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- AUTHORITY: 12 U.S.C. 1701-1715z-18; 42 U.S.C. 3535(d).
- SOURCE: 36 FR 24467, Dec. 22, 1971, unless otherwise noted.
- § 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

§ 200.3

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**

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

**§ 200.3 Definitions.**

(a) The definitions “*Department*”, “*Elderly person*”, “*HUD*”, and “*Secretary*”, as used in this subpart A shall have the meanings given these definitions 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 amended, 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.

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ELIGIBLE MORTGAGOR

**§ 200.5 Eligible mortgagor.**

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.

**§ 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 24 CFR part 202 regarding approval, recertification, withdrawal of approval, termination of approval agreement, approval for servicing, report requirements and conditions for supervised mortgagees, nonsupervised mortgagees, investing mortgagees, governmental institutions, national mortgage associations, public housing agencies and State housing agencies, apply to these programs.

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

Requirements set forth in 24 CFR part 44, Non-Federal Governmental Audit Requirements, apply to State and local governments (as defined in 24 CFR part 44) that receive mortgage insurance as mortgagees.

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 110 percent in any geographical area in which the Commissioner finds that cost levels so require; and

(b) By not to exceed 140 percent where the Commissioner determines it necessary on a project-by-project basis.

**§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 insured mortgage may be refinanced pursuant to provisions of section 223(a)(7) of the Act and such terms and conditions established by the Commissioner.

**§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 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, or hospital under section 242 of the Act may be insured pursuant to provisions of section 223(f) of the Act and such terms and conditions established by the Commissioner.

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

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 24 CFR part 24, except subpart F, apply to these programs.

**§ 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.

## 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. For a mortgage being insured under section 242 of the Act (12 U.S.C. 1715z-7), an application fee of \$1.50 per thousand dollars of the amount loaned shall be paid to the

Commissioner at the time the hospital proposal is submitted to the Secretary of Health and Human Services for approval.

(d) *Application fee—firm commitment: General.* (1) Except as provided in paragraph (d)(2) of this section, an application for firm commitment shall be accompanied by an application-commitment fee which, when added to any prior fees received in connection with applications for a SAMA letter or a feasibility letter will aggregate \$5 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—firm commitment: Hospitals.* A firm-commitment fee which, when added to the application fee, shall aggregate \$3 per thousand dollars of the amount of the loan set forth in the firm commitment shall be paid within 30 days after the date of the commitment. If the payment of a commitment fee is not received by the Commissioner within 30 days after the date of issuance of the commitment, the commitment shall expire on the 30th day.

(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 Commis-

sioner 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—(1) In general.* Paragraph (f)(1) of this section applies to all applications except applications involving hospitals.

(i) *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 which 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.

(ii) *Increase in mortgage between initial and final endorsement.* Upon an application, filed 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 which 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.

(iii) *Loan to cover operating losses.* In connection with a loan to cover operating losses (see § 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.

(2) *Hospitals.* Paragraph (f)(2) of this section applies to applications in connection with a mortgage to be insured under section 242 of the Act.

(i) *Increase in commitment prior to endorsement.* Upon an application, filed prior to initial endorsement (or prior to endorsement in a case involving insurance upon completion), for an increase in the amount of an outstanding commitment, an additional application fee of \$1.50 per thousand dollars computed on the amount of the increase requested shall accompany the application. Any increase in the amount of a commitment shall be subject to the payment of an additional commitment fee which, when added to the additional application fee, will aggregate \$3 per thousand dollars of the amount of the increase. The additional commitment fee shall be paid within 30 days after the date of the amended commitment. If the additional commitment fee is not paid within 30 days, the commitment for the increased amount will expire and the previous commitment will be reinstated. If an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount not to exceed \$5 per thousand dollars of the amount of increase in commitment. Where insurance of advances is involved, the additional inspection fee shall be paid at the time of initial endorsement. Where insurance upon completion is involved, the additional inspection fee shall be paid prior to the date construction is begun or within 30 days after the date of the issuance of the amended commitment, if construction has begun.

