code, including all applicable service codes and appendices, which have been made since the date of the code's acceptance by the Secretary. However, the developer or other interested party need not submit any part already in the possession of the Field Office; and

(2) A copy of the statute, ordinance regulation, or order making such changes in the code.

(3) *Notification of decision.* The Secretary shall review the material submitted under paragraphs (d) (1)(ii) and (2)(i). Following that review, the Secretary shall issue a written notice (except in the case of a previously accepted code which hasn't been changed) to the submitting party stating whether the State or local building code has been accepted, partially accepted, or whether the Secretary's previous acceptance or partial acceptance has been continued; the basis for the Secretary's decision; and a notification of the submitting party's right to present its views concerning the denial of acceptance if the code is neither accepted nor partially accepted. The Secretary may, in his discretion, permit either an oral or written presentation of views.

(i) If a developer or other interested party is notified that a State or local building code has not been accepted,

then the multifamily or care-type properties eligible for HUD benefits in that jurisdiction shall be constructed in accordance with the appropriate codes indicated in §200.925c(c). In such instances, the developer or other interested party shall notify the HUD Field Office of the code or codes with which it chooses to comply, in accordance with §200.925a(d)(1)(i)(A).

(ii) If a developer or other interested party is notified that a State or local building code has been partially accepted, then the multifamily or care-type properties eligible for HUD benefits in that jurisdiction shall be constructed in accordance with the applicable State or local building code, plus those additional requirements identified in the written notice issued by the Secretary under §200.925a(d)(3). The written notice shall identify, in accordance with appendix J of the Handbook identified in §200.929(b)(2), those portions of the codes listed at §200.925c(a) with which the property must comply.

(iii) Each Regional Office will maintain a current list of jurisdictions with accepted building codes and a current list of jurisdictions with partially accepted building codes. The lists will state the most recent date of each code's acceptance or partial acceptance and will be available to any interested party upon request. In addition, the list of jurisdictions whose codes have been partially accepted shall identify those portions of the codes listed at §200.925c(a) with which the property must comply.

(Approved by the Office of Management and Budget under control number 2502-0321)

[49 FR 18695, May 1, 1984, as amended at 51 FR 28699, Aug. 11, 1986; 58 FR 60248, Nov. 15, 1993; 59 FR 36695, July 19, 1994]

§ 200.925b Residential and institutional building code comparison items.

HUD will review each local code submitted under this chapter to determine whether it regulates all of the following areas and subareas:

- (a) *Fire safety.* (1) Construction types permitted;
- (2) Allowable height and area;
- (3) Fire separations;
- (4) Fire resistance requirements;

- (5) Means of egress (number and distance);
- (6) Individual unit smoke detectors;
- (7) Building alarm systems;
- (8) Highrise criteria;
- (b) *Light and ventilation*. (1) Habitable rooms;
- (2) Bath and toilet rooms.
- (c) *Structural loads and seismic design*.
- (1) Design live loads;
- (2) Design dead loads;
- (3) Snow loads;
- (4) Wind loads.
- (5) Earthquake loads (in localities identified by ASCE 7-88 (formerly ANSI A58.1-82) as being in seismic zones 1, 2, 3, or 4, and Guam).
- (6) Special loads, i.e., soil pressure, railings, interior walls etc.
- (d) *Foundation systems*. (1) Soil tests;
- (2) Foundation depths;
- (3) Footings;
- (4) Foundation materials criteria;
- (5) Piles, i.e., materials, allowable stresses, design;
- (6) Excavation;
- (e) *Materials standards*.
- (f) *Construction components*. (1) Steel;
- (2) Masonry;
- (3) Concrete;
- (4) Gypsum;
- (5) Lumber;
- (6) Roof construction and covering;
- (7) Chimneys and fireplaces.
- (g) *Glass*. (1) Thickness/area requirements;
- (2) Safety glazing.
- (h) *Mechanical*. (1) Heating, cooling and ventilation systems;
- (2) Boilers and pressure vessels;
- (3) Gas, liquid and solid fuel piping and equipment;
- (4) Chimneys and vents;
- (5) Ventilation (air changes).
- (i) *Plumbing*. (1) Materials standards;
- (2) Sizing and installing drainage systems;
- (3) Vents and venting;
- (4) Traps;
- (5) Cleanouts;
- (6) Plumbing fixtures;
- (7) Water supply and distribution;
- (8) Storm drain systems.
- (j) *Electrical*. (1) Wiring design and protection;
- (2) Wiring methods and materials;
- (3) Equipment for general use;
- (4) Special equipment;
- (5) Special conditions;

- (6) Communication systems.
- (k) *Elevators*. (1) Reference ASME/ANSI Standard A 17.1-1987; and the ASME/ANSI A17.1b-1989 Addenda.
- (2) Acceptance tests and periodic tests.

[49 FR 18696, May 1, 1984, as amended at 51 FR 28699, Aug. 11, 1986; 58 FR 60248, Nov. 15, 1993; 59 FR 36695, July 19, 1994]

§ 200.925c Model codes.

(a) *Incorporation by reference*. The following publications are incorporated by reference under 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of these publications has been approved by the Director of the Federal Register. The locations where copies of these publications are available are set forth below.

(1) *Model Building Codes*—(i) *The BOCA National Building Code, 1993 Edition, The BOCA National Plumbing Code, 1993 Edition, and the BOCA National Mechanical Code, 1993 Edition*, excluding Chapter I, Administration, for the Building, Plumbing and Mechanical Codes and the references to fire retardant treated wood and a distance of 4 feet (1219 mm) from the wall in exception number 1 of paragraph 705.6 and 707.5.2 number 2 (Chapter 7) of the Building Code, but including the Appendices of the Code. Available from Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478.

(ii) *Standard Building Code, 1991 Edition, including 1992/1993 revisions. Standard Plumbing Code, 1991 Edition, Standard Mechanical Code, 1991 Edition, including 1992 revisions, and Standard Gas Code, 1991 Edition*, including the 1992 revisions, but excluding Chapter I—Administration from each standard code and the phrase “or fire retardant treated wood” in reference note (a) of table 600 (Chapter 6) of the Standard Building Code, but including Appendices A, C, E, J, K, M, and R. Available from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

(iii) *Uniform Building Code, 1991 Edition, including the 1993 Accumulative Supplement*, but excluding Part I—Administrative, and the reference to fire retardant treated plywood in section

§ 200.926

24 CFR Ch. II (4–1–23 Edition)

2504(c)3 and to fire retardant treated wood in 1-HR type III and V construction referenced in paragraph 4203.2., but including the Appendix of the Code. *Uniform Plumbing Code, 1991 Edition, including the 1992 Code Changes* but excluding Part I—Administration, but including the Appendices of the Code. *Uniform Mechanical Code, 1991 Edition*, including the 1993 Accumulative Supplement but excluding Part I—Administrative, but including the Appendices of the Code. All available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(2) *National Electrical Code*, NFPA 70, 1993 Edition, including appendices. Available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(3) *National Standard Plumbing Code*, 1993 Edition. Available from the National Association of Plumbing-Heating-Cooling Contractors, P.O. Box 6808, Falls Church, Virginia 22046.

(b) *Model Code Compliance Requirements*. (1) When a multifamily or care-type property is to comply with one of the model building codes set forth in paragraph (a)(1) of this section, the following requirements of those model codes shall not apply to those properties:

(i) Those provisions of the model codes that do not pertain to residential or institutional buildings;

(ii) Those provisions of the model codes that establish energy requirements for multifamily or care-type structures; and

(iii) Those provisions of the model codes that require or allow the issuance of permits of any sort.

(2) Where the model codes set forth in paragraph (a)(1) of this section designate a building, fire, mechanical, plumbing or other official, the Secretary's designee in the HUD Field Office serving the jurisdiction in which the property is to be constructed shall act as such official.

(c) *Designation of Model Codes*. When a multifamily or care-type property is to comply with a model code, it shall comply with one of the model codes designated in paragraphs (c)(1), (2), or (3) of this section, and with any other code or codes identified in the same

paragraph. However, seismic design is a mandatory requirement. In addition, the property shall comply with all of the standards that are incorporated into the code or codes by reference. By the time of application for insurance or other benefits, the developer or other interested party shall notify the Department of the code or group of codes to which the developer intends to comply.

(1) *The BOCA National Building Code, The BOCA National Plumbing and The BOCA National Mechanical Code*, 1993 Editions.

(2) *Standard Building Code, Standard Plumbing Code, Standard Mechanical Code and Standard Gas Code*, 1991 Editions, including the revisions specified in paragraph (a)(1)(ii) of this section, and the *National Electrical Code*, 1993 Edition.

(3) *Uniform Building Code, Uniform Plumbing Code and Uniform Mechanical Code*, 1991 Editions, including the 1993 Accumulative Supplements to the Building and Mechanical Codes, and the 1992 Code Changes to the *Uniform Plumbing Code*, and the *National Electrical Code*, NFPA 70, 1993 Edition.

(4) *The National Electrical Code*, NFPA 70, 1993 Edition.

[49 FR 18696, May 1, 1984, as amended at 51 FR 28699, Aug. 11, 1986; 58 FR 60248, Nov. 15, 1993; 59 FR 36695, July 19, 1994]

§ 200.926 Minimum property standards for one and two family dwellings.

(a) *Construction standards*—(1) *Applicable structures*. The standards identified or contained in this section, and in §§ 200.926a–200.926e, apply to single family detached homes, duplexes, three-unit homes, and to living units in a structure where the units are located side-by-side in town house fashion. Section 200.926d(c)(4) also applies to four-unit homes.

(2) *Applicability of standards to new construction*. The standards referenced in paragraph (a)(1) of this section are applicable to structures which are:

(i) Approved for insurance or other benefits prior to the start of construction, including approval under the Direct Endorsement process described in § 203.5 of this chapter, or under the Lender Insurance process described in § 203.6 of this chapter;

(ii) Approved for insurance or other benefits based upon participation in an insured warranty program; or

(iii) Insured as new construction based upon a Certificate of Reasonable Value issued by the Department of Veterans Affairs.

(b) *Conflicting standards.* The requirements contained in §200.926d do not preempt local or State standards, nor do they alter or affect a builder's obligation to comply with any local or State requirements. However, a property shall be eligible for benefits only if it complies with the requirements of this subpart, including any referenced standards. When any of the requirements identified in §200.926c are in conflict with a partially accepted local or state code, the conflict will be resolved by the HUD Field Office servicing the jurisdiction in which the property is to be located.

(c) *Standard for evaluating local or state building codes.* The Secretary shall compare a local building code submitted under paragraph (d) of this section or a State code to the list of construction related areas contained in §200.926a.

(1) A local or State code will be accepted if it regulates each area and subarea on the list.

(2) A State or local building code will be partially accepted if it regulates most of the areas on the list. However, no code may be partially accepted if it fails to regulate the subarea for seismic design (see §200.926a(c)(5)), or if it fails to regulate subareas in more than one of the following major areas listed in §200.926a: fire safety, light and ventilation, structural loads and seismic design, foundation systems, materials standards, construction components, glass, mechanical, plumbing, and electrical.

(3) For purposes of this paragraph, a local or State code regulates an area or subarea if it establishes a standard concerning that area or subarea. However, for earthquake loads (see §200.926a(c)(5)), ASCE 7-88 is mandatory.

(d) *Code selection.* Any materials required to be submitted under this section must be submitted by the time the lender or other interested party applies

for mortgage insurance or other benefits.

(1) *Jurisdictions without previously accepted building codes.* The following submission requirements apply to lenders and other interested parties in jurisdictions without building codes, jurisdictions with building codes which have never been submitted for acceptance, and jurisdictions with building codes which previously have been submitted for acceptance and have not been accepted or partially accepted by the Secretary.

(i) In jurisdictions without local building codes:

(A) If the State building code is acceptable, the lender or other interested party must comply with the State building code and the requirements of §200.926d;

(B) If the State building code is partially acceptable, the lender or other interested party must comply with:

(1) The acceptable portions of the partially acceptable code; and

(2) Those portions of the CABO One and Two Family Dwelling Code designated by the HUD Field Office in accordance with §200.926c; and

(3) The requirements of §200.926d.

(C) If there is no State building code or if the State building code is unacceptable, the lender or other interested party must comply with:

(1) The CABO One and Two Family Dwelling Code as identified in §200.926b(a); and

(2) The requirements of §200.926d.

(ii) In jurisdictions with local building codes which have never been submitted for review, lenders or other interested parties must:

(A) Comply with the requirements of paragraph (d)(1)(i) (A), (B) or (C) of this section, as appropriate; or

(B) Request the Secretary's acceptance of the local building code in accordance with paragraph (d)(1)(iv) of this section.

(1) If the Secretary determines that the local building code is unacceptable, then the lender or other interested party must comply with the requirements of paragraph (d)(1)(i) (A), (B) or (C) of this section as appropriate.

(2) If the Secretary determines that the local code is partially acceptable,

§ 200.926

24 CFR Ch. II (4–1–23 Edition)

then the lender or other interested party must comply with:

- (i) The acceptable portions of the partially acceptable local code; and
- (ii) Those portions of the CABO One and Two Family Dwelling Code designated by the HUD Field Office in accordance with § 200.926c; and
- (iii) The requirements of § 200.926d.

(3) If the Secretary determines that the local code is acceptable, then the lender or other interested party must comply with the local building code and the requirements of § 200.926d.

(iii) In jurisdictions with local building codes which previously have been submitted for review and which have been found unacceptable by the Secretary:

(A) If the local code has not been changed since the date the code or changes thereto were submitted to the Secretary, the lender or other interested party must comply with the requirements of paragraph (d)(1)(i) (A), (B) or (C) of this section, as appropriate; or

(B) If the local code has been changed since the date when the code or changes thereto were submitted to the Secretary, the lender or other interested party must submit a copy of all changes to the local building code, including all applicable service codes and appendices and a copy of the statute, ordinance, regulation or order making such changes in the code, which have been made since the date when the code or other changes thereto were last submitted to the Secretary. However, the lender or other interested party need not submit any part already in the possession of the HUD Field Office. Based upon the Secretary's determination concerning the acceptability of the local code as changed, the lender or other interested party must comply with the requirements of paragraph (d)(1)(ii)(B) (1), (2) or (3) of this section, as appropriate.

(iv) In order to obtain the Department's approval of a local code, the lender or other interested party must submit the following material to the HUD Field Office serving the jurisdiction in which the property is to be constructed:

(A) A copy of the jurisdiction's local building code, including all applicable service codes and appendices; and

(B) A copy of the statute, ordinance, regulation, or order establishing the code, if such statute, ordinance, regulation or order is not contained in the building code itself.

However, the lender or other interested party need not submit any document already on file in the HUD Field Office.

(2) *Jurisdictions with previously accepted or partially accepted building codes.* The following submission requirements apply to lenders or other interested parties in any jurisdiction with a building code which has been accepted or partially accepted by the Secretary:

(i) The lender or other interested party shall submit to the HUD Field Office serving the jurisdiction in which the property is to be constructed:

(A) A certificate stating that, since the date when the code or any changes thereto were last submitted to the Secretary, the jurisdiction's local building code has not been changed; or

(B)(1) A copy of all changes to the jurisdiction's building code, including all applicable service codes and appendices, which have been made since the date when the code or other changes thereto were last submitted to the Secretary. However, the lender or other interested party need not submit any part already in the possession of the HUD Field Office; and

(2) A copy of the statute, ordinance, regulation, or order making such changes in the code.

(ii) If, based upon changes to the local building code, the Secretary determines that it is unacceptable, the lender or other interested party must comply with the requirements of paragraph (d)(1) (i)(A), (B) or (C) of this section, as appropriate.

(iii) If the local building code was previously found by the Secretary to be partially acceptable and there have been no changes to it or if the local building code was previously found by the Secretary to be partially acceptable and if, based upon changes to it, the Secretary determines that it is still partially acceptable or if the local building code was previously found by the Secretary to be acceptable and if, based upon changes to it, the Secretary

determines that it is partially acceptable, then the lender or other interested party must comply with paragraphs (d)(1)(ii)(B)(2) (i), (ii) and (iii) of this section.

(iv) If the local building code was previously found by the Secretary to be partially acceptable and if, based upon changes to it, the Secretary determines that it is acceptable, or if the local building code was previously found by the Secretary to be acceptable and there have been no changes to the code, or if the local building code was previously found by the Secretary to be acceptable and if, based upon changes to it, the Secretary determines that it is still acceptable, then the lender or other interested party must comply with the local building code and the requirements of § 200.926d.

(3) *Notification of decision.* (i) Fire retardant treated plywood, where approved by a State or local building code, shall not be permitted for use in roof construction unless a HUD technical suitability bulletin has been issued by the Department for that product.

(ii) The Secretary shall review the material submitted under § 200.926(d). Following that review, the Secretary shall issue a written notice (except where there is a previously accepted or partially accepted code which has not been changed) to the submitting party stating whether the local building code is acceptable, partially acceptable, or not acceptable. Where the local building code is not acceptable, the notice shall also state whether the State code is acceptable, partially acceptable or not acceptable. The notice shall also contain the basis for the Secretary's decision and a notification of the submitting party's right to present its views concerning the denial of acceptance if the code is neither accepted nor partially accepted. The Secretary may, in his or her discretion, permit either an oral or written presentation of views.

(4) *Department's responsibilities.* (i) Each Regional and Field Office will maintain a current list of jurisdictions with accepted local or State building codes, a current list of jurisdictions with partially accepted local or State building codes and a current list of ju-

risdictions with local or State building codes which have not been accepted. For local codes, the lists will state the most recent date when the code or changes thereto were submitted to the Secretary. The lists, which shall be prepared by the Field Offices and submitted to the Regional Offices, will be available to any interested party upon request. In addition, the list of jurisdictions whose codes have been partially accepted shall identify in accordance with § 200.926c those portions of the codes listed at § 200.926b(a) with which the property must comply.