(ii) *Increase in mortgage between initial and final endorsement.* Upon an application, filed between initial and final endorsement, for an increase in the amount of the mortgage, either by amendment or by substitution of a new mortgage, an additional application fee of \$1.50 per thousand dollars computed

on the amount of the increase requested shall accompany the application. The approval of any increase in the amount of the mortgage shall be subject to the payment of an additional commitment fee which, when added to the additional application fee, will aggregate \$3 per thousand dollars of the amount of the increase granted. If an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount not to exceed \$5 per thousand dollars of the amount of the increase granted. The additional commitment and inspection fees shall be paid within 30 days after the increase is granted.

(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 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 organizations.

(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.* 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.

[61 FR 14414, Apr. 1, 1996]

**§ 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 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 effec-

tive 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 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.**

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 Com-

missioner 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.

(a) 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;

(b) 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, conditions and standards established by the Commissioner.

**§ 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 off-site 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 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 conforms 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 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.**

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 more than 15 days in arrears to cover the expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

#### 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 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 iden-

tity 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 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, in accordance with terms, conditions and standards established by the Commissioner in any executed Regulatory Agreement or other instrumentality granting the Commissioner supervision of the mortgagor.

**§200.106 Low-income housing tax credits and other program assistance.**

Mortgagors with projects assisted through the Low-Income Housing Tax Credit program or receiving other government assistance (as defined in HUD's regulations implementing the HUD Reform Act) may be regulated by the Commissioner as limited distribution mortgagors.

**Subparts B-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.

[61 FR 14404, Apr. 1, 1996]

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 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 interest 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 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.

**Subparts F-G—[Reserved]**

**Subpart H—Participation and Compliance Requirements**

SOURCE: 45 FR 54199, Aug. 14, 1980, unless otherwise noted.

**PREVIOUS PARTICIPATION REVIEW AND CLEARANCE PROCEDURE**

**§ 200.210 Policy.**

It is the Department's policy that participants in its housing programs be responsible individuals and organizations who will honor their legal, financial and contractual obligations. Accordingly, uniform standards are established in this part for approval, disapproval, or withholding of action on principals in projects based upon their past performance as well as other aspects of their records.

**§ 200.213 Applicability of procedure.**

The Previous Participation Review and Clearance procedure set forth in this part is administered by the Assistant Secretary for Housing-Federal

Housing Commissioner and is applicable to all principals and to their:

(a) Projects already financed or which are proposed to be financed with a mortgage insured under the National Housing Act and projects subject to a mortgage held by the Secretary under that Act or projects acquired by the Secretary under that Act (FHA projects);

(b) Projects financed or to be financed with direct loans or projects acquired by the Secretary pursuant to section 202 of the Housing Act of 1959 (Housing for the Elderly and Handicapped);

(c) Projects in which 20% 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;

(2) Rent Supplement payments under section 101 of the Housing and Urban Development Act of 1965;

(3) Housing assistance payments under section 8 of the United States Housing Act of 1937 (with the exception of the programs described in 24 CFR part 882, subparts A, B, C and F, and in 24 CFR part 887, which are tenant-based programs);

(d) Sales of projects by the Secretary, including "all cash" sales.

[45 FR 54199, Aug. 14, 1980, as amended at 56 FR 50820, Oct. 9, 1991; 59 FR 31522, June 20, 1994]

**§ 200.215 Definitions.**

(a) *Affiliate.* Any person or business concern that directly or indirectly controls policy of a principal or has the power to do so is an affiliate. Persons and business concerns controlled by the same third party are also affiliates.

(b) *Felony.* A felony is any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less.

(c) *Packager or Consultant.* A person or firm that furnishes or proposes to furnish advisory services in connection with the financing or construction of a project and the related HUD requirements. Such services may include, but are not limited to, the selection and

negotiation of contracts with a general contractor, architect, attorney or management agent.

(d) *Participation Control Officer.* (See § 200.224)

(e) *Principal.* (1) An individual, joint venture, partnership, corporation, trust, nonprofit association, or any other public or private entity proposing to participate, or participating, in a project as sponsor, owner, prime contractor, Turnkey Developer, management agent, nursing home administrator or operator, packager, or consultant; and architects and attorneys who have any interest in the project other than an arms-length fee arrangement for professional services.

(2) The term principal also includes: (i) Any affiliates of a principal; (ii) if the principal is a partnership, all general partners, and each limited partner having a 25 percent or more interest in the partnership; (iii) if the principal is a public or private corporation or governmental entity; the President, Vice-President, Secretary and Treasurer and any other executive officers who are directly responsible to the Board of Directors, or the equivalent thereof; all the directors; and each stockholder having a 10 percent or more interest.

(3) Specifically excepted from this definition of a principal are: (i) Parties whose sole interest is that of purchaser or owner of less than five individual unit(s) in the same condominium or cooperative development; (ii) parties whose sole interest is that of a tenant; and (iii) Public Housing Agencies.

(f) *Project.* A project is: (1) Five or more residential units covered by a single mortgage, loan or contract of assistance; (2) a hospital, group practice facility or nursing home; (3) cooperative and condominium developments; and (4) a subdivision being developed and financed with a mortgage under title X of the National Housing Act.

(g) *Review Committee.* (See §§ 200.224 and 200.93).

(h) *Risk.* In order to determine whether a participant's participation in a project would constitute an unacceptable risk, the following factors must be considered: Financial stability; previous performance in accordance with HUD statutes, regulations, and program requirements; general business

practices; or other factors which indicate to the MPRC that the principal could not be expected to operate the project in a manner consistent with furthering the Department's purpose of supporting and providing decent, safe and affordable housing for the public.

[45 FR 54199, Aug. 14, 1980, as amended at 56 FR 50820, Oct. 9, 1991]

**§ 200.217 Filing of previous participation certificate on prescribed form.**

(a) A previous participation certificate on a form prescribed by the Assistant Secretary of Housing-Federal Housing Commissioner shall be completed by every principal in each of the following transactions and shall be filed with HUD at the times specified herein:

(1) Projects to be financed with mortgages insured under the National Housing Act (FHA)—With an Application for a Site Appraisal and Market Analysis Letter, Feasibility Letter, Conditional Commitment for Mortgage Insurance, or Firm Commitment for Mortgage Insurance, whichever Application is first filed;

(2) Projects to be financed pursuant to section 202 of the Housing Act of 1959 (Elderly and Handicapped)—With the Application for a Fund Reservation;

(3) Projects in which 20% or more of the units are to receive a subsidy as described under § 200.213(c)—With the first request for a reservation of funds for assistance payments;

(4) Purchase of a project subject to a mortgage insured or held by the Secretary—With the Application for Transfer of Physical Assets;

(5) Purchase of a Secretary-owned project—With the Bid to Purchase;

(6) Proposed substitution or addition of a principal, such as management agents or partners or proposed participation in a different capacity from that previously approved for the same project—Prior to the date that the proposed action or transfer is to become final; and

(7) Proposed acquisition by existing limited partner or stockholder of additional interest resulting in a total interest of at least 25 percent or 10 percent, respectively—Prior to the proposed acquisition.

(b) Certificates are not required for interests acquired by inheritance or by Court decree.

[45 FR 54199, Aug. 14, 1980, as amended at 59 FR 31522, June 20, 1994]

**§ 200.218 Who must certify and sign.**

All principals must certify and sign the certificate personally as to their individual record and are responsible for its timely filing with the HUD Area Office in whose jurisdiction the project or proposal is located except:

(a) When a corporation is a principal all its officers, directors and principal stockholders need not individually sign, certify nor file the certificate when they all have the same record. When their previous participation records are the same the officer authorized to sign for the corporation will list on the certificate the full names for all such principals connected with the corporation who do not elect to sign. Those principals who have a separate participation record outside that of their corporation must certify, sign and file. The objective is full disclosure.

(b) The Participation Control Officer is authorized to waive the requirement for signatures for good cause in cases where he finds that adequate provision has been made for full disclosure, and the signature is thereafter provided.