(ii) The Department is responsible for obtaining copies of the State codes and any changes thereto.

(Approved by the Office of Management and Budget under control number 2502-0474)

[50 FR 39592, Sept. 27, 1985, as amended at 57 FR 27927, June 23, 1992; 57 FR 58340, Dec. 9, 1992; 58 FR 13536, Mar. 12, 1993; 58 FR 41337, Aug. 3, 1993; 58 FR 60249, Nov. 15, 1993; 59 FR 36695, July 19, 1994; 62 FR 30225, June 2, 1997; 64 FR 56110, Oct. 15, 1999]

§ 200.926a Residential building code comparison items.

HUD will review each local and State code submitted under this subpart to determine whether it regulates all of the following areas and subareas:

- (a) *Fire Safety.* (1) Allowable height;
- (2) Fire separations;
- (3) Fire resistance requirements;
- (4) Egress doors and windows;
- (5) Unit smoke detectors;
- (6) Flame spread.
- (b) *Light and ventilation.* (1) Habitable rooms;
- (2) Bath and toilet rooms.
- (c) *Structural loads and seismic design.* (1) Design live loads;
- (2) Design dead loads;
- (3) Snow loads (for jurisdictions with snow loading conditions identified in Section 7 of ASCE-7-88 (formerly ANSI A58.1-82);
- (4) Wind loads;
- (5) Earthquake loads (for jurisdictions in seismic zones 3 or 4, as identified in Section 9 of ASCE-7-88 (formerly ANSI A58.1-82)).
- (d) *Foundation systems.* (1) Foundation depths;
- (2) Footings;
- (3) Foundation materials criteria.

§ 200.926b

- (e) *Materials standards.* (1) Materials standards.
- (f) *Construction components.* (1) Steel;
- (2) Masonry;
- (3) Concrete;
- (4) Lumber;
- (5) Roof construction and covering;
- (6) Chimneys and fireplaces.
- (g) *Glass.* (1) Thickness/area requirements;
- (2) Safety glazing.
- (h) *Mechanical.* (1) Heating, cooling and ventilation systems;
- (2) Gas, liquid and solid fuel piping and equipment;
- (3) Chimneys and vents;
- (4) Ventilation (air changes).
- (i) *Plumbing.* (1) Materials standards;
- (2) Sizing and installing drainage systems;
- (3) Vents and venting;
- (4) Traps;
- (5) Cleanouts;
- (6) Plumbing fixtures;
- (7) Water supply and distribution;
- (8) Sewage disposal systems.
- (j) *Electrical.* (1) Branch circuits;
- (2) Services;
- (3) Grounding;
- (4) Wiring methods;
- (5) Cable;
- (6) Conduit;
- (7) Outlets, switches and junction boxes;
- (8) Panelboards.

[50 FR 39594, Sept. 27, 1985, as amended at 59 FR 36695, July 19, 1994]

§ 200.926b Model codes.

(a) *Incorporation by reference.* The following model code publications are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of these publications has been approved by the Director of the Federal Register. The locations where copies of these publications are available are set forth below.

(1) *CABO One and Two Family Dwelling Code*, 1992 Edition, including the 1993 amendments, but excluding Chapter I—Administrative, and the phrase “or approved fire retardant wood” contained in the exception of paragraph R-218.2.2(2), but including the Appendices A, B, D, and E of the Code. (Available from the Council of American Building Officials, Suite 708, 5203 Leesburg Pike, Falls Church, VA 22041.)

24 CFR Ch. II (4–1–23 Edition)

(2) *Electrical Code for One and Two Family Dwellings*, NFPA 70A, 1990 Edition, including Tables and Examples. Available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

(b) *Model code compliance requirements.* (1) When a one or two family dwelling is to comply with the model codes set forth in §200.926b(a), the following requirements of those model codes shall not apply to those properties:

(i) Those provisions of the model codes that establish energy requirements for one and two family dwellings; and

(ii) Those provisions of the model codes that require or allow the issuance of permits of any sort.

(2) Where the model codes set forth in paragraph (a) of this section designate a building, fire, mechanical, plumbing or other official, the Secretary’s designee in the HUD Field Office serving the jurisdiction in which the dwelling is to be constructed shall act as such official.

(c) *Designation of Model Codes.* When a one or two family dwelling or townhouse is to comply with portions of the model code or the entire model code, the dwelling shall comply with the CABO One and Two Family Dwelling Code 1992 Edition, including the 1993 amendments, or portion thereof as modified by §200.926e of this part and designated by the HUD Field Office serving a jurisdiction in which a property is located. In addition, the property shall comply with all of the standards which are referenced for any designated portions of the model code, and with the Electrical Code for One and Two Family Dwellings, NFPA 70A/1990.

[50 FR 39594, Sept. 27, 1985, as amended at 58 FR 60249, Nov. 15, 1993]

§ 200.926c Model code provisions for use in partially accepted code jurisdictions.

If a lender or other interested party is notified that a State or local building code has been partially accepted, then the properties eligible for HUD benefits in that jurisdiction shall be constructed in accordance with the applicable State or local building code, plus those additional requirements

Office of Assistant Secretary for Housing, HUD

§ 200.926d

identified below. Depending upon the major area identified in §200.926a which is not adequately regulated by the State or local code, the HUD Field Office will designate, in accordance with the schedule below, those portions of one of the model codes with which the property must comply.

SCHEDULE FOR MODEL CODE SUPPLEMENTS TO LOCAL OR STATE CODES

Deficient major items from §200.926a as determined by field office review	Portions of the CABO One and Two Family Dwelling Code, 1992 Edition, including the 1993 amendments, with which a property must comply
(a) Fire safety	Chapters 2, 9; Section R-402.
(b) Light and ventilation	Chapter 2; Section R-309.
(c) Structural loads and seismic design.	Chapter 2.
(d) Foundation systems	Chapter 3.
(e) Materials standards	Chapter 26.
(f) Construction components	Part III.
(g) Glass	Chapter 2.
(h) Mechanical	Part IV.
(i) Plumbing	Part V.
(j) Electrical	Electrical code for 1- and 2-family dwellings (NFPA 70A-1990).

[50 FR 39594, Sept. 27, 1985, as amended at 58 FR 60249, Nov. 15, 1993; 59 FR 36695, July 19, 1994]

§ 200.926d Construction requirements.

(a) *Application*—(1) *General*. These standards cover the agency requirements for accessibility to physically handicapped people, variations to standards, real estate entity, trespass and utilities, site conditions, access, site design, streets, dedication of utilities, drainage and flood hazard exposure, special construction and product acceptance, thermal requirements, and water supply systems.

(2) *Requirements for accessibility to physically handicapped people*. The HUD Field Office will advise project sponsors as to the extent accessibility will be required for new construction of one- and two-family dwellings on a project-by-project basis.

(i) *Technical standards*. See HUD Handbook, 4910.1, Sections 100-1.3b and 100-1.3c.

(3) *Variations to standards*—(i) *New materials and technologies*. See paragraph (d) of this section. Alternatives, nonconventional or innovative methods and materials shall be equivalent

to these standards in the areas of structural soundness, durability, economy of maintenance or operation and usability.

(ii) *Variation procedures*. Variations from the requirements of any standard with which the Department requires compliance shall be made in the following ways:

(A) For a particular design or construction method to be used on a single case or project, the decision is the responsibility of the Field Office. Headquarters concurrence is not required.

(B) Where a variation is intended to be on a repetitive basis, a recommendation for a Local Acceptable Standard, substantiating data, and background information shall be submitted by the Field Office to the Director, Office of Manufactured Housing and Regulatory Functions.

(iii) Variances which require individual analysis and decision in each instance are not considered as repetitive variances even though one particular standard is repeatedly the subject of variation. Such variances are covered by paragraph (a)(3)(ii)(A) of this section.

(b) *General acceptability criteria*—(1) *Real estate entity*. The property shall comprise a single plot except that a primary plot with a secondary plot for an appurtenant garage or for other use contributing to the marketability of the property will be acceptable provided the two plots are in such proximity as to comprise a readily marketable real estate entity.

(2) *Service and facilities*—(i) *Trespass*. Each living unit shall be one that can be used and maintained individually without trespass upon adjoining properties, except when the windowless wall of a detached dwelling is located on a side lot line. A detached dwelling may be located on a side lot line if:

(A) legal provision is made for permanent access for the maintenance of the exterior portion of the lot line wall, and

(B) the minimum distances from the dwelling to the dwellings on the abutting properties are not less than the sum of the side yard distances computed as appropriate for the type of opposing walls. (minimum distance 10 ft).

(ii) *Utilities.* Utility services shall be independent for each living unit, except that common services such as water, sewer, gas and electricity may be provided for living units under a single mortgage or ownership. Separate utility service shut-off for each unit shall be provided. For living units under separate ownership, common utility services may be provided from the main to the building line when protected by an easement or covenant and maintenance agreement acceptable to HUD, but shall not pass over, under or through any other living unit. Individual utilities serving a living unit may not pass over, under or through another living unit under the same mortgage unless provision is made for repair and maintenance of utilities without trespass or when protected by an easement or covenant providing permanent access for maintenance and repair of the utilities. Building drain cleanouts shall be accessible from the exterior where a single drain line within the building serves more than one unit.

(3) *Site conditions.* (i) The property shall be free of those foreseeable hazards and adverse conditions which may affect the health and safety of occupants or the structural soundness of the improvements, or which may impair the customary use and enjoyment of the property. The hazards include toxic chemicals, radioactive materials, other pollution, hazardous activities, potential damage from soil or other differential ground movements, ground water, inadequate surface drainage, flood, erosion, or other hazards located on or off site. The site must meet the standards set forth in 24 CFR part 51, and HUD Handbook 4910.1, section 606 for termite and decay protection.

(ii) When special conditions exist or arise during construction which were unforeseen and which necessitate precautionary or hazard mitigation measures, the HUD Field Office shall require corrective work to mitigate potential adverse effects from the special conditions as necessary. Special conditions include rock formations, unstable soils or slopes, high ground water levels, springs, or other conditions which may adversely affect a property. It shall be the builder's responsibility to ensure

proper design, construction and satisfactory performance where these conditions are present.

(4) *Access.* (i) Each property shall be provided with vehicular or pedestrian access by a public or private street. Private streets shall be protected by permanent easement.

(ii) Each living unit shall have a means of access such that it is unnecessary to pass through any other living unit.

(iii) The rear yard shall be accessible without passing through any other living unit.

(iv) For a townhouse type dwelling, access to the rear yard may be by means of alley, easement, passage through the dwelling, or other means acceptable to the HUD Field Office.

(c) *Site design—(1) General.* (i) A site design shall be provided which includes an arrangement of all site facilities necessary to create a safe, functional, healthful, durable and energy efficient living environment.

(ii) With the exception of paragraph (c)(4) of this section, these site design standards apply only in communities that have not adopted criteria for site development applicable to one and two family dwellings.

(iii) Single family detached houses situated on individual lots located on existing streets with utilities need not comply with the requirements of paragraphs (c)(2) and (c)(3) of this section.

(2) *Streets.* (i) Existing or proposed streets on the site shall connect to private or public streets and shall provide all-weather access to all buildings for essential and emergency use, including access needed for deliveries, service, maintenance and fire equipment.

(ii) Streets shall be designed for dedication for public use and maintenance or, when approved by the HUD Field Office, may be retained as private streets where protected by permanent easements.

(3) *Dedication.* Utilities shall be located to permit dedication to the local government or appropriate public body.

(4) *Drainage and flood hazard exposure—(1) Residential structures with basements located in FEMA-designated areas of special flood hazard.* The elevation of the lowest floor in structures with basements shall be at or above the base

flood level (100-year flood level) required for new construction or substantial improvement of residential structures under regulations for the National Flood Insurance Program (NFIP) (see 44 CFR 60.3 through 60.6), except where variances from this standard are granted by communities under the procedures of the Federal Emergency Management Agency (FEMA) at 44 CFR 60.6(a) or exceptions from this NFIP standard for basements are approved by FEMA in accordance with procedures at 44 CFR 60.6(c).

(ii) *Residential structures without basements located in FEMA-designated areas of special flood hazard.* The elevation of the lowest floor in structures without basements shall be at or above the FEMA-designated base flood elevation (100-year flood level).

(iii) *Residential structures located in FEMA-designated "coastal high hazard areas".* (A) Basements or any permanent enclosure of space below the lowest floor of a structure are prohibited.

(B) Where FEMA has determined the base flood level without establishing stillwater elevations, the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) and its horizontal supports shall be at or above the base flood level.

(iv)(A) In all cases in which a Direct Endorsement (DE) mortgagee or a Lender Insurance (LI) mortgagee seek to insure a mortgage on a newly constructed one-to four-family dwelling (including a newly erected manufactured home) that was processed by the DE or LI mortgagee, the DE or LI mortgagee must determine whether the property improvements (dwelling and related structures/equipment essential to the value of the property and subject to flood damage) are located in a 100-year floodplain, as designated on maps of the Federal Emergency Management Agency. If so, the DE mortgagee, before submitting the application for insurance to HUD, or the LI mortgagee, before submitting all the required data regarding the mortgage to HUD, must obtain:

(1) A final Letter of Map Amendment (LOMA);

(2) A final Letter of Map Revision (LOMR); or

(3) A signed Elevation Certificate documenting that the lowest floor (including basement) of the property improvements is built at or above the 100-year flood elevation in compliance with National Flood Insurance program criteria 44 CFR 60.3 through 60.6.

(B) Under the DE program, these mortgages are not eligible for insurance unless the DE mortgagee submits the LOMA, LOMR, or Elevation Certificate to HUD with the mortgagee's request for endorsement.

(v) *Streets.* Streets must be usable during runoff equivalent to a 10-year return frequency. Where drainage outfall is inadequate to prevent runoff equivalent to a 10-year return frequency from ponding over 6 inches deep, streets must be made passable for commonly used emergency vehicles during runoff equivalent to a 25-year return frequency, except where an alternative access street not subject to such ponding is available.

(vi) *Crawl spaces.* Crawl spaces must not pond water or be subject to prolonged dampness.

(d) *Special construction and product acceptance—(1) Structural features of factory produced (modular or panelized) housing or components.*

(i) For factory fabricated systems or components, HUD Handbook 4950.1, "Technical Suitability of Products Program Technical and Processing Procedures" shall apply.

(ii) The requirements of this part shall apply to structural features, consisting of factory fabricated systems or components assembled either at the factory or at the construction site, if the total construction is covered by these standards and can be inspected on-site for determination of compliance.

(2) *Non-structural or non-standard features.* These features include methods of construction, systems, sub-systems, components, materials and processes which are not covered by these requirements. See HUD Handbook 4950.1 for procedures to be followed in order to obtain acceptance of non-structural components or materials. See HUD Handbook 4910.1, appendix F for a list of Use of Materials Bulletins. Products and methods shall conform to the appropriate Use of Materials Bulletin.

(3) *Standard Features.* These features include methods of construction, systems, sub-systems, components, materials and processes which are covered by national society or industry standards. For a list of standards and practices to which compliance is required, see HUD Handbook 4910.1, Appendix C and Appendices E and F, available from HUD, 451 Seventh Street, SW., Attention: Mailroom B-133, Washington, DC 20410.

(e) *Energy efficiency.* All detached one- and two-family dwellings and one-family townhouses not more than three stories in height shall comply with the CABO Model Energy Code, 1992 Edition, Residential Buildings, except for Sections 101.3.1, 101.3.2, 104, and 105, but Section 101.3.2.2, Historic Buildings, shall remain, and including the Appendix, and HUD intermediate MPS Supplement 4930.2 Solar Heating and Domestic Hot Water Systems, 1989 edition.

(f) *Water supply systems*—(1) *General.* (i) Each living unit shall be provided with a continuing and sufficient supply of safe water under adequate pressure and of appropriate quality for all household uses. Newly constructed residential property for which a building permit has been applied for on or after June 19, 1988 from the competent authority with jurisdiction in this matter shall have lead-free water piping. For purposes of these standards, water piping is “lead free” if it uses solders and flux containing not more than 0.2 percent lead and pipes and pipe fittings containing not more than 8.0 percent lead. This system shall not impair the function or durability of the plumbing system or attachments.

(ii) The chemical and bacteriological standards of the local health authority shall apply. In the absence of such standards, those of the appropriate State agency shall apply. A water analysis may be required by either the health authority or the HUD Field Office.

(iii) Whenever feasible, connection shall be made to a public water system. When a public system is not available, connection shall be made to a community system which complies with HUD Handbook 4940.2, if feasible.

(2) *Individual water systems.* (i) The system should be capable of delivering a flow of 5 gpm over at least a 4 hour period.

(ii) The chemical and bacteriological standards of the local health authority shall apply. In the absence of such standards, those of the appropriate State agency shall apply. A water analysis may be required by either the health authority or the HUD Field Office.

(iii) After installation, the system shall be disinfected in accordance with the recommendations or requirements of the local health authority. In the absence of a health authority, system cleaning and disinfection shall conform to the current EPA Manual of Individual Water Supply Systems.

(iv) Bacteriological or chemical examination of a water sample collected by a representative of the local or state health authority shall be made when required by that authority or the HUD Field Office.

(3) *Location of wells.* (i) A well located within the foundation walls of a dwelling is not acceptable except in arctic or subarctic regions.

(ii) Water which comes from any soil formation which may be polluted, contaminated, fissured, creviced or less than 20 ft. below the natural ground surface is not acceptable, unless acceptable to the local health authority.

(iii) Individual water supply systems are not acceptable for individual lots in areas where chemical soil poisoning has been or is practiced if the overburden of soil between the ground surface and the water bearing strata is coarse grained sand, gravel, or porous rock, or is creviced in a manner which will permit the recharge water to carry the toxicants into the zone of saturation.

(iv) The following table shall be used in establishing the minimum acceptable distances between wells and sources of pollution located on either the same or adjoining lots. These distances may be increased by either the health authority having jurisdiction or the HUD Field Office.

DISTANCE FROM SOURCE OF POLLUTION

Source of pollution	Minimum horizontal distance (feet)
Property Line	10
Septic Tank	50
Absorption Field	¹ 100
Seepage Pit	¹ 100
Absorption Bed	¹ 100
Sewer Lines w/Permanent Watertight Joints	10
Other Sewer Lines	50
Chemically Poisoned Soil	³ 25
Dry Well	50
Other	(²)

¹This clearance may be increased or decreased depending upon soil and rock penetrated by the well and aquifer conditions. The clearance may be increased in creviced limestone and permeable strata of gravel and sand. The clearance may be reduced to 50 ft. only where the ground surface is effectively separated from the water bearing formation by an extensive, continuous and impervious strata of clay, hardpan, or rock. The well shall be constructed so as to prevent the entrance of surface water and contaminants.

²The recommendations or requirements of the local health authority shall apply.

³This clearance may be reduced to 15 feet only where the ground surface is effectively separated from the water bearing formation by an extensive, continuous and impervious strata of clay, hardpan, or rock.

(4) *Well construction.* (i) The well shall be constructed so as to allow the pump to be easily placed and to function properly.

(ii)(A) All drilled wells shall be provided with a sound, durable and watertight casing capable of sustaining the loads imposed.

(B) The casing shall extend from a point several feet below the water level at drawdown or from an impervious strata above the water level to 12 in. above either the ground surface or the pump room floor. The casing shall be sealed at the upper opening to a depth of at least 15 feet.

(iii) Bored wells shall be lined with concrete, vitrified clay or equivalent materials.

(iv) The space between the casing or liner and the wall of the well hole shall be sealed with cement grout.

(v) The well casing shall not be used to convey water except under positive pressure. A separate drop pipe shall be used for the suction line.

(vi) When sand or silt is encountered in the water-bearing formation, the well shall either be compacted and gravel packed, or a removable strainer or screen shall be installed.

(vii) The surface of the ground above and around the well shall be compacted and graded to drain surface water away from the well.

(viii) Openings in the casing, cap, or concrete cover for the entrance of pipes, pumps or manholes shall be watertight.

(ix) If a breather is provided, it shall extend above the highest level to which surface water may rise. The breather shall be watertight, and the open end shall be screened and positioned to prevent entry of dust, insects and foreign objects.

(5) *Pump and equipment.* (i) Pumps shall be capable of delivering the volume of water required under normal operating pressure within the living unit. Pump capacity shall not exceed the output of the well.

(ii) Pumps and equipment shall be mounted to be free of objectionable noises, vibrations, flooding, pollution, and freezing.

(iii) Suction lines shall terminate below maximum drawdown of the water level in the well.

(iv) Horizontal segments of suction line shall be placed below the frost line in a sealed casing pipe or in at least 4 in. of concrete. The distance from suction line to sources of pollution shall be not less than shown in the table at paragraph (f)(3)(iv) of this section.

(6) *Storage tanks.* (i) A pressure tank having a minimum capacity of 42 gallons shall be provided. However, prepressured tanks and other pressurizing devices are acceptable provided that delivery between pump cycles equals or exceeds that of a 42 gallon tank.

(ii) Tanks shall be equipped with a clean-out plug at the lowest point, and a suitable pressure relief valve.

(Approved by the Office of Management and Budget under control number 2502-0474)

[50 FR 39594, Sept. 27, 1985, as amended at 53 FR 11271, Apr. 6, 1988; 56 FR 5350, Feb. 11, 1991; 57 FR 9609, Mar. 19, 1992; 57 FR 27927, June 23, 1992; 58 FR 41337, Aug. 3, 1993; 58 FR 60249, Nov. 15, 1993; 59 FR 19112, Apr. 21, 1994; 62 FR 30225, June 2, 1997; 64 FR 56110, Oct. 15, 1999]

§ 200.926e Supplemental information for use with the CABO One and Two Family Dwelling Code.

The following shall be used in Table No. R-202, Climatic and Geographic Design Criteria of the CABO One and Two Family Dwelling Code.

§ 200.927

24 CFR Ch. II (4–1–23 Edition)

(a) *Roof live loads.*

Roof slope 3 in 12 or less: 20 psf
Roof slope over 3 in 12: 15 psf
Roof used as deck: 40 psf

(b) *Roof snow load.* The roof snow load shall be in accordance with section 7 of ASCE 7–88.

(c) *Wind pressures.* The minimum Design Wind Pressures (net pressures) set forth below apply to areas designated as experiencing basic wind speeds up to and including 80 mph, as shown in ASCE 7–88, Figure 1, Basic Wind Speed Map. These pressures also apply to buildings not over 30 ft. in height above finish grade, assuming exposure C or defined in ASCE 7–88.

(1) *Minimum design wind pressure criteria.* (i) Buildings (for overturning racking or sliding); $p = 20$ psf.

(ii) Chimneys, $p = 30$ psf.

(iii) Exterior walls, $p = 15$ psf inward or outward. Local pressure at corners of walls shall be not less than $p = 30$ psf outward. These local pressures shall not be included with the design pressure when computing overall loads. The pressures shall be applied perpendicularly outward on strips of width equal to 10 percent of the least width of building.

(iv) Partitions, $p = 10$ psf.

(v) Windows, $p = 20$ psf inward or outward.

(vi) Roof, $p = 20$ psf inward or outward.

Roofs with slopes greater than 6 in 12 shall be designed to withstand pressures acting inward normal to the surface, equal to the design wind pressure for exterior walls. Overhanging eaves, cornices, and ridges, 40 psf upward normal to roof surface. These local pressures shall not be included with the design pressure when computing overall loads. The pressures shall be applied perpendicularly outward on strips of width equal to 10 percent of the least width of building. Net uplift on horizontal projection of roof shall not be less than 12 psf.

(2) *Severe wind design pressures.* If the construction is higher than 30 ft., or if it is located in an area experiencing wind speeds greater than 80 mph, higher design wind pressures than shown above are required. Use Section 6 of ASCE 7–88 for higher criteria and for

determining where wind speeds greater than 80 mph occur. Pressures are assumed to act horizontally on the gross area of the vertical projection of the structure except as noted for roof design.

(d) Seismic conditions shall be in accordance with Section 9 of ASCE 7–88.

(e) *Subject to damage from: weathering.* A jurisdiction's weathering region shall be as established by the map in ASTM C 62–83.

(f) *Subject to damage from: frost line depth.* Exterior wall footings or foundation walls including those of accessory buildings shall extend a minimum of 6 in. below the finished grade and, where applicable, the prevailing frost line.

(g) *Subject to damage from: termites.* “Yes” shall be used in locations designated as Regions I, II or III. “No” shall be used in locations designated as Region IV. The map for Termite Infestation Probability in appendix A of CABO, One and Two Family Dwelling Code shall be used to determine the jurisdiction's region.

(h) *Subject to damage from: decay.* “Yes” shall be used in locations designated as moderate to severe and slight to moderate. “No” shall be used in locations designated as none to slight. The Decay Probability map in appendix A of CABO, One and Two Family Dwelling Code shall be used to determine the jurisdiction's decay designation.

(Approved by the Office of Management and Budget under control number 2502–0338)

[50 FR 39599, Sept. 27, 1985, as amended at 59 FR 36695, July 19, 1994]

§ 200.927 Incorporation by reference of minimum property standards.

The Minimum Property Standards as contained in the handbooks identified in § 200.929(b) are incorporated by reference into this section as though set forth in full in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

[50 FR 39592, Sept. 29, 1985]

§ 200.929 Description and identification of minimum property standards.

(a) *Description.* The Minimum Property Standards describe physical standards for housing. They are intended to

provide a sound basis for determining the acceptability of housing built under the HUD mortgage insurance and low-rent public housing programs. The Minimum Property Standards refer to material standards developed by industry and accepted by HUD. In addition, under Section 521 of the National Housing Act, HUD adopts its own technical suitability standards for materials and products for which there are no industry standards acceptable to HUD. These standards are contained in Use of Materials Bulletins that apply to products and methods and Materials Releases that apply to specific materials. Use of Materials Bulletins and Materials Releases are addenda to the Minimum Property Standards. Unless otherwise stated, the current edition, issue, or version of each of these documents, as available from its source, is applicable to this subpart S. A list of the Use of Materials Bulletins, Materials Releases, and MPS Appendix listing the applicable referenced Standards may be obtained from the Construction Standards Division, Office of Manufactured Housing and Construction Standards, room 6170 Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410.

(b) *Identification.* The Minimum Property Standards have been published as described below:

(1) MPS for One and Two Family Dwellings. See §§ 200.926, 200.926 (a) through (e).

(2) MPS for Housing 4910.1, 1994 edition. This volume applies to buildings and sites designed and used for normal multifamily occupancy, including both unsubsidized and subsidized insured housing, and to care-type housing insured under the National Housing Act. It also includes, in Appendix K, a reprint of the MPS for One and Two Family Dwellings identified in paragraph (b)(1) of this section.

[39 FR 26895, July 24, 1974, as amended at 42 FR 33890, July 1, 1977; 47 FR 29524, July 7, 1982; 47 FR 35761, Aug. 17, 1982; 49 FR 18695, May 1, 1984; 50 FR 39592, Sept. 29, 1985; 51 FR 28699, Aug. 11, 1986; 58 FR 60250, Nov. 15, 1993; 63 FR 5423, Feb. 2, 1998]

§ 200.929a Fair Housing Accessibility Guidelines.

Builders and developers may use the Department's Fair Housing Accessibility Guideline when designing or constructing covered multifamily dwelling units in order to comply with the Fair Housing Act. The Guidelines may be found in the 24 CFR Chapter I, Subchapter A, Appendix II, titled Fair Housing Accessibility Guidelines—Design Guidelines for Accessible/Adaptable Dwellings.

[58 FR 60250, Nov. 15, 1993]

§ 200.931 Statement of availability.

(a) Updated copies of the Minimum Property Standards and Use of Materials Bulletins are available for public examination in the Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, room 9156, 451 Seventh St. SW., Washington, D.C. 20410-8000. In addition, copies of volumes 1, 2, and 3 of the Minimum Property Standards may be purchased from the U.S. Government Printing Office, Washington, D.C. 20402.

(b) Publications approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

[63 FR 5423, Feb. 2, 1998]

§ 200.933 Changes in minimum property standards.

Changes in the Minimum Property Standards will generally be made every three years. Changes will be made in accordance with HUD policy for the adoption of rules and regulations set forth in part 10 of this title. Notice of such changes will be published in the FEDERAL REGISTER. As the changes are made, they will be incorporated into the volumes of the Minimum Property Standards to which they apply. The volumes available for public examination and for purchase will contain all changes up to the date of examination

§ 200.934

24 CFR Ch. II (4–1–23 Edition)

or purchase. An official, historic file of such changes will be available in the office of the Rules Docket Clerk in the HUD Central Office in Washington, DC, and in each HUD Regional, Area, and Insuring Office. A similar copy of the standards will also be maintained in the Office of the Federal Register, Washington, DC.

[39 FR 26895, July 24, 1974, as amended at 58 FR 60250, Nov. 15, 1993]

§ 200.934 User fee system for the technical suitability of products program.

(a) *General.* This section establishes fee requirements for the issuance of Structural Engineering Bulletins (SEBs), Mechanical Engineering Bulletins (MEBs), Truss Connector Bulletins (TCBs), Area Letters of Acceptance (ALAs), Materials Releases (MRs), and review of program administrator applications submitted pursuant to § 200.935 of this title.

(b) *Filing address—(1) Applications containing payment.* When applications for or correspondence concerning SEBs, MEBs, TCBs, MRs, or program administrator approval contain payment, such applications or correspondence shall be sent to the following address:

U.S. Department of Housing and Urban Development, Technical Suitability of Product Fees, P.O. Box 954199, St. Louis, MO. 63195-4199.

(2) *Other correspondence.* All other correspondence concerning SEBs, MEBs, TCBs, MRs, and program administrator acceptance shall be sent to the following address:

Manufactured Housing and Construction Standards Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Attn: Mail Room B-133, Washington, DC 20410.

(3) *Application for ALAs.* Applications for or correspondence concerning ALAs shall be submitted to the Housing Division of the field office having jurisdiction over the area in which the production facility of the system is located, except that applications containing payment shall be addressed to the attention of the Collection Officer for deposit to Account No. 86-09-0300.

(c) *Fees.* Applicants for renewal and applicants for acceptance as program

administrators under § 200.935 of this title shall include the entire processing fee with the application. All other applicants shall submit one half of the required processing fee with each application. The applicant shall pay the balance when the draft issuance is returned to HUD with the applicant's concurrence signature. The Department will not prepare a final document for printing and distribution until it has received the full processing fee. From time to time, as may be necessary, the Department will establish and amend the fee schedule by publication of a Notice in the FEDERAL REGISTER.

(d) *Initial application and review—(1) Content of applications.* Each application shall include only one item. All applications will be promptly processed on receipt by the Department.

(i) With respect to Mechanical Engineering Bulletins (MEBs), Structural Engineering Bulletins (SEBs), Truss Connector Bulletins (TCBs), and Area Letters of Acceptance (ALAs), each structural design shall constitute a different item.

(ii) With respect to Materials Releases (MRs), each product or system shall constitute a different item.

(2) *Revisions.* A recipient of a technical suitability document issued by the Department may apply for revision of that document at any time. The revision may be in the form of an amendment of or supplement to the document, for which the recipient will be charged the applicable revision fee. However, where the Department determines that a proposed revision constitutes a different item, the schedule of fees for initial applications shall apply.

(3) *Renewals.* Each issuance shall be valid for a period of three years from the date of initial issuance or most recent renewal, whichever is later. An applicant shall submit an application for renewal with the entire required fee three months before the expiration of the three-year period. Failure to submit a timely renewal application along with the required fee shall constitute a basis for cancellation of the issuance.

(4) *Initial and revision applications requiring further study or additional data.* In its discretion, the Department may

request an applicant to submit additional data or to conduct further study to supplement or clarify an initial application or an application for revision of a previously issued technical suitability document. If the applicant fails to comply with the Department's request within ninety days of the date of that request or within such longer time as may be specified by the Secretary, the Department will return the application to the applicant. The Department will not refund any fees paid toward an application returned under this paragraph. The application will be considered further only if it is resubmitted along with payment of the full fee as required by these regulations.

(5) *Ineligible applications.* If the Secretary determines that an application or request will not be considered because it is not eligible for issuance of a technical suitability document, the Department will promptly return the application or request, refund any fees paid, and explain why the application or request is ineligible.

(6) *Cancellation of a technical suitability document.* If the Department determines that (i) the conditions under which a technical suitability document was issued have so changed as to affect the production of, or to compromise the integrity of, the material, product, or system approved thereby, or (ii) that the producer has changed its organizational form without notifying HUD, or (iii) that the producer is not complying with the responsibilities it assumed as a condition of HUD's acceptance of its material, product or system, the Department will notify the producer or manufacturer that the technical suitability document may be cancelled. However, before cancelling a technical suitability document, the Department will give the manufacturer reasonable notice in writing of the specific reasons therefore and an opportunity to present its views on why the technical suitability document should not be cancelled. No refund of fees will be made on a cancelled document.

(e) *Identification.* (1) Applications for issuance of a MEB, SEB, TCB, or MR submitted to HUD Headquarters will be identified with a case number. The applicant will be notified of the case number when receipt of the application

is acknowledged. Thereafter, the case number will be used on all correspondence relating to the application. When a final draft of a new document is prepared for publication and distribution, a bulletin or release number will be assigned to the new issuance.

(2) In the case of an application for an ALA submitted to a field office, the application will be processed in accordance with the identification and processing procedures established by the responsible field office. The field office will notify the applicant of receipt of the application and inform the applicant of the procedures that will be followed with respect to the issuance of an ALA.

(Information collection requirements in paragraphs (b), (c), (d)(1), (2), (3) and (4) were approved by the Office of Management and Budget under control number 2502-0313)

[49 FR 31856, Aug. 9, 1984, as amended at 58 FR 60250, Nov. 15, 1993]

§ 200.935 Administrator qualifications and procedures for HUD building products certification programs.

(a) *General.* This section establishes administrator qualifications and procedures for the HUD Building Products Certification Programs under section 521 of the National Housing Act and the HUD Minimum Property Standards. Under these programs organizations acceptable to HUD validate manufacturers' certifications that certain building products or materials meet applicable standards. HUD may decide to implement a certification program for a particular building product or material for a variety of reasons, such as when deemed necessary by HUD to facilitate the introduction of new and innovative products or materials; or in response to reports of fraud or misrepresentation by manufacturers in advertising that their product or materials comply with a standard.

(b) *Definitions*—(1) *Certification program* ("program"). The procedure under which accepted administrators validate manufacturers' certifications that particular building products or materials meet applicable HUD standards. A separate program is used to validate certifications for each particular product or material for which HUD requires certifications.