**§ 200.219 Content of certification.**

(a) Each principal who executes the certificate certifies that:

(1) The certificate contains a listing of every assisted or insured project of HUD, Farmers Home Administration and State or local government housing finance agencies in which the principal has been or is now a principal;

(2) For a period beginning 10 years prior to the date of the certificate under review and except as shown on the certificate:

(i) No mortgage on a project listed has ever been in default nor has mortgage relief been given;

(ii) There have been no defaults or noncompliances under any conventional construction contract or Turn-key contract of sale in connection with a public housing project;

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(iii) There are no known unresolved findings raised as a result of HUD audits, management reviews or other governmental investigations;

(iv) There has been no suspension or termination of payments under any HUD assistance contract attributable to the fault or negligence of principal;

(v) The principal has not been convicted of a felony (See definitions §200.215(b)) and is not presently the subject of a complaint or indictment charging a felony;

(vi) The principal has not been suspended, debarred, or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency;

(vii) The principal has not defaulted on an obligation covered by a surety or performance bond, and has not been the subject of a Claim under an employee fidelity bond;

(3) The principal has listed all parties who are known to him to be principals under §200.215(e)(2);

(4) The principal is not a HUD employee or a member of an employee's immediate household as defined by HUD's Standards of Conduct in 24 CFR 0.735–205(c);

(5) Except as shown on the certificate under review, the principal is not a participant: (i) In a HUD assisted or insured project on which construction, as of the date of said certificate, has stopped for a period in excess of twenty days or; (ii) in an insured project on which construction, as of the date of said certificate, has been substantially completed for more than 90 days and documents for closing, including cost certification, have not been filed with HUD;

(b) The project owner shall certify that he has also listed all other parties who are principals under §200.215(e)(1).

(c) If a principal cannot certify as to any items under paragraphs (a) and (b) of this section, such items may be deleted from the face of the certificate and a full explanation of the reason for the deletion, signed by the principal, may be attached to the certificate for HUD's review, evaluation and determination.

(d) Each principal who executes the certificate must also certify that said

principal is not a Member of Congress or a Resident Commissioner.

**§200.222 Certification of previous record on basis of a master list.**

A principal may avoid repetitious listings by providing HUD with a complete master list, acceptable to the Participation Control Officer, of all projects in which the principal has participated. Where such a list has been provided, the principal may submit a certificate which refers to the master list and which supplements it by the addition of all information required under §200.219 with respect to occurrences since the date of the master list (including subsequent occurrences with respect to the projects on the master list as well as subsequent projects). Partners, corporate officers, directors and stockholders may likewise refer to and thereby incorporate their firm's master list when they certify.

**§200.224 Multifamily Participation Review Committee and Participation Control Officer.**

The membership and authority of the Multifamily Participation Review Committee (hereinafter referred to as the Review Committee) are set forth in §200.227. A majority of the members of the Review Committee shall constitute a quorum. The Executive Secretary of the Review Committee shall be the Participation Control Officer under this part and shall serve under the administrative supervision of the Director of the Participation and Compliance Division, who acts as Participation Control Officer in his absence.

[45 FR 54199, Aug. 14, 1980, as amended at 61 FR 7944, Feb. 29, 1996]

**§200.225 Approvals by Area Managers for limited partners.**

The Area Manager of the HUD Area Office where the certificate is filed is authorized to review the certificate and approve for participation limited partner principals: *Provided*, That they have no previous record of participation or their only participation in previous projects covered by these regulations has been as a limited partner. All other certificates must be forwarded to the Participation Control Officer.

**§ 200.226 Determination by the Participation Control Officer.**

(a) The Participation Control Officer is authorized to:

(1) Approve a principal when a review of the previous participation certificate and other available information reveals that there are no grounds to withhold approval or disapprove under the standards in § 200.229 or § 200.230, respectively;

(2) Disapprove a principal who; (i) is suspended or debarred or otherwise restricted under 24 CFR part 24; or (ii) has been disapproved for participation no more than 12 months prior to the filing of the certificate under review, unless the principal has requested reconsideration of the disapproval;

(3) Refer all other cases to the Review Committee, together with all available information and documents and a recommendation of the action to be taken.