(2) *Program administrator* (“*administrator*”). An organization which conducts the program validating the manufacturer’s certification that a particular building product or material meets applicable HUD standards.

(c) *Administrator qualifications and application procedures*—(1) *Qualifications*. Each program administrator shall be capable of conducting a certification program with respect to organization, staff and facilities, and have a reputation for adhering to high ethical standards. To be considered acceptable for conducting a certification program, each administrator shall:

(i) Be a technically qualified organization with past experience in the administration of certification programs. The certification program(s) shall be under the supervision of a qualified professional with six years of experience in interpreting testing standards, test methods, evaluating test reports and quality control programs. Each administrator is responsible for staffing the program with qualified professional personnel with experience in interpreting testing standards, test methods, evaluating test reports and quality control programs. The staff shall be adequate to service all aspects of the program.

(ii) Have field inspectors trained to make selections of materials for testing from manufacturer’s stock or from distributors’ establishments and to conduct product compliance inspections. Such inspectors must be trained and experienced in evaluating manufacturer’s quality control records to ascertain with a reasonable degree of assurance that continuing production remains in compliance with the applicable standard set forth in the Use of Materials (UM) Bulletin. When inspectors are used to evaluate laboratory operations, they shall be qualified and under the supervision of the administrator. They shall be knowledgeable in such areas as test methods, quality control, testing techniques, and instrument calibration.

(iii) Have facilities and capabilities for communications with manufacturers, laboratories, and HUD, including publication of a directory of certified products and a list of accredited laboratories, if required by the program.

(iv) Have adequate policies and practices for preserving information entrusted to its care. HUD reserves the right to review all technical records related to the program for the purpose of monitoring.

(v) Have a copy of all applicable standards, test methods and related information necessary to carry out the program.

(vi) Have a registered or pending certification mark at the United States Patent Office and be willing to license, on a uniform basis, the use of that mark by manufacturers as a validation of the manufacturer’s certification that the product complies with the applicable standard.

(2) *Applications procedures*. Any organization desiring HUD acceptance as a qualified administrator to conduct a certification program shall make application in writing to the Director, Office of Architecture and Engineering Standards. The application shall state the particular certification program for which acceptance is requested and include information indicating compliance with each of the qualification requirements by number and subsection. Attached to the application shall be:

(i) A list of certification programs in which the organization is participating or has participated and the types of participation (sponsor, administrator, testing laboratory, etc.).

(ii) A procedural guide used in one of these programs.

(iii) A directory or listing used in one of these programs.

(iv) A reproduction or facsimile of the organization’s registered or pending mark.

(v) A proposed procedural guide for the particular certification program. HUD certification program procedures described in paragraph (d) of this section shall be followed.

(3) *Acceptance*. HUD shall review each submission and notify the applicant whether or not they are accepted or rejected. HUD shall be notified immediately of any change(s) in the administrator’s submission regarding program procedures and/or major personnel associated with the program. HUD reserves the right to suspend or debar an administrator in accordance with 2 CFR part 2424.

(d) *HUD building products certification procedures*—(1) *Certification program development.* Certification program development by an administrator shall be based upon the procedures and standards for the specific building product described in a Use of Materials Bulletin or a Materials Release.

(2) *License agreement.* Each administrator shall have a written license agreement with each participating manufacturer binding each to the provisions of the specific program and authorizing the manufacturer to use the administrator's mark, seal, or label on its products. The administrator shall have the right to terminate any agreement prior to an expiration date, for example, if there has been a breach of the requirement of the certification program by the manufacturer.

(3) *Laboratory approval.* The administrator shall review laboratories that apply for participation in this program on the basis of the procedures described in paragraph (e) of this section. A list of approved laboratories shall be maintained by the administrator. When the certification program allows the use of the administrator's testing laboratories, the laboratories shall be reviewed by a qualified party acceptable to HUD. As accreditation procedures are made available through the National Voluntary Laboratory Accreditation Program (NVLAP) for specific products, HUD may require such accreditation.

(4) *Initial testing and quality control review*—(i) *Initial testing.* Each participating manufacturer shall submit to the appropriate administrator, the product(s) specification and statement(s) that the product complies with the applicable standard. The administrator shall select samples of the product(s), or when HUD specifies as acceptable, a prototype. The particular method of sample selection shall be determined by HUD for each specific product certification program. Other methods of initial sample selection may be used if deemed necessary. If a failure occurs on the initial tests, additional sampling and testing may be done at the manufacturer's request. The administrator's validation of the manufacturer's declaration of certifi-

cation shall be withheld until a finding of compliance is achieved.

(ii) *Quality assurance system review.* (A) Each administrator shall examine a participating manufacturer's facilities and quality assurance system procedures to determine that they are adequate to assure continuing production of the product that complies with the applicable standard. These quality assurance system procedures shall be documented in the administrator's and the manufacturer's files. If a manufacturer's quality assurance system is not satisfactory to the administrator, validation of the manufacturer's declaration of certification shall be withheld. The following American Society for Quality Control (ASQC) standards, which are incorporated by reference, may be used as guidelines in any quality assurance review:

(1) ASQC Q9000-1-1994 Quality Management and Quality Assurance Standards Guidelines for Selection and Use;

(2) ASQC Q9001-1994 Quality Systems—Model for Quality Assurance in Design, Development, Production, Installation, and Servicing;

(3) ASQC Q9002-1994 Quality Systems—Model for Quality Assurance in Production, Installation, and Servicing;

(4) ASQC Q9003-1994 Quality Systems—Model for Quality Assurance in Final Inspection and Test;

(5) ASQC Q9004-1-1994 Quality Management and Quality System Elements-Guidelines.

(B) These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. They are available from the American Society for Quality Control (ASQC), 611 East Wisconsin Avenue, Milwaukee, WI 53202.

(5) *Notice of validation.* When initial testing, quality control review, and evaluation of other technical data are satisfactory to the administrator, a Notice of Validation or Certification shall be issued to the manufacturer. This allows the use of the administrator's registered mark on the product label.

(6) *Labeling.* Each administrator shall issue to the manufacturer labels, tags, marks containing the administrator's

validation mark, and the manufacturer's certification of compliance with the applicable standard. The registered administrator's (validator's) mark shall be on the label. A sponsor's (association, testing agencies, society or others) mark may be used in addition to the administrator's mark. The manufacturer's certification of compliance to the standard may be coded. Additional information such as type, grade, class, etc., may also be coded. When coding is used, the code shall be described in the directory or listing.

(7) *Directory or listing.* When required by the program, the administrator shall publish a directory or listing for all certified products. The directory shall list the items described in paragraph (d)(6) of this section. The directory shall also carry a complete list of approved laboratories and shall be updated to reflect additions or deletions of certified products and laboratories. Directories or listings shall be published periodically as described in the specific program. Each administrator shall make a complimentary distribution of the directory or listing to the HUD Field Offices and other government agencies designated by HUD. A subscription fee may be charged to others requesting copies.

(8) *Periodic tests and quality control inspections.* Samples of the certified product or prototype shall be selected periodically from the plant, warehouse inventory or sales points. The samples shall be sent to an administrator-approved laboratory and tested in accordance with the applicable standard. The frequency of testing shall be described in the specific building product program. The administrator shall periodically visit the manufacturer's facility to assure that the initially accepted quality control procedures are being followed.

(9) *Product decertification.* If a failure should occur in any test, the laboratory shall notify the administrator and the manufacturer. The manufacturer shall notify the administrator if a retest is requested. If a retest is not requested, validation shall be withdrawn. If the manufacturer requests a retest, the administrator shall select new samples and submit them to the same or another laboratory at the manufacturer's expense, for retest of only the test requirement(s) in which the failure(s) occurred.

If the specified number of specimens pass the retest, the product can continue to be validated and listed. If the designated number of specimens described in the UM Bulletin fail, the administrator shall decertify the product. The manufacturer may request that a new selection be made of the product after correction or modifications and be subjected to the initial acceptance testing procedure or to a program of retesting established by the administrator. The administrator may decertify the product on the basis of inadequate quality control by the manufacturer. The administrator shall notify the manufacturer, HUD headquarters and the HUD Field Offices of any decertification within 7 days. When the product is decertified the manufacturer shall remove labels, tags or marks from all production and inventory in his/her control determined to be in noncompliance.

(10) *Challenge response.* Any person or organization may submit a sample of a manufacturer's certified product to the administrator in substantiation of a claim of noncompliance. Submission shall be made to the administrator that validated the manufacturer's product. The administrator shall notify the manufacturer that its product has been challenged and shall make arrangements to obtain test samples of the challenged product. An estimate of the cost of the special sample selection and testing shall be made to the complainant. The complainant shall pay the estimated cost of the investigation in advance of any testing of the challenged product, unless HUD believes the complaint to be in the public's interest. HUD may conduct its own investigation when deemed necessary based upon a complaint or a product failure. The administrator shall submit the sample of the challenged product to an approved laboratory of the administrator's choice with the request to test compliance of only the challenged requirement(s). If the samples tested prove that the product failed to meet the standard, the product shall be decertified immediately. The manufacturer whose product is decertified shall reimburse the administrator for all

costs of the investigation and the administrator shall refund the complainant's advance payment. If the tests prove that the product does comply with the standard, the complainant shall be notified that the tests do not support the complaint and that the advance fee has been used for the cost of testing and investigating the claim.

(11) *Maintenance of the program.* Each administrator shall maintain the program in conformance with administrative letters issued by HUD for the purpose of clarifying procedures and interpreting the applicable standard. These letters may also be used to revise and amend the procedures used in specific programs. Significant changes in any program shall be published in the FEDERAL REGISTER.

(e) *Laboratory qualifications.* The following laboratory qualifications apply to all testing laboratories participating in the program including manufacturer's laboratories and the administrator's own laboratories when designated in the specific program.

(1) *Organization and personnel.* Laboratories wishing to participate in a certification program shall apply to the administrator and shall furnish the following information:

(i) Name of laboratory, address, telephone number, name and title of official to be contacted for this program.

(ii) Name and qualifications of person assigned by the laboratory to supervise testing under a specific certification program.

(iii) Name and qualifications of engineers and other key personnel who shall conduct the testing.

(iv) Brief review of training program for personnel associated with program to assure the operational efficiency and uniformity of the testing and quality control procedures.

Each laboratory shall notify the administrator of any change in its submission regarding procedures and/or major personnel associated with the program.

(2) *Equipment and facilities.* Each laboratory shall:

(i) Describe the test instruments and testing facilities to be used in making the test(s) required by the applicable standard. Information shall include: Item of equipment, manufacturer, type

or model, serial number, range, precision, frequency of calibration and dates of calibration.

(ii) Provide photographs of the listed equipment.

(iii) Provide a description of the applicable standards and calibration equipment being used and the calibration procedures followed, including National Bureau of Standards traceability, when applicable. List outside organizations providing calibration services, if used.

(iv) Demonstrate that measurements can be made with existing equipment and repeated precision within the limits established by the applicable standards. Administrator may periodically require laboratories to conduct collaborative testing on standard reference materials.

(v) Provide evidence, when regulated temperatures and humidity are required, that charts are maintained from a continuous recorder registering both wet and dry bulb temperature or relative humidity. The charts are to be properly dated, retained and available for inspection.

(vi) Provide a list of standards, test methods and other information necessary to carry out the program.

(3) *Testing methodology.* (i) Describe concisely the procedures for conducting the tests required and the specific equipment to be used.

(ii) Attach a sample test report showing representative test results and accompanied by test data forms for each test required. When approved for program participation, testing laboratories may be required by administrator to report test results on standard summary report forms.

(4) *Subcontractors.* If a testing laboratory plans to subcontract any of its testing to other laboratories, only approved laboratories acceptable to the administrator shall be used.

(5) *Laboratory quality control.* The laboratory shall develop operating quality control procedures acceptable to the administrator. The procedures of the American Council of Independent Laboratories¹ may be used as a guideline.

¹Copies are available from the American Council of Independent Laboratories, Inc., 1725 "K" Street, NW., Washington, DC 20006.

(6) *Approval of laboratories.* Administrators shall develop detailed laboratory approval requirements and conduct periodic inspections to assure each test laboratory's capability. Laboratory approval may be granted for 2 years. Reapproval of the laboratory shall be necessary every 2 years. When a program allows the use of an administrator's own laboratories, these laboratories shall be reviewed by a qualified third party acceptable to HUD. Documentation of acceptance for administrator laboratories shall be maintained by the administrator and HUD. Administrator laboratories shall be subject to reapproval every two years.

(7) *Withdrawal of approval.* Laboratory approval shall be withdrawn or temporarily suspended if it is determined that the laboratory is not complying with the approved requirements. Causes for suspension include, but are not limited to, the following:

- (i) Incompetence.
- (ii) Failure to test in accordance with the test methods described in the standard.
- (iii) Issuance of test reports which fail to comply with the requirements described in the specific product certification program.
- (iv) Falsification of the information reported.
- (v) A statement implying validation of the product using a test report which constitutes only part of the total standard.
- (vi) Deceptively utilizing references in advertising or other promotional activities.
- (vii) Submission of incomplete or inadequate information and documentation called for herein.

[44 FR 54656, Sept. 20, 1979, as amended at 63 FR 5423, Feb. 2, 1998; 72 FR 73494, Dec. 27, 2007]

§ 200.936 Supplementary specific procedural requirements under HUD building products certification program for solid fuel type room heaters and fireplace stoves.

(a) *Applicable standards.* Solid fuel type room heaters and fireplace stoves certified under the HUD Building Products Certification Program shall be designed, assembled and tested in con-

formance with the following standards, which are incorporated by reference:

(1) ANSI/UL 737 (1978), for fireplace stoves;

(2) ANSI/UL 1482 (1979), for solid fuel type room heaters with coal amendments.

(b) *Labelling.* (1) Under the procedures set forth in paragraph (d)(6) of § 200.935, concerning labelling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. In the case of solid fuel type room heaters and fireplace stoves, the following additional information must be included on the certification label:

- (i) The manufacturer's statement of conformance to the HUD Building Products Certification Program;
- (ii) The manufacturer's name and the identity and location of manufacturing plant;
- (iii) The specification designation and manufacturer series or model number; and
- (iv) The type of fuel to be used.

(2) The certification label must be permanently affixed to the heater or stove and be readily visible after the heater or stove is installed.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in paragraph (d)(8) of § 200.935, concerning periodic tests and quality control inspections, the frequency of testing for a product must be described in the specific building product certification program. In the case of solid fuel type room heaters and fireplace stoves, testing and inspection shall be conducted as follows:

(1) Once every four years, beginning with the initial administrator visit, a sample of each certified product shall be selected by the administrator for testing for compliance with the applicable standards in a laboratory which has been accredited under the National Voluntary Laboratory Accreditation Program.

(2) The administrator shall visit the manufacturer's facility two times a

year to assure that the initially accepted quality control procedures are being followed.

[48 FR 1955, Jan. 17, 1983]

§ 200.937 Supplementary specific procedural requirements under HUD building product standards and certification program for plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, plastic water closet bowls and tanks.

(a) *Applicable standards.* (1) Plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, and plastic water closet bowls and tanks shall be designed, assembled and tested in compliance with the following standards, which are incorporated by reference:

ANSI Z124.1—(1980) Plastic Bathtub Units
ANSI Z124.2—(1980) Plastic Shower Receptors and Stalls
ANSI Z124.3—(1980) Plastic Lavatories
ANSI Z124.4—(1983) Plastic Water Closet Bowls and Tanks

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the American National Standards Institute, Inc., 11 West 42nd Street, New York, NY 10036. The standards are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) *Labeling.* (1) Under the procedures set forth in paragraph (d)(6) of § 200.935, concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. In the case of plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, and plastic water closet bowls and tanks, the following additional information shall be included on the certification label:

(i) Manufacturer's statement of conformance to UM 73a;

(ii) Manufacturer's name and code identifying the plant location.

(2) The certification label shall be affixed to each plastic bathroom fixture.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in paragraph (d)(8) of § 200.935, concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of plastic bathroom fixtures, testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample of each certified plastic bathtub unit, plastic shower receptor and stall, plastic water closet bowl and tank for testing in an approved laboratory, in accordance with applicable standards.

(2) At least every twelve months, the administrator shall visit the manufacturer's facility to select a sample of each certified plastic lavatory for testing in accordance with applicable standards.

(3) The administrator shall also review quality control procedures at each visit to determine that they continue to be followed.

[49 FR 378, Jan. 4, 1984, as amended at 59 FR 36695, July 19, 1994]

§ 200.940 Supplementary specific requirements under the HUD building product standards and certification program for sealed insulating glass units.

(a) *Applicable standards.* (1) All sealed insulating glass units shall be designed, manufactured, and tested in compliance with the American Society for Testing and Materials standard: ASTM E-774-92 Standard Specification for Sealed Insulating Glass Units.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference. The standard is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. This standard is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/>

§ 200.942

24 CFR Ch. II (4–1–23 Edition)

*federal register/
code_of_federal_regulations/
ibr_locations.html.*

(b) *Labeling.* Under the procedures set forth in §200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are issued by the administrator to the manufacturer. Each sealed insulating glass unit shall be marked as conforming to UM 82a. The label shall be located on each sealed insulating unit so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in §200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of sealed insulating glass units, testing and inspection shall be conducted as follows:

(1) At least once a year, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

[58 FR 67674, Dec. 22, 1993]

§ 200.942 Supplementary specific procedural requirements under HUD building product standards and certification program for carpet and carpet with attached cushion.

(a) *Applicable standards.* (1) Carpet and carpet with attached cushion certified for this program shall be designed, manufactured and tested in accordance with the following standards:

(i) AATCC 20A–81—Fiber Analysis: Quantitative;

(ii) AATCC 16E–82—Colorfastness to Light: Water-Cooled Xenon-Arc Lamp, Continuous Light;

(iii) AATCC 8–85—Colorfastness to Crocking: AATCC Crockmeter Method;

(iv) AATCC 24–85—Insect, Resistance to Textiles to;

(v) ASTM D1335–67 (Reapproved 1972)—Standard Test Method for Tuft Bind of Pile Floor Coverings;

(vi) ASTM D3676–78 (Reapproved 1983)—Standard Specification for Rubber Cellular Cushion Used for Carpet or Rug Underlay;

(vii) ASTM E648–78—Standard Test Method for Critical Radiant Flux of Floor-Covering Systems Using a Radiant Heat Energy Source;

(viii) ASTM D2646–79—Standard Methods of Testing Backing Fabrics;

(ix) ASTM D3936–80—Standard Test Method for Delamination Strength of Secondary Backing of Pile Floor Coverings;

(x) ASTM D297–81—Standard Methods for Rubber Products—Chemical Analysis;

(xi) ASTM D418–82—Standard Methods of Testing Pile Yarn Floor Covering Construction; and

(xii) National Bureau of Standards DOC FF 1–70. (ASTM D2859–76)—Standard Test Method for Flammability of Finished Textile Floor Covering Materials.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the (i) American Association of Textile Chemists and Colorists (AATCC), P.O. Box 12215, Research Triangle Park, NC 27709;

(ii) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103; and

(iii) U.S. Department of Commerce, National Bureau of Standards, Washington, DC 20234.

The standards are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal-register/code_of_federal-regulations/ibr_locations.html.

(b) *Labeling.* (1) Under the procedures set forth in §202.935(d)(6), concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applied standard is required to be on the certification label issued by the administrator to the manufacturer. In

the case of carpet and carpet with attached cushion, the following additional information shall be included on the certification label, mark or stamp:

(i) Manufacturer's name or code identifying the manufacturing plant location; and

(ii) Manufacturer's statement of compliance with UM 44d.

(2) The certification mark shall be applied to each carpet at intervals of at least every six feet, not less than one foot from the edge.

(c) *Periodic tests and quality control inspections.* (1) Five samples of carpet and carpet with attached cushion shall be tested annually by the administrator or by an administrator-approved laboratory. Three samples of each certified quality shall be taken from the plant annually. Of these, two shall be interim samples (taken every six months) and one an annual sample. In addition, two samples of each certified quality shall be taken annually from sources other than the manufacturer, i.e., brought in the market place from distributors or stores, not from the factory. The administrator shall select samples for testing, and testing shall be conducted, in accordance with the applicable standards in a laboratory accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards, U.S. Department of Commerce.

(2) The administrator shall visit the manufacturer's facility at least once every six months to assure that the initially accepted quality control procedures continue to be followed.

[51 FR 17928, May 16, 1986]

§ 200.943 Supplementary specific requirements under the HUD building product standards and certification program for the grademarking of lumber.

(a) *Applicable standard.* (1) In accordance with UM 38j, lumber shall be grademarked in compliance with the U.S. Department of Commerce Voluntary Product Standard PS 20-94 American Softwood Lumber Standard.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR

part 51. It is available from the U.S. Department of Commerce, NIST, Office of Voluntary Product Standards, Gaithersburg, MD 20899.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard are required on the certification label issued by the administrator to the manufacturer. However, in the case of grademarking of lumber, the following information shall be included on the certification label or mark:

(1) The registered symbol which identifies the grading agency;

(2) Species or species combination;

(3) Grade;

(4) Identification of the applicable grading rules when not indicated by the species identification or agency symbol;

(5) Mill or grader;

(6) For members which are less than 5 inches in nominal thickness, indication that the lumber was green or dry at the time of dressing;

(7) Indication that the lumber was finger jointed; and

(8) The certification mark shall be affixed to each piece of lumber.

(c) *Periodic tests and quality assurance.* Periodic tests and quality assurance inspections shall be carried out by the American Lumber Standard Committee as defined in PS 20-94.

[63 FR 5423, Feb. 2, 1998]

§ 200.944 Supplementary specific requirements under the HUD building product standards and certification program for plywood and other performance rated wood-based structural-use panels.

(a)(1) All plywood made to specifications of Voluntary Product Standard, PS 1-83, "Construction and Industrial Plywood" (published by the U.S. Department of Commerce, National Bureau of Standards (May 1984)) and grade marked as PS 1-83 shall conform to the requirements of PS 1-83, except that all veneers may be D-grade. A copy of PS

§ 200.944

24 CFR Ch. II (4-1-23 Edition)

1-83 may be obtained from the U.S. Department of Commerce, National Institute for Standards and Technology, Office of Product Standards, Gaithersburg, MD 20899.

(2) All plywood panels not meeting the veneer grade requirements of PS 1-83, and all performance rated composite and nonveneer structural-use panels shall comply with the requirements described in the APA PRP-108, "Performance Standards and Policies for Structural-Use panels" (published by the American Plywood Association, June 1988). However, in ASTM D-3043-87, "Standard Methods of Testing Structural Panels in Flexure" (published by the American Society for Testing and Materials, August 28, 1987), Method B may be used in lieu of Method C for measuring the mechanical properties of the panel, provided that the test specimen has a width of at least 12 inches. The impact load shall be 150 ft. lbs. for single-layer floor panels excluding any floor finishes. Copies of the APA Standard may be obtained from the American Plywood Association, P.O. Box 11700, Tacoma, WA 98411-0770. Copies of the ASTM Standard may be obtained from the American Society of Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(3) Structural-use panels shall be installed in accordance with the manufacturer's installation instructions and Form No. E30K, "APA Design/Construction Guide-Residential and Commercial" (published by the American Plywood Association, January 1989).

(4) These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the standards are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) *Labeling.* Under the procedures set forth in §200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required

to be on the certification label issued by the administrator to the manufacturer. Panels that conform to the Performance Standards and Policy for Structural-Use Panels shall be marked as conforming to UM 40c. All panels complying with APA PRP-108 shall be marked with a label formatted in the manner similar to the trademark examples shown in APA PRP-108. All panels will be marked with the mill number. The certification mark shall be stamped on each panel and be located so that it is available for inspection.

(c) *Periodic tests and qualify control inspections.* Under the procedures set forth in §200.935(d)(8) concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of plywood and wood-based structural-use panels, testing and inspection shall be conducted as follows:

(1) Testing shall be done in an Administrator's laboratory or an Administrator-approved laboratory every three months. All plywood qualified for conformance with PS 1-83 shall be tested in accordance with PS 1-83.

(2) All thickness and lay-ups of structural-use panels in production made in conformance with the Performance Standards shall be tested in accordance with procedures set forth in APA PRP-108 Performance Standards and Policies for Structural-Use Panels (published by the American Plywood Association Standard June 1988).

(3) The Administrator shall examine each manufacturer's quality control procedures to assure they are the same as or equivalent to those set forth under the Quality Assurance Policy section 4.2.3 of the publication referenced in paragraph (2) above or PS 1-83 section 3.8.6.6, Reexamination.

(4) The Administrator shall inspect the manufacturer's procedures at the plant at least every three months to assure that the initially accepted quality control procedures are being followed.

[55 FR 38785, Sept. 20, 1990]

§ 200.945 Supplementary specific requirements under the HUD building product standards and certification program for carpet.

(a) *Applicable standards.* (1) All carpet shall be designed, manufactured, and tested in compliance with the following standards from the American Society for Testing and Materials and the American Association of Textile Chemists and Colorists:

(i) ASTM D418-92—Standard Test Methods for Tuft and Yarn Length of Uncoated Floor Coverings;

(ii) ASTM D1335-67—(Reapproved 1972) Standard Test Method for Tuft Bind of Pile Floor Coverings;

(iii) ASTM D 2646-87—Standard Test Methods for Backing Fabrics;

(iv) ASTM D 3936-80—Standard Test Method for Delamination Strength of Secondary Backing of Pile Floor Coverings;

(v) AATCC Test Method 16e-82—Colorfastness to Light: Water-Cooled Xenon-Arc Lamp, Continuous Light;

(vi) AATCC Test Method 165-86—Colorfastness to Crocking: Carpets—AATCC Crock Meter Method;

(vii) ASTM D 3676-78—(Reapproved 1989) Standard Specification for Rubber Cellular Cushion Used for Carpet or Rug Underlay;

(viii) ASTM D 3574-91—Standard Test Methods for Flexible Cellular Materials—Slab, Bonded and Molded Urethane Foams.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. The standards are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103 and the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, NC 27709. These standards are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's

certification of compliance with UM 44d are required to be on the certification label issued by the Administrator to the manufacturer. The label shall be placed on each carpet every six feet not less than one foot from the edge.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) Every six months, three samples and one annual field sample of carpet shall be submitted to the Administrator for testing in a laboratory accredited by the National Voluntary Laboratory Accreditation Program of the U.S. Department of Commerce.

(2) The administrator also shall review the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

[58 FR 67674, Dec. 22, 1993]

§ 200.946 Building product standards and certification program for exterior finish and insulation systems, use of Materials Bulletin UM 101.

(a) *Applicable standards:* (1) All Exterior Finish and Insulation Systems shall be designed, manufactured, and tested in compliance with the following standards:

(i) ASCE 7-93, American Society of Civil Engineers—Minimum Design Loads for Buildings and Other Structures.

(ii) ASTM C 150-94 Standard Specification for Portland Cement.

(iii) ASTM C 920-87 Standard Specification for Elastomeric Joint Sealants.

(iv) ASTM C-1186-91 Standard Specification for Flat Non-Asbestos Fiber-Cement Sheets.

(v) ASTM D 579-90 Standard Specification for Greige Woven Glass Fabrics.

(vi) ASTM D 3273-86—(Reapproved 1991) Standard Test Method for Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber.

(vii) ASTM E 330-90 Standard Test Method for Structural Performance of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference.

(viii) ASTM E 695-79 (Reapproved 1991), Standard Method of Measuring Relative Resistance of Wall, Floor, and Roof Construction to Impact Loading.

(ix) ASTM G 26-93 Standard Practice for Operating Light-Exposure Apparatus (Xenon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials.

(x) Council of American Building Officials, Model Energy Code, 1993 Edition.

(xi) EIMA Test Method 101.01-95 (modified ASTM C67-91) Standard Test Method for Freeze/Thaw Resistance of Exterior Insulation and Finish Systems (EIFS), Class PB.

(xii) EIMA Test Method 101.02-95 (modified ASTM E331-91)—Standard Test Method for Resistance to Water Penetration of Exterior Insulation and Finish Systems (EIFS), Class PB.

(xiii) EIMA Test Method 101.03-95 (modified ASTM C297-91)—Standard Test Method for Determining the Tensile Adhesion Strength of an Exterior Insulation and Finish System (EIFS), Class PB.

(xiv) EIMA Test Method 105.01-95—Standard Test Method for Alkali Resistance of Glass Fiber Reinforcing Mesh for Use in Exterior Insulation and Finish Systems (EIFS), Class PB.

(xv) European Agreement Union Technical Committee—June 88—UEATC Directives for the Assessment of External Insulation System for Walls (Expanded Polystyrene Insulation Faced with a Thin Rendering) Section 3.3.3.3.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. They are available from:

(i) American Society Civil Engineers (ASCE) 345 East 47th Street, New York, NY 10017.

(ii) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103;

(iii) Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041;

(iv) EAUTC Centre Scientifique ET Technique Du Batiment (CSTB), 84 Avenue Jesu Jaures, B.P. 02-77421 Marne-LA-Valee Cedex 2, Paris, France.

(v) Exterior Insulation Manufacturers Association (EIMA), 2759 State

Road 580, Suite 112, Clearwater, Florida 34621-3350.

(3) The standards are available also for inspection at the Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214, L'Enfant Plaza, 490E, Mail Room B-133, Washington, DC 20410-8000, and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) *Labeling*. Under the procedures as set forth in § 200.935(d)(6), concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applied standard is required to be on the certification label issued by the administrator to the manufacturers. In the case of exterior wall insulation and finish systems, the certification label containing the administrator's mark shall be permanently affixed on the package or container of base and finish coating materials. Further, additional information shall be included on the certification label or mark:

(1) Manufacturer's name.

(2) Manufacturer's statement of conformance with UM 101.

(c) The Administrator shall visit the manufacturer's or sponsor's facility every 6 months, to assure that the initially accepted quality assurance procedures are being followed. At least every four years, the Administrator also shall have the exterior wall insulation and finish systems tested in an approved laboratory to assure that the original performance is maintained.

(d) The administrator's (or administration-accepted inspection agency) inspection of EFIS system installation of 5000 sq. ft. or more, shall be made during and upon completion of the construction. Reports of the inspection shall be made to the owner. These reports shall state:

(1) The coverage of the finish coat per square foot for a given volume of finish.

(2) The minimum thickness of the base and finish coatings.

(3) The fiberglass mesh is installed properly around joints and insulation. All penetrations, including windows, flashing, etc., are sealed; and there is a caulk and sealant continuity evaluation; and

(4) There is a caulk and sealant continuity evaluation with special concerns on maintenance.

(e) The manufacturer shall warrant their exterior wall insulation and finish system, including any caulks and sealants, for twenty years against faulty performance. The warranty shall include correction of delamination, chipping, denting, peeling, blistering, flaking, bulging, unsightly discoloration, or other serious deterioration of the system such as the intrusion of water through the wall or structural failure of the system's surface materials. Should any of these defects occur, the manufacturer shall make a pro-rata allowance for replacement or pay the owner the amount of the allowance. The manufacturer shall not be liable for damages or defects resulting from misuse, natural catastrophes, or other causes beyond the control of the manufacturer. The contractor shall provide a statement to the owner that the product has been installed in compliance with HUD requirements and that the manufacturer's warranty does not relieve the builder, in any way, of responsibility under the terms of the Builder's Warranty required by the National Housing Act, or under any other housing program.

[60 FR 47841, Sept. 14, 1995]

§ 200.947 Building product standards and certification program for polystyrene foam insulation board.

(a) *Applicable standards.* (1) All polystyrene foam insulation board shall be designed, manufactured, and tested in compliance with the American Society for Testing and Materials (ASTM) standard C-578-92, Standard Specification for Rigid, Cellular Polystyrene Thermal Insulation.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference. The standard is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. This standard is also available

for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/>

[code of federal regulations/ibr locations.html](http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html).

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's certification of compliance with the applicable standards and the type of board are required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample of each certified polystyrene foam insulation board for testing by a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

[58 FR 67675, Dec. 22, 1993]

§ 200.948 Building product standards and certification program for carpet cushion.

(a) *Applicable standards.* (1) All carpet cushion shall be designed, manufactured, and tested in compliance with the following standards from the American Society for Testing and Materials:

(i) ASTM D 1667-76—(Reapproved 1990) Standard Specification for Flexible Cellular Materials—Vinyl Chloride Polymers and Copolymers (Closed-Cell Foam);

(ii) ASTM D2646-87—Standard Test Methods for Backing Fabrics;

(iii) ASTM D629-88—Standard Test Methods for Quantitative Analysis of Textiles;

(iv) ASTM D3574-91—Standard Test Methods for Flexible Cellular Materials—Slab, Bonded, and Molded Urethane Foams;

(v) ASTM D3676-78—Standard Specification for Rubber Cellular Cushion Used for Carpet or Rug Underlay.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. The standards are available from the American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103. These standards are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark, the manufacturer's certification of compliance with the applicable standards, and the type and class all are required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample of each certified carpet cushion for testing by a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

[58 FR 67675, Dec. 22, 1993]

§ 200.949 Building product standards and certification program for exterior insulated steel door systems.

(a) *Applicable standards.* (1) All Exterior Insulated Steel Door Systems shall be designed, manufactured, and tested in compliance with the following standards from the American Society for Testing and Materials and Insulated Steel Door Systems Institute:

(i) ASTM A591/A591M-89—Standard Specification for Steel Sheet, Electrolytic-Zinc Coated, for Light Coating Mass Applications;

(ii) ISDSI-100-90—Door Size Dimensional Standard and Assembly Tolerances for Insulated Steel Door Systems;

(iii) ISDSI-101-83—(Reapproved 1989) Air Infiltration Performance Standard for Insulated Steel Door Systems;

(iv) ISDSI-102-84—Installation Standard for Insulated Steel Door Systems;

(v) ISDSI-104-86—Water Penetration Performance Standard for Insulated Steel Door Systems;

(vi) ISDSI-105-80—Test Procedure and Acceptance Criteria for Physical Endurance for Steel Doors and Hardware Reinforcings;

(vii) ISDSI-106-80—Test Procedure and Acceptance Criteria for Prime Painted Steel Surfaces for Steel Doors and Frames;

(viii) ISDSI-107-80—Thermal Performance Standard for Insulated Steel Door Systems;

(ix) ASTM F476-84—(Reapproved 1991) Standard Test Methods for Security of Swinging Door Assemblies.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. These standards are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103 or the Insulated Steel Door Institute, 712 Lakewood Center North, 14600 Detroit Avenue, Cleveland, OH 44107. These standards are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's certification of compliance with the applicable standards is required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) At least every four years, the administrator shall visit the manufacturer's facility to select a sample of each certified exterior insulated steel door system for testing by an approved laboratory in accordance with the applicable standard.

(2) The administrator also shall review the quality assurance procedures every year to assure that they are being followed by the manufacturer.

[58 FR 67675, Dec. 22, 1993]

§ 200.950 Building product standards and certification program for solar water heating system.