**§ 200.227 Multifamily Participation Review Committee.**

(a) *Members.* (1) The Director, Office of Lender Activities and Land Sales Registration serves as Chairman and does not vote. The Committee is composed of the following voting members or their designees representing the Assistant Secretary for Housing- Federal Housing Commissioner: the Director of the Office of Insured Multifamily Housing Development; the Director of the Office of the Elderly and Assisted Housing; the Director of the Office of Multifamily Housing Management; the Director of the Office of Multifamily Preservation and Property Disposition; the Director of the Previous Participation and Compliance Division; and a designee of the Director of the Office of Lender Activities and Land Sales Registration.

(2) The Committee also includes, as non-voting members, the General Counsel or his or her designee, who provides legal counsel, and the Participation Control Officer in the Office of Lender Activities and Land Sales Registration. The Participation Control Officer is the Executive Secretary to the Committee and is empowered to issue and sign all notices, orders, letters and directives on behalf of the committee, to keep minutes, and to

perform other duties assigned by the Chairman or directed by the Committee.

(b) *Functions.* The Committee will act for the Assistant Secretary for Housing-Federal Housing Commissioner and for the Assistant Secretary for Public and Indian Housing to determine the acceptability of participants in multifamily proposals under subpart H of this part.

[50 FR 37520, Sept. 16, 1985, as amended at 56 FR 41791, Aug. 23, 1991; 59 FR 31522, June 20, 1994. Redesignated at 61 FR 7943, Feb. 29, 1996]

**§ 200.228 Determination by the Review Committee.**

(a) The Review Committee shall make one of the following determinations in connection with every case referred to it by the Participation Control Officer:

(1) Approve the principal after consideration of the entire record in the light of the standards in § 200.230. All mitigating or extenuating factors will be considered. In each case, the decision shall be within the discretion of the Review Committee and rendered in the best interest of the Government and the public;

(2) Conditionally approve the principal's participation with such conditions or limitations which in the Review Committee's judgment are necessary to make the principal approvable;

(3) Withhold approval of the principal in accordance with § 200.229; or

(4) Disapprove the principal when approval is not justified and withholding approval is not appropriate.

(b) All determinations by the Review Committee shall be made by majority vote of those members present and entitled to vote.

**§ 200.229 Withholding approval.**

Approval of a principal may be withheld for:

(a) A period not to exceed 120 days when such action is deemed necessary to secure additional information upon which to base a final action including a determination as to whether a suspension or debarment action will be taken; or

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(b) For a longer period pending the resolution of a criminal complaint or indictment.

**§ 200.230 Standards for disapproval.**

The standards for disapproval shall be as follows:

(a) Suspension, debarment or other restriction of the principal under part 24 of this title;

(b) Suspension, debarment or other restriction of the principal by any other Department or Agency of the Federal Government from doing business with such Department or Agency;

(c) Unless the Review Committee finds mitigating or extenuating circumstances that enable it to make a risk determination for approval, any of the following occurrences attributable or legally imputable to a principal may be the basis for disapproval, whether or not the principal was actively involved in the project:

(1) Mortgage defaults, assignments or foreclosures, unless the Review Committee determines that the default, assignment or foreclosure was caused by circumstances beyond the principal's control;

(2) Defaults or noncompliance under any conventional construction contract or turnkey contract of sale in connection with a public housing project;

(3) Violation of the regulatory agreement or noncompliance with any other obligation to HUD that has not been corrected to the satisfaction of the Review Committee at the time of its consideration;

(4) Suspension or termination of payments under any HUD assistance contract;

(5) Defaults under an obligation covered by a surety or performance bond and/or claims under an employee fidelity bond;

(6) Unresolved findings as a result of HUD or other governmental audits or investigations; or

(7) A criminal record or other evidence that the principal's previous conduct or method of doing business has been such that his participation in the project would make it an unacceptable risk from the underwriting standpoint of an insurer, lender or governmental agency;

(d) With respect to any HUD insured or assisted projects, work stoppage for a period in excess of 20 days, or in the case of an insured project, failure to achieve final endorsement of the mortgage where the project has been substantially completed for more than 90 days but documents for closing, including cost certification have not been filed with HUD and such is chargeable to the fault or neglect of the principal;

(e) Any serious and significant violation by a management agent of a project management contract, where the contract required HUD or other Governmental agency approval at its inception;

(f) Submission of a false or materially incomplete form 2530 certification application.

(g) Any other significant violation of or noncompliance with regulations, or programs or contract requirements of HUD, Farmers Home Administration or a State or local government's Housing Finance Agency in connection with any insured or assisted project.

[45 FR 54199, Aug. 14, 1980, as amended at 56 FR 50820, Oct. 9, 1991]

**§ 200.233 Effect and requirement of approval.**

Approval is required as a precondition for participation and constitutes clearance of the principal under this part for participation only for a specific project in a specific role. Approval of a principal does not obligate the Department to approve the principal's applications or contracts for program participation.

**§ 200.236 Modification or withdrawal of certain approvals.**

Approvals will not be modified or withdrawn except in cases where the principal is subsequently suspended or debarred from further participation in any HUD programs under part 24 of this title, or is found by the Review Committee to have obtained approval based upon submission of a false, fraudulent or incomplete report or certificate submitted to HUD. In such cases the Review Committee may take such action, including modification or withdrawal of approval, as it determines to be in the best interest of the Department and the public. For the purpose of

this section, the term approval includes conditional approval.

**§200.239 Notice of determination.**

The Participation Control Officer shall give written notice to the principal and to the field office concerned of disapproval under §200.226, and conditional approval, withholding of approval or disapproval by the Review Committee under §200.228. In the case of any such adverse notice:

(a) The notice shall contain a general statement of the reasons for the determination; and

(b) The notice to the principal shall be sent by certified mail to the address shown on the certificate with a return receipt requested.

**§200.241 Request for reconsideration of an adverse determination and request for a hearing.**

(a) Where approval has been withheld, denied, or conditionally granted, the principal may request reconsideration by the Review Committee. Such request shall be made in writing, within 30 days of receipt of the notice of such action, addressed to the Review Committee. It may contain such supporting material as principal desires; or

(b) The principal may file a request for a hearing before a Hearing Officer as provided in §200.243. Such request for a hearing shall be made in writing within 30 days from the date of receipt of the determination.

**§200.243 Hearing rules—How and when to apply.**

(a) A principal who has been disapproved, conditionally approved, or who has had approval withheld by the Review Committee, either initially or after reconsideration, or who is disapproved by the Participation Control Officer, may request a hearing before a Hearing Officer. The hearing will be conducted in accordance with the provisions of 24 CFR part 26, subpart A, except as modified by this section. Requests for hearing must be made within 30 days from the date of receipt of notice of the adverse determination.

(1) Except as provided in paragraphs (a)(2) and (3) of this section, a principal

may request an oral hearing before a hearing officer.

(2) Where a disapproval is based solely on a suspension or debarment that has been previously adjudicated, the hearing shall be limited to the opportunity to submit documentary evidence and written briefs for consideration by a hearing officer.

(3) Where a disapproval is based on a suspension and an appeal is pending, the hearing shall be stayed pending the outcome of the suspension, unless the parties and the hearing officer agree that the matter should be consolidated with the suspension for hearing.

(b) Hearings and review of determination by the Hearing Officer shall be governed by the procedures contained in part 24 of this title except as modified in paragraph (a) of this section and by §200.245.

[45 FR 54199, Aug. 14, 1980, as amended at 56 FR 50820, Oct. 9, 1991; 61 FR 50219, Sept. 24, 1996]

**§200.245 Hearing Officer determines facts and law: Review Committee makes final administrative decision.**

The Hearing Officer will determine the facts and the law relevant to the issues and will report the determination in writing to the Review Committee and to the principal. The Review Committee shall be bound by the Hearing Officer's findings of facts and law and will make a final decision based upon its application of the uniform underwriting and risk evaluation standards contained in this part. It will notify principal of the final action taken.

**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; and

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

[61 FR 7944, Feb. 29, 1996]

### 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 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 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

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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.