(a) *Applicable standards.* (1) All solar water heating systems shall be designed, manufactured, and tested in compliance with Solar Rating and Certification Corporation (SRCC) Document OG-300-93, Operating Guidelines and Minimum Standards for Certifying Solar Water Heating Systems: An Optional SWH System Certification and Rating Program. Section 10 of the SRCC standard has been omitted because it was considered proprietary, since it describes an administrative program specifically carried out by SRCC.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference. The standard is available from the Solar Rating and Certification Corporation, 777 North Capitol Street, NE., suite 805, Washington, DC 20002. This standard is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. Each solar water heating system shall be marked as conforming to UM 100. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) The Administrator shall visit the manufacturer's factory every two years to assure that the initially accepted

quality assurance procedures are being followed.

(2) At least every four years, the administrator shall visit the manufacturer's facility to select a sample of each certified solar water heating system for testing by a laboratory approved by the administrator.

(d) *Warranty.* The manufacturer shall provide, at no cost, a full five-year warranty against defects in material or workmanship, on the absorber plate, cooling passages, and the collector (excluding any glass), running from the date of installation of the solar water heating system. The warranty also shall include the full costs of field inspection, parts, and labor required to remedy the defects, and will include the cost of replacement at the site if required. This warranty is not required to cover defects resulting from exposure to harmful materials, fire, flood, lightning, hurricane, tornado, hailstorms, earthquakes, or other acts of God, vandalism, explosions, harmful chemicals or other fluids, fumes or vapors. This exclusion will apply to the operation of the collector under excessive pressures or excessive flow rates, misuse, abuse, negligence, accidents, alterations, falling objects or other causes beyond the control of the manufacturer. Following the initial five years, the manufacturer shall provide a limited no-cost five-year warranty for collector parts on a prorata allowance basis.

[58 FR 67676, Dec. 22, 1993]

§ 200.952 Supplementary specific requirements under the HUD building product standards and certification program for particleboard interior stair treads.

(a) *Applicable standards.* (1) All interior particleboard stair treads shall be designed, manufactured, and tested in compliance with ANSI A208.1-1993 Particleboard, Grade M-3.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, and is available from the American National Standards Institute, Inc., 11 West 42nd Street, New York, NY 10036.

§ 200.954

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard are required to be on the certification label issued by the administrator to the manufacturer. Each interior particleboard stair tread shall include the manufacturer's statement of conformance to UM 70b, a statement that this product is for interior use only, and the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of interior particleboard stair treads, testing and inspection shall be conducted as follows:

(1) At least once every three months, the administrator shall visit the manufacturer's facility to select a sample for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

[63 FR 5424, Feb. 2, 1998]

§ 200.954 Supplementary specific requirements under the HUD building product standard and certification program for construction adhesives for wood floor systems.

(a) *Applicable standards.* (1) All construction adhesives for field glued wood floor systems shall be designed, manufactured, and tested in compliance with the following American Society for Testing and Materials (ASTM) standard: D 3498-93 Standard Specification for Adhesives for Field-Gluing Plywood to Lumber Framing for Floor Systems except that the mold and bacteria resistance tests shall not be included.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, and is available from the American Society for Testing & Materials Inc., 100 Barr Harbor Drive, West Conshohocken, PA. 19428.

24 CFR Ch. II (4-1-23 Edition)

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard are required to be on the certification label issued by the administrator to the manufacturer. Each container shall be marked as being in compliance with UM 60a. The label shall also include the manufacturer's name, plant location, and shelf life.

(c) *Periodic tests and quality assurance.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of construction adhesives for field glued wood floor systems, testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

[63 FR 5424, Feb. 2, 1998]

§ 200.955 Supplementary specific requirements under the HUD building product standard and certification program for fenestration products (windows and doors).

(a) *Applicable standards.* (1) All windows and doors shall be designed, manufactured, and tested in compliance with American Architectural Manufacturers Association (AAMA) standard, AAMA/NWDA 101/I.S.2-97 Voluntary Specifications for Aluminum, Vinyl (PVC) and Wood Windows and Glass Doors.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, and is available from the American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 104, Schaumburg, IL 60173.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. Each window or glass door shall include the manufacturer's name, plant location, and statement of compliance with UM 111.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of windows and glass doors, testing and inspection shall be conducted as follows:

(1) At least once every four years, the administrator shall visit the manufacturer's facility to select a commercial sample for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

[63 FR 5424, Feb. 2, 1998]

Subpart T—Social Security Numbers and Employer Identification Numbers; Assistance Applicants and Participants

§ 200.1001 Cross-reference.

The provisions in subpart B of part 5 of this title apply to Social Security Numbers and Employer Identification Numbers for assistance applicants and participants.

[61 FR 11118, Mar. 18, 1996]

Subpart U—Social Security Numbers and Employer Identification Numbers; Applicants in Unassisted Programs

§ 200.1101 Cross-reference.

The provisions in subpart B of part 5 of this title apply to Social Security Numbers and Employer Identification

Numbers for applicants in unassisted programs.

[61 FR 11118, Mar. 18, 1996]

Subpart V—Income Information; Assistance Applicants and Participants

§ 200.1201 Cross-reference.

The provisions in subpart B of part 5 of this title apply to income information for assistance applicants and participants.

[61 FR 11118, Mar. 18, 1996]

Subpart W—Administrative Matters

§ 200.1301 Expiring programs—Savings clause.

(a) No new loan assistance, additional participation, or new loans are being insured under the programs listed in this section. Existing loan assistance, ongoing participation, or insured loans under the programs shall continue to be governed by regulations in effect as described in this section.

(b) Any existing loan assistance, ongoing participation, or insured loans under the programs listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before October 11, 1995 (24 CFR parts 205, 209, 224–228, 240, 277, 278, 1994 edition):

(1) Part 205, Mortgage Insurance for Land Development (Title X of the National Housing Act, repealed by section 133(a) of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235, approved December 15, 1989).

(2) Part 209, Individual Homes; War Housing Mortgage Insurance (12 U.S.C. 1736–1743).

(3) Part 224, Armed Services Housing–Military Personnel (12 U.S.C. 1736–1746a).

(4) Part 225, Military Housing Insurance (12 U.S.C. 1748b).

(5) Part 226, Armed Services Housing–Civilian Employees (12 U.S.C. 1748h–1).

(6) Part 227, Armed Services Housing–Impacted Areas (12 U.S.C. 1478h–2).

(7) Part 228, Individual Residences; National Defense Housing Mortgage Insurance (12 U.S.C. 1750 as amended by 42 U.S.C. 1591c).

§ 200.1303

24 CFR Ch. II (4–1–23 Edition)

(8) Part 240, Mortgage Insurance on Loans for Fee Title Purchase (12 U.S.C. 1715z–5).

(9) Part 277, Loans for Housing for the Elderly or Handicapped (12 U.S.C. 1701q).

(10) Part 278, Mandatory Meals Program in Multifamily Rental or Cooperative Projects for the Elderly or Handicapped (12 U.S.C. 1701q).

(c) Any existing loan assistance, ongoing participation, or insured loans under the programs listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before May 11, 1996 (24 CFR parts 215, 222, and 237, 1995 edition):

(1) Part 215, Rent Supplement Payments Program (12 U.S.C. 1715f).

(2) Part 222, Service Person's Mortgage Insurance Program (12 U.S.C. 1715m).

(3) Part 237, Special Mortgage Insurance for Low and Moderate Income Families (12 U.S.C. 1715z–2).

(d) Any existing loan assistance, ongoing participation, or insured loans under the program listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before December 26, 1996 (24 CFR part 233, 1995 edition):

(1) Part 233, Experimental Housing Mortgage Insurance Program (12 U.S.C. 1715x).

(2) [Reserved]

(e) Any existing loan assistance, ongoing participation, or insured loans under the program listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before August 15, 2014 (24 CFR part 257):

(1) Part 257, HOPE for Homeowners Program (12 U.S.C. 1701z–22).

(2) [Reserved]

(f) No new emergency mortgage assistance, emergency mortgage relief loans, advances of credit or emergency mortgage relief payments, or any other type of assistance permitted under the Emergency Housing Act of 1975, title I of the Emergency Homeowners' Relief Act (12 U.S.C. 2701), as amended by section 1496 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203) is being provided under the programs listed below.

Any existing emergency assistance, emergency mortgage relief loans, advances of credit or emergency mortgage relief payments under these programs will continue to be governed by the regulations in effect as they existed immediately before September 8, 2014 (24 CFR part 2700):

(1) Part 2700, Emergency Homeowners' Loan Program (12 U.S.C. 2701 *et seq.*)

(2) [Reserved]

(g) Any existing loan assistance (including recapture of loan assistance), ongoing participation, or insured loans under the program listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before May 4, 2015 (24 CFR part 235, 2014 Edition):

(1) Part 235, Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation (12 U.S.C. 1715z).

(2) [Reserved]

(h) Any existing loan assistance (including recapture of loan assistance), ongoing participation, or insured loans under the program listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before February 10, 2016 (24 CFR part 280, 2015 Edition):

(1) Part 280, Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation (12 U.S.C. 17151).

(2) [Reserved]

[79 FR 41423, July 16, 2014, as amended at 79 FR 46182, Aug. 7, 2014; 80 FR 18096, Apr. 3, 2015; 81 FR 1121, Jan. 11, 2016]

§ 200.1303 Annual income exclusions for the Rent Supplement Program.

(a) The exclusions to annual income described in 24 CFR 5.609(c) apply to those rent supplement contracts governed by the regulations at 24 CFR part 215 in effect immediately before May 1, 1996 (contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219), in lieu of the annual income exclusions described in 24 CFR 215.21(c) (contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219).

(b) The mandatory deductions described in 24 CFR 5.611(a) also apply to the rent supplement contracts described in paragraph (a) of this section

in lieu of the deductions provided in the definition of “adjusted income” in 24 CFR 215.1 (as contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219).

(c) The definition of “persons with disabilities” in paragraph (c) of this section replaces the terms “disabled person” and “handicapped person” used in the regulations in 24 CFR part 215, subpart A (as contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219). *Person with disabilities*, as used in this part, has the same meaning as provided in 24 CFR 891.305.

[66 FR 6224, Jan. 19, 2001]

Subpart Y—Multifamily Accelerated Processing (MAP): MAP Lender Quality Assurance Enforcement

SOURCE: 70 FR 43242, July 26, 2005, unless otherwise noted.

§200.1500 Sanctions against a MAP lender.

(a) In addition to any other legal remedy available to HUD, HUD may take the following actions with respect to a MAP lender:

- (1) Warning letter;
- (2) Probation;
- (3) Suspension;
- (4) Termination;
- (5) Limited Denial of Participation (LDP);
- (6) Referral to the Mortgagee Review Board; and
- (7) Referral to the Office of Inspector General.

(b) The actions listed in paragraphs (a)(1) through (a)(4) of this section are carried out in accordance with the requirements of this subpart. An LDP is a sanction applied in accordance with subpart J of 2 CFR part 2424 to participants in loan transactions other than FHA-insured lenders. The Mortgagee Review Board procedures are found at 24 CFR part 25.

[70 FR 43242, July 26, 2005, as amended at 72 FR 73494, Dec. 27, 2007]

§200.1505 Warning letter.

(a) *In general.* HUD may issue a warning letter, which specifies problems or

violations identified by HUD, to a MAP lender.

(b) *Effect of warning letter.* The warning letter:

- (1) Does not suspend a lender’s MAP privileges;
- (2) May impose a higher level of review of the lender’s underwriting by HUD;
- (3) May direct the taking of a corrective action; and
- (4) May require a meeting in a designated HUD office with the principal owners or officers, or both, of the MAP lender to discuss the specified problems and violations, and possible corrective actions.

(c) *Relationship to other sanctions.* The issuance of a warning letter is not subject to the MAP Lender Review Board procedures in accordance with §200.1535, and is not a prerequisite to the probation, or suspension, or termination of MAP privileges.

§200.1510 Probation.

(a) *In general.* Only the MAP Lender Review Board (or Board) may place a lender on probation, in accordance with the procedures of §200.1535.

(b) *Effect of probation.* (1) Probation is intended to be corrective in nature and not punitive. As a result, release from probation is conditioned upon the lender meeting a specific requirement or requirements, such as replacement of a staff member. A lender’s failure to take prompt corrective action after being placed on probation may be the basis for a recommendation of either suspension or termination. Any such recommendation shall, when possible, go to a MAP Lender Review Board composed of the same members who issued the original probation.

(2) During the probation period, a MAP lender:

- (i) Shall be removed from the MAP-Approved Lender list posted on HUD’s website;
- (ii) May not submit, and HUD may not accept, materials after the close of business of the date of the probation letter for a new application under MAP for multifamily mortgage insurance from HUD; and
- (iii) May continue to process any existing application for multifamily mortgage insurance submitted to a

§ 200.1515

Multifamily Hub or Program Center before the date of the probation letter.

(3) The MAP Lender Review Board may impose a higher level of review of the lender's underwriting by HUD;

(4) Probation is nationwide in effect.

(c) *Duration of probation.* (1) Probation continues until all specific corrective actions required by the MAP Lender Review Board (for example, exclusion of a specific staff member from work on MAP loans) are taken by the MAP lender. When all corrective actions have been taken, the MAP lender shall notify the Board. Once the Board is satisfied that the corrective actions have occurred, the probation period shall end.

(2) A false statement that corrective action has been taken constitutes a false certification and may constitute a violation of 18 U.S.C. 1001.

(3) When probation is lifted, the lender's name shall be promptly reinstated on the MAP-Approved Lender list posted on HUD's Web site.

§ 200.1515 Suspension of MAP privileges.

(a) *In general.* Only the MAP Lender Review Board may suspend a lender's eligibility for MAP, in accordance with the procedures of § 200.1535.

(b) *Effect of suspension.* (1) A suspension may impose any conditions that may be imposed by probation.

(2) During the suspension period a MAP lender:

(i) Shall be removed from the MAP-approved lender list posted on HUD's Web site;

(ii) May not submit, and the HUD field office may not accept, materials after the close of business of the date of the suspension letter for a new application for multifamily mortgage insurance from HUD; and

(iii) May continue to process any existing application for multifamily mortgage insurance submitted to a Multifamily Hub or Program Center before the date of the suspension letter.

(3) The MAP Lender Review Board may impose a higher level of review of the lender's underwriting by HUD;

(4) Suspension is nationwide in effect.

(c) *Duration of suspension.* (1) Suspension may not exceed 12 months, except

24 CFR Ch. II (4-1-23 Edition)

where conditions are imposed. If both a time period and conditions are imposed, a suspension shall terminate only when:

(i) The time period of the suspension has expired;

(ii) The MAP lender has submitted a certification of compliance with those conditions to the Board; and

(iii) The Board has notified the MAP lender it has received the certification of compliance and is satisfied that the corrective actions have occurred.

(2) When suspension is lifted, the lender's name shall be promptly reinstated on the MAP-Approved Lender list posted on HUD's Web site.

§ 200.1520 Termination of MAP privileges.

(a) *In general.* Except as provided in paragraph (b) of this section, only the MAP Lender Review Board may terminate a lender's MAP privileges, in accordance with the procedures of § 200.1535.

(b) *Administrative termination.* HUD will notify a lender of immediate termination of MAP privileges when either of the following circumstances is present:

(1) Failure by the MAP lender to maintain its status as an FHA-approved lender; or

(2) Failure by the MAP lender to maintain a minimum level of MAP lender activity, as evidenced by failure to submit either a pre-application package or firm commitment application at least once every 12 months.

(c) *Effect of termination.* (1) The terminated lender shall be removed from the MAP-Approved Lender list on HUD's Web site.

(2) A terminated lender may not submit, and the HUD field office may not accept, materials after the close of business of the date of the termination letter for new multifamily mortgage insurance from HUD.

(3) Any MAP pre-application or MAP application in process may no longer be processed under MAP by the terminated lender. The lender will either:

(i) Immediately transfer the transaction to the traditional application processing (TAP) procedure. HUD will completely reprocess all stages of the transaction; or

(ii) Immediately transfer the project to a new MAP lender. The new MAP lender must completely reprocess all stages of the transaction. At no time can the new MAP lender assign the pre-application, the firm application, the mortgage insurance commitment, or the insured construction loan back to the original MAP lender.

(4) HUD will not endorse any MAP loan processed by the terminated lender unless a firm commitment was issued before the date of termination.

(i) Firm commitments involving new construction or substantial rehabilitation must be immediately transferred to a new MAP lender. At no time can the new MAP lender assign the firm mortgage insurance commitment, or the insured construction loan, back to the original MAP lender.

(ii) Firm commitments issued for Section 223(f) projects may be transferred before final endorsement to any approved FHA lender or kept in the lender's portfolio.

(iii) For those construction loans that have been initially endorsed, the MAP lender will lose its MAP privileges for construction loan administration. HUD will assume all the construction loan administration duties it normally performs for TAP processing.

(iv) The original lender may service a transferred loan once it is finally endorsed.

(5) Termination is nationwide in effect.

(6) When a MAP lender loses its MAP lender status as a result of termination, the lender's status to process transactions using TAP is unaffected, provided that the lender has maintained its status as an FHA-approved multifamily lender.

(d) *Reinstatement.* An application for reinstatement of MAP authority may not be made until at least 12 months after the date of termination. The requirements for reinstatement shall be the same as for initial qualification, and the applicant must show that the problems that led to termination have been resolved.

§ 200.1525 Settlement agreements.

(a) HUD staff, as authorized, may negotiate a settlement agreement with a MAP lender before or after the

issuance of a warning letter or referral to the MAP Lender Review Board. Once a matter has been referred to the MAP Lender Review Board, only the Board may approve a settlement agreement.