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**§ 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 TO PART 200—  
EQUAL HOUSING OPPORTUNITY INSIGNIA

The Equal Housing Opportunity insignia are as follows:

Equal Housing Opportunity logo:



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

#### § 200.800 Purpose and applicability.

The purpose of this subpart is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821-4186, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to existing housing within the coverage hereinafter described. This subpart is promulgated under the authorization granted in 24 CFR 35.24(b)(4), and it supersedes, with respect to all housing to which it applies, the requirements prescribed by subpart C of 24 CFR part 35.

Any housing assisted under the programs set out in this part 200 for which no new activity is applied for or required is not covered by this subpart nor by subpart C of part 35. The requirements of subpart A of 24 CFR part 35 apply to all housing constructed prior to 1978 and covered by this subpart.

[52 FR 1891, Jan. 15, 1987]

#### § 200.805 Definitions.

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

*Chewable surface.* All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

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

*Elevated blood lead level or EBL.* Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

*HUD-owned properties.* Properties with residential units to which HUD acquired title, or any Federally-owned properties for which HUD has disposition responsibility and which are intended for residential habitation.

*Lead-based paint surface.* A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm<sup>2</sup>.

*Sale of HUD-owned properties.* Any sale of federally-owned properties by HUD.

*Use for residential habitation.* The use of a property as a residential structure as defined in 24 CFR 35.3.

[52 FR 1891, Jan. 15, 1987, as amended at 53 FR 20799, June 6, 1988]

#### § 200.810 Single family insurance and coinsurance.

(a) *General.* The requirements of this section apply to any one- to four-family dwelling which 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 sections 244 (coinsurance), 213 (cooperative housing insurance), 220 (rehabilitation and neighborhood conservation housing insurance), 221 (housing for moderate income and displaced families), 222 (mortgagor insurance for servicemen), 809 (armed services housing for civilian employees), 810 (armed services housing in impacted areas), 234 (mortgage insurance for condominiums), 235 (mortgage assistance payments for home ownership and project rehabilitation), 237 (special mortgage insurance for low and moderate income families), and 240 (mortgage insurance on loans for purchase of fee simple title from lessors).) 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.

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

(c) *Abatement.* For defective paint surfaces, treatment shall be provided to defective areas. Treatment of hazards shall consist of covering or removing defective paint surfaces as described in 24 CFR 35.24(b)(2)(ii).

(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 chapter. 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 chapter.

[36 FR 24467, Dec. 22, 1971, as amended at 53 FR 20799, June 6, 1988; 54 FR 24832, June 9, 1989; 54 FR 32060, Aug. 4, 1989; 59 FR 50463, Oct. 3, 1994; 61 FR 36263, July 9, 1996]

**§200.815 HUD-owned single family property disposition.**

(a) *General.* The requirements of this section apply to the sale of HUD-owned one- to four-family dwellings when their use is intended for residential habitation.

(b) *Defective paint surfaces.* For residential structures constructed prior to 1978, HUD shall cause the property to be inspected for defective paint surfaces before the closing of the sale of the property. If defective paint surfaces are found, treatment as required by 24 CFR 35.24(b)(2)(ii) shall be completed before the closing of the sale of the property. In the case of a sale to a non-owner occupant purchaser, treatment may be made a condition of sale, with sufficient sale funds escrowed to assure treatment.

(c) *Chewable surfaces.* This subsection applies to dwellings constructed prior to 1978. If the purchaser is an owner-occupant and the occupant family contains one or more children under the age of seven years, closing of the sale shall be deferred until completion of the following procedures. Where a blood lead level screening program is determined by HUD to be reasonably available, screening of each occupant child under the age of seven years will be required. If an EBL condition is identified, HUD will cause the dwelling to be tested for lead-based paint on chewable surfaces or follow treatment procedures. Testing shall be conducted by a State or local health or housing agency, an inspector certified or regulated by a State or local health or housing agency, a qualified HUD inspector or an organization recognized by HUD. Lead content shall be tested by using an X-ray fluorescence analyzer (XRF) or other method approved by the Commissioner. Test readings of 1 mg/cm<sup>2</sup> or higher using an XRF shall be considered positive for presence of lead-based paint. Where lead-based paint on chewable surfaces is identified, the entire interior or exterior chewable surface shall be treated. Treatment shall consist of covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii).