(b) Settlement agreements may provide for:

(1) Cessation of any violation;

(2) Correction or mitigation of the effects of any violation;

(3) Removal of lender staff from positions involving origination, underwriting, and/or construction loan administration;

(4) Actions to collect sums of money wrongfully or incorrectly paid by the MAP lender to a third party;

(5) Implementation or revision of a quality control plan or other corrective measure acceptable to HUD; and

(6) Modification of the duration or provisions of any administrative sanction deemed to be appropriate by HUD.

(c) A MAP lender's compliance with a settlement agreement is evidenced by the lender certifying its compliance with the conditions of the agreement, and HUD's determination that the lender is in compliance with the conditions of the agreement.

(d) Failure by a MAP lender to comply with a settlement agreement may result in a probation, or suspension, or termination of MAP privileges, or referral to the Mortgagee Review Board.

§ 200.1530 Bases for sanctioning a MAP lender.

It is HUD policy that approved MAP lenders are expected to comply at all times with HUD's underwriting and construction loan administration requirements and not to take any action that presents a risk to HUD's insurance funds. A MAP lender's improper underwriting and construction loan administration activities may lead to a warning letter or other sanction from HUD. Examples of such activities include, but are not limited to, the following:

(a) *Minor offenses that may be the basis for a warning letter include:*

(1) Failure to provide required exhibits or the submission of incomplete or inaccurate exhibits. Although the MAP lender will be permitted to correct minor errors or provide additional information, substantial inaccuracies or

§ 200.1530

24 CFR Ch. II (4–1–23 Edition)

lack of significant information will result in a return of the application and retention of any fee collected;

(2) Repeated failure to complete processing to firm commitment unrelated to an underwriting analysis that demonstrates that the process should not proceed to firm commitment;

(3) Preparation of an underwriting summary that is not supported by the appropriate documentation and analysis;

(4) Failure to notify the HUD processing office promptly of changes in the mortgage loan application for a firm commitment submitted, such as changes in rents, numbers of units, or gross project area;

(5) Failure to meet MAP closing requirements or construction loan administration requirements;

(6) Business practices that do not conform to those generally accepted by prudent lenders or that show irresponsibility; and

(7) Failure to cooperate with a Lender Qualifications and Monitoring Division review by HUD.

(b) *Serious offenses that might be a basis for a warning letter or probation, suspension, or termination include:*

(1) Receipt of multiple warning letters over any one-year period. In determining which sanction to pursue as a result of prior warning letters, HUD will consider the facts and circumstances surrounding those warning letters and the corrective actions, if any, undertaken by the lender;

(2) Fraud or material misrepresentation in the lender's participation in FHA multifamily programs;

(3) Lender collusion with, or influence upon, third party contractors to modify reports affecting the contractor's independent evaluation;

(4) A violation of MAP procedures by a third party contractor, which the MAP lender knew, or should have known, was occurring and which, if performed by the MAP lender itself, would constitute a ground for a sanction under this chapter;

(5) Evidence that a lender's inadequate or inaccurate underwriting was a cause for assignment of an FHA-insured mortgage and claim for insurance benefits to HUD;

(6) Identity-of-interest violations as defined by Chapter 2 of the MAP Guide;

(7) Payment by, or receipt of a payment by, a MAP lender of any kick-back or other consideration, directly or indirectly, which would affect the lender's independent evaluation, or represent a conflict of interest, in connection with any FHA-insured mortgage transaction;

(8) Failure to comply with any agreement, certification, undertaking, or condition of approval listed in a MAP lender's application for approval;

(9) Noncompliance with any requirement or directive of the MAP Lender Review Board;

(10) Violation of the requirements of any contract with HUD, or violation of the requirements in any statute or regulation;

(11) Submission of false information, or a false certification, to HUD in connection with any MAP mortgage transaction;

(12) Failure of a MAP lender to respond in a timely manner to inquiries from the MAP Lender Review Board in accordance with this subpart;

(13) Indictment or conviction of a MAP lender or any of its officers, directors, principals, or employees for an offense that reflects on the responsibility, integrity, or ability of the lender to participate in the MAP initiative;

(14) Employing or retaining an officer, partner, director, or principal at the time when the person was suspended, debarred, ineligible, or subject to an LDP under 2 CFR part 2424, or otherwise prohibited from participation in HUD programs, when the MAP lender knew or should have known of the prohibition;

(15) Employing or retaining an employee who is not an officer, partner, director, or principal, and who is or will be working on HUD-FHA program matters, at a time when that person was suspended, debarred, ineligible, or subject to an LDP under 2 CFR part 2424, or otherwise prohibited from participation in HUD programs, when the MAP lender knew or should have known of the prohibition;

(16) Failure to cooperate with an audit or investigation by the HUD Office of Inspector General or an inquiry

Office of Assistant Secretary for Housing, HUD

§200.1535

by HUD into the conduct of the MAP lender's FHA-insured loans; and

(17) Failure to fund MAP mortgage loans or any misuse of mortgage loan proceeds.

[70 FR 43242, July 26, 2005, as amended at 72 FR 73494, Dec. 27, 2007]

§200.1535 MAP Lender Review Board.

(a) *Authority—(1) Sanctions.* The MAP Lender Review Board (or Board) is authorized to impose appropriate sanctions on a MAP lender after:

(i) Conducting an impartial review of all information and documentation submitted to the Board; and

(ii) Making factual determinations that there has been a violation of MAP requirements.

(2) *Settlement agreements.* The Board is authorized to approve settlement agreements in accordance with §200.1525 of any matter pending before the Board.

(3) *Extensions.* The Board is authorized to extend, on its own initiative or for good cause at the written request of a MAP lender, any time limit otherwise applicable under this section. Notice of any such extension shall be timely provided to a MAP lender.

(b) *Notice of violation.* Before the Board reviews a matter for consideration of a sanction, the Board's Chairman will issue written notice of violation to the MAP lender's contact person as listed on the Multifamily MAP Web site. The notice is sent by overnight delivery and must be signed for by an employee of the MAP lender upon receipt. The notice:

(1) Informs the lender that the Board is considering a specific violation;

(2) States the specific facts alleged concerning the violation, with citation to the HUD requirements that have been violated;

(3) Includes as attachments copies of all documents evidencing the violation and upon which the Board will rely in reaching a decision;

(4) Provides the lender with the opportunity to request in writing, within 15 business days after the date of the issuance of the notice, to:

(i) Meet for an informal conference with the Board in person or by video conference using HUD facilities at

Headquarters or one of HUD's field offices; and

(ii) Present written evidence and any other relevant information at the conference;

(5) Requires a written response to be submitted to the Board by a date specified within the notice;

(6) Provides the street address, email address, or facsimile (FAX) number for purposes of receiving the lender's request for an informal conference and written response; and

(7) Is made part of the administrative record of the Board's decision of the matter.

(c) *Response to notice.* (1) The MAP lender's written response required by the notice of violation may not exceed 15 double-spaced typewritten pages and must include an executive summary, a statement of the facts, an argument, and a conclusion. The response and supporting documentation must be submitted in triplicate.

(2) Failure to respond by the dates specified within the notice may result in a determination by the Board without conducting an informal conference with the MAP lender and without consideration of any written response submitted by the MAP lender.

(d) *Informal conference.* (1) The Board will schedule an informal conference and notify the lender of the time and place of the conference, if one is requested.

(2) At the conference, the Board will meet with the lender or its designees and HUD staff to review documentary evidence and presentations by both sides.

(3) Oral statements made at the informal meeting will not be considered as part of the administrative record of the Board's determination, except:

(i) The Board may note for the record and consider voluntary admissions, made by the lender or a representative of the lender, of any element of the violation charged;

(ii) Statements substantiated by any additional documents or evidence submitted in accordance with paragraphs (e)(1) or (e)(3) of this section; and

(iii) Transcripts prepared and submitted in accordance with paragraph (e)(2) of this section.

§ 200.1540

(e) *Post-conference submissions.* (1) Any additional documents, evidence, or written arguments relevant to the notice of violation and the informal conference that the lender or HUD staff wish to present to the Board, must be presented within five business days after date of the informal conference.

(2) No transcript of the informal conference will be made, unless the lender elects to have a transcript made by a certified court reporter at its own expense. If the lender elects to have a transcript made, the lender must provide three copies of the transcript to HUD within five business days after the date of the informal conference. The transcript will not become a part of the administrative record of the Board's decision unless it is submitted within the required five-day period frame.

(3) Following the receipt of any post-conference submissions, the Board may request or permit additional documents or evidence to be submitted within a period set by the Board for inclusion in the administrative record.

(f) *Board action.* (1) The Board will confer to consider the evidence included in the administrative record and make a final decision concerning the matter. Any record of confidential communications between and among Board members at this stage of the proceedings is privileged from disclosure and will not be regarded as a part of the administrative record of any matter.

(2) In determining what action is appropriate concerning the matter, the Board considers, among other factors:

- (i) The seriousness and the extent of the violation;
- (ii) Any history of prior offenses;
- (iii) Deterrence of future violations;
- (iv) Any inappropriate benefits received by the MAP lender;
- (v) Potential inappropriate benefit to other persons; and
- (vi) Any mitigating factors.

(3) Board decisions will be determined by majority vote.

(g) *Notice of action.* (1) The Board will issue its final decision within 10 business days after the date of the informal conference or the expiration of any period allowed for the submission of doc-

24 CFR Ch. II (4-1-23 Edition)

uments and evidence, whichever is later.

(2) The Board will notify the MAP lender of its final decision by overnight delivery of a written notice of the final decision to the MAP lender's contact person as listed on the Multifamily MAP Web site. The Board will also notify HUD field offices of its final decision.

(3) The final decision finds that a violation either does, or does not, exist. If a violation is found to exist, the final decision:

- (i) States the violation and any factual findings of the Board;
- (ii) States the nature and duration of the sanction;
- (iii) Informs the MAP lender of its right to an appeal conference and identifies the appeals official to be contacted; and
- (iv) May add to or modify the violation as stated in the initial notice of violation.

§ 200.1540 Imminent harm notice of action.

The Board may issue an imminent harm notice of action to terminate a MAP lender, or to place a MAP lender on probation or suspension without advance notice to the MAP lender in those instances where the Board determines there exists a need to protect the financial interest of HUD from imminent harm. In all such instances, the Board shall notify the lender of the Board's decision promptly and give the reasons for the decision in accordance with § 200.1535(g)(2) and (3). The lender shall have the right to submit materials to the Board and to appear before the Board to seek prompt reconsideration of the Board's decision in accordance with the procedures of § 200.1535.

§ 200.1545 Appeals of MAP Lender Review Board decisions.

(a) *Request for appeal.* Whenever the Board imposes a sanction of probation, suspension, or termination against a MAP lender, the lender may request, in writing, an appeal conference before the appeals official. The MAP lender must deliver the written request for an appeal to the appeals official within 10 business days after the date noted on the notice of action or the right to an

appeal is deemed waived. Participation in the appeal process under this section is not a prerequisite to filing an action for judicial review under the Administrative Procedure Act.

(b) *Appeals Official.* The appeals official must be an individual who has not been previously involved with the proceedings or settlement discussions at issue.

(c) *Notice of action in effect.* The notice of action issued by the Board remains in effect while the appeal is pending.

(d) *Scheduling of appeal.* (1) Upon receipt of the request for an appeal, the appeals official will promptly notify the MAP lender of the time and place of the appeal conference. The appeal conference will be held within 10 business days after receipt of the MAP lender's appeal request, except as provided in paragraph (d)(2) of this section.

(2) A MAP lender may request, and the appeals official may agree, to have an appeal conference held more than 10, but not more than 30 business days after the date of the lender's request for an appeal.

(e) *Scope of appeal.* The appeals official may consider information included in the administrative record and any new information presented at the appeal conference that is substantiated in accordance with paragraph (f) of this section. In addition, the appeals official may consider voluntary admissions by the lender or a representative of the lender of any element of the violation charged.

(f) *Additional documents—(1) Transcript.* No transcript of the appeal conference will be made, unless the MAP lender elects to have a transcript made by a certified court reporter at its own expense. If the lender elects to have a transcript made, it must provide three copies of the transcript to the appeals official within five business days after the date of the appeal conference.

(2) *Other documents.* Any additional, relevant documents or written arguments that the MAP lender wishes to present to the appeals official must be presented within five business days after the date of the appeal conference.

(g) *Determination of appeal.* Within 10 business days after the date of the ap-

peal conference or the expiration of the period allowed for the submission of documents and written arguments, whichever is later, the appeals official will make a written determination to confirm, modify, or overturn the Board's decision and notice of action. If the appeals official overturns the Board's decision, the lender shall immediately return to an active status as a MAP lender and the written determination to overturn will be posted on HUD's MAP Web site.

APPENDIX A TO PART 200—STANDARDS INCORPORATED BY REFERENCE IN THE MINIMUM PROPERTY STANDARDS FOR HOUSING (HUD HANDBOOK 4910.1)

The following publications are incorporated by reference in the HUD Minimum Property Standards (MPS) in 24 CFR part 200. The MPS are available for public inspection and can be obtained for appropriate use at 490 L'Enfant Plaza East, Suite 3214, or at each HUD Regional, Area, and Service Office. Copies are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html>. The individual standards referenced in the MPS are available at the address contained in the following table. They are also available for public inspection at the HUD, Manufactured Housing and Construction Standards Division, Suite 3214, 490 L'Enfant Plaza East, Washington, DC 20024.

Air Conditioning Contractors of America
1513 16th Street, NW., Washington, DC
20036, (202) 483-9370.

Load Calculation for Residential Winter
and Summer Air Conditioning, Manual J
1986

Aluminum Association, 900 19th Street, NW.,
Washington, DC 20006, Telephone (202)
862-5100.

AA-ASM 35-80 Specifications for Alu-
minum Sheet Metal Work in Building
Construction

American Architectural Manufacturers Asso-
ciation, 1540 East Dundee Road, Palatine,
IL 60067, Telephone (708) 202-1350.

AAMA-800-92 Voluntary Specifications and
Test Methods for Sealants

AAMA-1503.1-88 Voluntary Test Method for
Thermal Transmittance and Condensa-
tion Resistance of Windows, Doors and
Glazed Wall Sections

AAMA 1504-88 Voluntary Standards for
Thermal Performance of Windows, Doors
and Glazed Wall Sections

Pt. 200, App. A

American Concrete Institute, P. O. Box 19150, Redford Station, Detroit, Michigan 48219, Telephone (313) 532-2600.

ACI 211.1-89 Standard Practice for Selecting Proportions for Normal, Heavyweight and Mass Concrete

ACI 211.2-91 Standard Practice for Selecting Proportions for Structural Lightweight Concrete

ACI 213R-87 Guide for Structural Lightweight Aggregate Concrete

ACI 301-89 Specifications for Structural Concrete for Buildings

ACI 302.1R-80 Guide for Concrete Floor and Slab Construction

ACI 304R-89 Guide for Measuring, Mixing, Transporting and Placing Concrete

ACI 305R-77 Hot Weather Concreting (Revised 1989)

ACI 306R-78 Cold Weather Concreting (Revised 1988)

ACI 311.4R-80 Guide for Concrete Inspection (Revised 1988)

ACI 315-80 Guide for Detailing of Concrete Reinforcement

ACI 318-89 Building Code Requirements for Reinforced Structural Plain Concrete (Revised 1992)

ACI 322-72 Structural Plain Concrete

ACI 347-78 Recommended Practice for Concrete Formwork (Reapproved 1984)

ACI 504R-77 Guide to Joint Sealants for Concrete Structures

ACI 506-90 Recommended Practice for Shotcreting

ACI 515.1R-79 A Guide to the Use of Waterproofing, Dampproofing, Protective and Decorative Barrier Systems for Concrete (Revised 1985)

ACI 533.1R-69 Quality Standards and Tests for Precast Concrete Wall Panels

ACI 533.2R-69 Selection and Use of Materials for Precast Concrete Wall Panels

ACI 533.3R-70 Fabrication, Handling and Erection of Precast Concrete Wall Panels

American Forest & Paper Association, (formerly National Forest Products Association), 1250 Connecticut Ave., NW., Washington, DC 20036. National Design Specification for Wood Construction—1991.

American National Standards Institute, 11 West 42nd Street, New York, NY 10036, Telephone (212) 642-4900.

ANSI A108.1A-92 Specifications for Installation of Ceramic Tile, in the Wet Set Method with Portland Cement Mortar

ANSI A137.1-1988 Specifications for Ceramic Tile

ANSI/BHMA A156.2-1989 Standard for Bored and Preassembled Locks and Latches

ANSI/NKCA A161.1-1985 Recommended Performance and Construction Standards for Kitchen and Vanity Cabinets (Approved March 18, 1986)

ANSI A208.1-1989 Wood Particleboard

24 CFR Ch. II (4-1-23 Edition)

ANSI/AAMA 101-1988 Voluntary Specifications for Aluminum Prime Windows and Sliding Glass Doors

ANSI/AAMA 1002.10-1983 Voluntary Specifications for Aluminum Insulating Storm Products for Windows and Sliding Glass Doors

ANSI/AAMA 1102.7-1989 Voluntary Specifications for Aluminum Storm Doors

ANSI/AAMA 1402-1986 Standard Specifications for Aluminum Siding, Soffit and Fascia (ANSI Approved 1989)

ANSI/ACI 214-77 Recommended Practice for Evaluation of Strength Test Results of Concrete (Reapproved 1983)

ANSI/AHA A135.4-1982 Basic Hardboard (Reaffirmed 1988)

ANSI/AHA A135.6-1990 Hardboard Siding

ANSI/AHA A194.1-1985 Cellulosic Fiber Board

ANSI/APA 1-1984 Mosaic-Parquet Hardboard Slat Flooring

ANSI/NSPI-1-91 Standard for Public Swimming Pools

ANSI Z34.1-1987 American National Standard for Certification, Third-Party Certification Program

ANSI Z124.5-1989 American National Standard for Plastic Toilet Seats (Water Closet Seats)

American Society of Civil Engineers, 345 East 47th Street, New York, NY 10017.

ASCE 7-88 Minimum Design Loads for Buildings and Other Structures (Formerly ANSI A58.1)

American Society of Mechanical Engineers, 345 E 47th Street, New York, NY 10017.

ASME/ANSI A17.1-87 Safety Code for Elevators and Escalators Including the A17.1b-89 Addenda

ASME A 112.18.1M89 Plumbing Fixture Fittings

American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, Telephone (215) 299-5400.

ASTM C 12-91 Standard Practice for Installing Vitrified Clay Pipe Lines

ASTM C 208-72 Insulating Board (Cellulosic Fiber), Structural and Decorative (Reapproved 1982)

ASTM C 209-84 Standard Methods of Testing Insulating Board (Cellulosic Fiber), Structural and Decorative

ASTM C 216-91c Standard Specification for Facing Brick (Solid Masonry Units Made from Clay or Shale)

ASTM C 220-91 Standard Specification for Flat Asbestos-Cement Sheets

ASTM C 221-91 Standard Specification for Corrugated Asbestos-Cement Sheets

ASTM C 223-91 Standard Specification for Asbestos-Cement Siding

ASTM C 509-91 Standard Specification for Elastomeric Cellular Preformed Gasket and Sealing Material

- ASTM C 516-80 Standard Specification for Vermiculite Loose Fill Thermal Insulation (Reapproved 1985)
- ASTM C 549-81 Standard Specification for Perlite Loose Fill Insulation (Reapproved 1986)
- ASTM C 578-92 Standard Specification for Rigid, Cellular Polystyrene Thermal Insulation
- ASTM C 640-83 Standard Specification for Insulation Board, Thermal (Cork)
- ASTM C 726-88 Standard Specification for Mineral Fiber and Roof Insulation Board
- ASTM C 739-91 Standard Specification for Cellulosic Fiber (Wood-Based) Loose-Fill Thermal Insulation
- ASTM C 754-88 Standard Specification for Installation of Steel Framing Members to Receive Screw-Attached Gypsum
- ASTM C 834-91 Standard Specification for Latex Sealants
- ASTM C 841-90 Standard Specification for Installation of Interior Lathing and Furring
- ASTM C 842-85 Standard Specification for Application of Interior Gypsum Plaster (Reapproved 1990)
- ASTM C 843-92 Standard Specification for Application of Gypsum Veneer Plaster
- ASTM C 844-85 Standard Specification for Application of Gypsum Base to Receive Gypsum Veneer Plaster
- ASTM C 846-76 Standard Practice for Application of Structural Insulating Board (Fiberboard) Sheathing (Reapproved 1982)
- ASTM C 864-90 Standard Specification for Dense Elastomeric Compression Seal Gaskets, Setting Blocks and Spacers.
- ASTM C 926-90 Standard Specification for Application of Portland Cement-Based Plaster
- ASTM C 1036-91 Standard Specification for Flat Glass
- ASTM D 1037-89 Standard Test Methods for Evaluating the Properties of Wood-Base Fiber and Particle Panel Materials
- ASTM C 1048-91 Standard Specification for Heat-Treated Flat Glass-Kind HS, Kind FT Coated and Uncoated Glass
- ASTM D 1557-91 Test Method for Laboratory Compaction Characteristics of Soil Using the Modified Method (56,000 ft-lbf/ft³ (2,700 kN-m/m³))
- ASTM D 2316-75 Standard Recommended Practice for Installing Bituminized Fiber Drain and Sewer Pipe (Reapproved 1984)
- ASTM D 2321-89 Standard Practice for Underground Installation of Thermoplastic Pipe for Sewers and Other Gravity-Flow Applications
- ASTM D 3656-89 Standard Specifications for Insect Screening and Louver Cloth Woven From Vinyl-Coated Glass Yarns
- ASTM D 3679-92 Standard Specification for Rigid Poly (Vinyl Chloride) (PVC) Siding
- ASTM E 72-80 Standard Methods of Conducting Strength Tests of Panels for Building Construction
- ASTM E 283-91 Standard Test Method for Determining the Rate of Air Leakage Through Exterior Windows, Curtain Walls, and Doors Under Specified Pressure Differences Across the Spectrum
- ASTM E 330-90 Standard Test Method for Structural Performance of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference
- ASTM E 331-86 Standard Test Method for Water Penetration of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference
- ASTM E 380-91a Standard Practices for Use of the International Systems of Units (SI) (the Modernized Metric System)
- American Society of Heating, Refrigerating and Air Conditioning Engineers, 1791 Tullie Circle, NE, Atlanta, GA 30329.
- ASHRAE Handbook—Fundamentals—1989. ASHRAE Cooling and Heating Load Calculation Manual—GRP 158 1979.
- ASHRAE Handbook—Equipment—1988.
- ASHRAE Handbook—HVAC Systems and Applications—1987.
- American Welding Society, 550 NW Le Jeune Road, P. O. Box 351040, Miami, FL 33126, Telephone (305) 443-9353. ANSI/AWS D1.1-90 Structural Welding Code—Steel. ANSI/AWS D1.4-79 Structural Welding Code—Reinforcing Steel.
- The Asphalt Institute, Asphalt Institute Building, College Park, MD 20740 Telephone (301) 277-4258.
- MSI-1-81 Thickness Design—Asphalt Pavements for Highways and Streets
- Asphalt Roofing Manufacturers Association, 6288 Montrose Road, Rockville, MD 20852, Telephone (301) 231-9050. Residential Asphalt Roofing Manual—1988.
- Carpet and Rug Institute, 310 Holiday Avenue, Box 2048, Dalton, GA 30722-0048, Telephone (404) 278-3176. How to Specify Commercial Carpet Installation, 1984.
- Council of American Building Officials, Suite 708, 5203 Leesburg Pike, Falls Church, VA 22041, Telephone (703) 931-4533. CABO One and Two Family Dwelling Code 1992 edition with Errata Package and 1993 Amendments. CABO Model Energy Code 1992 edition CABO/ANSI A117.1-92 Accessible and Usable Buildings and Facilities.
- Department of Agriculture, Publications Division, 14th and Independence Avenue, SW., Washington, DC 20050, Telephone (202) 447-3957.
- Agriculture Handbook No. 73, Wood Frame House Construction
- Home and Garden Bulletin No. 64. Subterranean Termites—Their Prevention and Control in Buildings, October 1983
- Home and Garden Bulletin No. 73, Wood Decay in Houses, How to Prevent and Control It, May 1986

Pt. 200, App. A

24 CFR Ch. II (4-1-23 Edition)

Department of Commerce, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, Telephone (301) 975-4025. PS 1-83 Product Standard for Construction and Industrial Plywood with Typical APA Trademarks. PS 2-92 Performance Standard for Wood-Based Structural-Use Panels.

Commercial Standards:

CS 138-55 Insect Wire Screening
CS 242-62 1 3/4" Steel Doors & Frames

Department of Defense, Naval Publication and Forms Center, 5801 Taber Road, Philadelphia, PA 19120, Telephone (215) 697-2179.

Federal Specifications:

L-S-125B Screening, Insect, Non-metallic
February 3, 1972

L-F-001641 Floor Covering Translucent or Transparent Vinyl Surface with Backing—1971 and Amendment 2—September 24, 1982

L-F-00450A Flooring, Vinyl Plastic (GSAFSS)—1970 and Amendment 1, August 5, 1975

L-F-475A Floor Covering Vinyl, Surface Tile and Roll, with Backing including Amendment 2—February 9, 1971

HH-I-521F Insulation Blankets, Thermal (Mineral Fiber—for Ambient Temperatures—1980)

HH-I-526C Insulation Board, Thermal (Mineral Fiber)—1968

HH-I-529B Insulation Board, Thermal (Mineral Aggregate)—1971

HH-I-530B Insulation Board, Thermal, Unfaced, Polyurethane or Polyisocyanurate and Interim I—1982

HH-I-551E Insulation Block and Boards, Thermal (Cellular Glass) Fiber, for Ambient Temperatures, 1974

HH-I-558B Insulation Blocks, Boards, Blankets, Felts Sleaving (Pipe and Tube Covering), and Pipe Fitting Covering, Thermal (Mineral Fiber, Insulation Type) and Amendment 3—1976

HH-I-574B Insulation, Thermal (Perlite) and Interim Amendment—1976

HH-I-585C Insulation, Thermal (Vermiculite) and Interim Amendment 1—1976

HH-I-1030B Insulation, Thermal (Mineral Fiber, for Pneumatic or Poured Application)—1980

HH-I-1252B Insulation, Thermal Reflective, (Aluminum Foil) and Interim Amendment 1—1976

HH-I-1972 Insulation Board, Thermal, Faced, Gen; 1, 2, 3, Polyurethane and Polyisocyanurate and 4, 5 & 6 Amendments—1985

LLL-I-535B Insulation Board, Thermal, Cellulosic Fiber, 1977

SS-S-346C Siding (Shingles, Clapboards, and Sheets) 1968

SS-T-312B Tile, Floor: Asphalt, Rubber, Vinyl-Composition and Interim Amendment—1979

Department of Housing and Urban Development, 451 Seventh Street, SW., Mail Room B-133, Washington, DC 20410, Telephone (202) 755-7440.

Handbooks:

4940.2-1973 Minimum Design Standards for Community Water Supply Systems

4940.3-1992 Minimum Design Standards for Community Sewerage Systems (Rev. 1-92)

4950.1-1988 Technical Suitability of Products Program, Technical and Processing Procedures (Rev. 2 which includes revisions and changes through October 24, 1991)

4930.2-1989 HUD Intermediate MPS Supplement, Solar Heating & Domestic Hot Water Systems

Use of Materials Bulletins:

25d Power Driven, Mechanically Driven and Manually Driven Fasteners—9/5/73

38h Grademarking of Lumber—7/31/79

44c HUD/FHA Standard for Carpet and Carpet Certification Program—2/22/78 (Plus Addendum 1 & 2)

48 Labels of Independent Programs for Certifying Pressure-Treated Lumber and Plywood (Plus 5 Supplements—11/15/67)

52a Quality Certification and Labeling for Wood Flush Doors—10/7/75)

58a Acrylic Plastic Sheets for Glazing—9/2/75

60 Field Glued Plywood & Wood Frame Structural Floor Systems—12/9/70

62a Factory-Applied Laminated Roofing Systems Based on Chlorosulfonated Polyethylene (CPSE)—11/16/72

65 Controlled Density Cellular Concrete Floor Fill—10/11/73

67 Polycarbonate Plastic Sheets for Glazing—9/3/75

70a Particleboard Interior Stair Treads and Certification Program—5/19/82

71 Polystyrene Foam Insulation Sheathing Board—1/10/77

72 HUD Standard for Carpet Cushion—2/6/80

76 Chlorinated Poly (Vinyl Chloride) CPVC and Polybutylene (PB) Hot and Cold Water Distribution—4/25/78

77a Cast Iron Sanitary Drainage System with Hubless Pipe and Fittings—3/28/80

78 Polyethylene (PE), Acrylonitrile-Butadiene-Styrene (ABS), Poly Vinyl Chloride (PVC) and Polybutylene (PB) Plastic Piping for Domestic Cold Water Service—4/25/78

79a Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings—3/7/82

80 Spray Applied Cellulosic Thermal Insulation—10/31/79

101 HUD Building Product Standards and Certification Program for Exterior Wall

- Insulation and Finish Systems, July 26, 1993
- Environmental Protection Agency, Office of Drinking Water, 401 M Street, SW., Washington, DC 20460, Telephone (202) 382-5533.
- EPA 570/9-82-004 Manual of Individual Water Supply (NTIS-PB 85242279) Systems (October 1982)
- Flat Glass Marketing Association, White Lakes Professional, Building 3310 Harrison Street, Topeka, KS 66611, Telephone (913) 266-7013. FGMA Glazing Manual—1986. FGMA Sealant Manual—1990.
- Hardwood Plywood Manufacturers Association, P.O. Box 2789, 1825 Michael Faraday Drive, Reston, VA 22090, Telephone (703) 435-2900. ANSI/HPMA LHF-1987 Laminated Hardwood Flooring.
- Insect Screening Weavers Assn., 2000 Maple Hill Street, P.O. Box 309, Yorktown Heights, NY 10598. IWS-089 Insect Wire Screening (Wire Fabric).
- National Academy of Sciences, 2101 Constitution Avenue, NW., Washington, DC 20418. Publication 1571 Criteria for Selection and Design of Residential Slabs-on-Ground, Report #33, Building Research Advisory Board (BRAB), 1968.
- National Association of Home Builders, Research Center, 400 Prince Georges Boulevard, Upper Marlboro, MD 20772, Telephone (301) 249-4000. Insulation Manual, Homes and Apartments—1979.
- National Association of Plumbing-Heating-Cooling Contractors, P.O. Box 6808, Falls Church, VA 22046, Telephone (703) 237-8100. National Standard Plumbing Code—1993.
- National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, Telephone 1-800-344-3555.
- ANSI/NFPA 58-89 Standard for the Storage and Handling of Liquefied Petroleum Gases
- NFPA 54-88 National Fuel Gas Code (ANSI Z223.1-1988) NFPA 70-93 National Electrical Code
- National Institute of Building Sciences, 1201 L Street, NW., Washington, DC 20005. Metric Guide for Federal Construction—1992.
- National Oak Flooring Manufacturers Association, 22 North Front Street, Memphis, TN 38103. Official Grading Rules, Oak, Beech, Birch, Hard Maple, Pecan (OFGR/ Vol. 1, No. 1/1986 and the 1989 Addendum). Hardwood Flooring Finishing/Refinishing Manual, 1986. Hardwood Flooring Installation Manual, 1986.
- National Roofing Contractors Association, One O'Hare Centre, 6250 River Road, Rosemont, IL 60018, Telephone (708) 318-6722. NRCA Roofing and Waterproofing Manual, 1989.
- National Terrazzo and Mosaic Association, 3166 Des Plaines Avenue, Suite 132, Des Plaines, IL 60018, Telephone (708) 635-7744. NTMA Specifications, Details and Technical Data, "Terrazzo Ideas & Design Guide", 1990.
- National Wood Window and Door Association, 205 West Touhy Avenue, Park Ridge, IL 60018, Telephone (708) 299-5200.
- ANSI/NWWDA IS 1-87 Industry Standard for Wood Flush Doors
- ANSI/NWWDA IS 2-87 Industry Standard for Wood Windows
- NWWDA IS 3-88 Industry Standard for Wood Sliding Patio Doors
- ANSI/NWWDA IS 6-86 Industry Standard for Wood Stile and Rail Doors
- Post-tensioning Institute, 301 West Osborn, Suite 3500, Phoenix, AZ 85013, Telephone (602) 870-7540. Design and Construction of Post-tensioned Slabs-on-Ground—1980.
- Prestressed Concrete Institute, 175 West Jackson Boulevard, Suite 1859, Chicago, IL 60604, Telephone (312) 786-0353.
- PCI MNL 116 Manual for Quality Control for Plants and Production for Precast Prestressed Concrete Products—1985 PCI MNL 117 Manual for Quality Control for Plants and Production of Architectural Precast Concrete Products—1977
- Resilient Floor Covering Institute, 966 Hungerford Drive, Suite 12-B, Rockville, MD 20850, Telephone (301) 340-8580. Recommended Installation Specifications for Vinyl Composition, Solid Vinyl and Asphalt Tile Floorings, 1987.
- Safety Glazing Certification Council, c/o ETL Testing Laboratories, Industrial Park, Route 11, Cortland, New York 13045, Telephone (607) 753-6711. Certified Products Directory—1990.
- Southern California Association of Cabinet Manufacturers, 1933 South Broadway, L. 39, Los Angeles, CA 90007, Telephone (213) 749-4355. Certified Construction Standards and Specifications, Guide for Uniform Cabinet Specifications—1973 (Revised 1985).
- Steel Door Institute, 30200 Detroit Road, Cleveland, OH 44145, Telephone (216) 899-0010. ANSI/SDI A123.1-82 Nomenclature for Steel Doors and Steel Door Frames.
- Tile Council of America, Inc., Box 326, Princeton, NJ 08542-0326, Telephone (609) 921-7050. Handbook for Ceramic Tile Installation—1993.
- Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062, Telephone (708) 272-8800. Electrical Appliance and Utilization Equipment Directory, 1992.
- Water Quality Association, 4151 Naperville Road, Lisle, IL 60532. Telephone (708) 396-1600.
- WQA S-100 Household Commercial and Portable Exchange Water Softeners—1985
- WQA S-200 Household and Commercial Water Filters—1988

Pt. 200, App. A

24 CFR Ch. II (4–1–23 Edition)

WQA S-300 Point-of-Use, Low Pressure Reverse Osmosis Drinking Water Systems—1984

WQA S-400 Point-of-Use Distillation Drinking Water Systems—1986

Wood Moulding and Millwork Producers, P.O. Box 25278, Portland, OR 97225, Telephone (503) 292-9288.

WM 3-79 Exterior Wood Door Frames

[58 FR 60250, Nov. 15, 1993]