(d) *Abatement without testing.* In lieu of the procedures set forth in paragraph (c) of this section in the case of

a residential structure constructed prior to 1978, HUD, at its option, may forgo testing and abate all applicable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii).

[52 FR 1891, Jan. 15, 1987; 52 FR 9828, Mar. 27, 1987, as amended at 53 FR 20799, June 6, 1988]

**§ 200.820 Multifamily insurance and coinsurance.**

(a) *General.* The requirements of this section apply to any existing property which is the subject of an application for mortgage insurance under sections 207 (including applications under section 207 pursuant to section 223(f)), 213, 220, 221 or 234 of the National Housing Act, including applications for mortgage insurance under any of these sections pursuant to section 223(a)(7) of the National Housing Act. This section also applies to the applicant pursuant to section 223(f), 213, 220, 221 or 234 of the National Housing Act, including applications for mortgage insurance under any of these sections pursuant to section 223(a)(7) of the National Housing Act. This section does not apply to projects for the elderly or handicapped (except for units housing children under seven years of age) or projects subject to an application for insurance under section 231, 232, 241 or 242 of the National Housing Act. The requirements of this section do not apply to 0-bedroom units. The requirements of paragraph (c) of this section apply to projects that have not received a conditional commitment for insurance on or before May 1, 1987.

(b) *Defective paint surfaces.* In the case of a residential structure constructed prior to 1978, the HUD or coinsurer's architect and the sponsor's architect shall inspect the property for defective paint surfaces before the issuance of a commitment. If defective paint surfaces are found, treatment as required by 24 CFR 35.24(b)(2)(ii) shall be completed before final endorsement as a condition of the firm commitment.

(c) *Chewable surfaces—(1)(i) Random sample.* In the case of a residential structure constructed prior to 1978 a random sample of dwelling units shall be tested for lead-based paint on chewable surfaces. Ten units shall be tested in projects with twenty or more units, and six units shall be tested in projects with fewer than twenty units,

together with a sample of common areas and exterior applicable surfaces. Common areas included in the sample should include non-dwelling facilities commonly used by children under seven years of age, such as child care centers. All chewable surfaces in selected units shall be tested. If none of the tested units, common areas or exterior applicable surfaces contain lead-based paint, the project may be considered free of lead-based paint, and no further testing or abatement action will be required. If lead-based paint is found in any unit in the sample, all units in the project are required to be tested. If lead-based paint is found in any common area, all common areas in the project are required to be tested. If lead-based paint is found in any exterior applicable surface, all exterior applicable surfaces in the project are required to be tested.

(ii) *EBL Child.* In the case of a residential structure constructed prior to 1978, if the developer is presented with test results that indicate a child seven years of age or younger living in a unit has an EBL the developer must test the unit occupied by the child and if such test is positive for lead-based paint, abate the unit surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii) or choose not to test, and abate all the unit surfaces.

(2) *Testing requirements.* Testing shall be performed using an X-ray fluorescence analyzer (XRF) or other method approved by the Commissioner. Test readings of 1 mg/cm<sup>2</sup> or higher using an XRF shall be considered positive for presence of lead-based paint. Testing of chewable surfaces shall be performed by a State or local health or housing agency or by an inspector certified or regulated by the State or local health or housing agency. The testing entity shall certify to the results of the test. The mortgagor shall be responsible for obtaining these testing services.

(3) *Treatment.* Where lead-based paint on chewable surfaces is identified, the entire interior or exterior chewable surface shall be treated. Treatment shall consist of covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii). After joint inspection and during the write-up stage, completion of abatement of defective

paint surfaces and lead-based paint on chewable surfaces will be a special condition requirement in the commitment. The developer will be required to abate all defective paint surfaces and lead-based paint on chewable surfaces. HUD or the coinsuring lender will reinspect all units after repair and before final endorsements.

(4) *Abatement without testing.* In lieu of the procedures set forth in paragraphs (c)(1)(i), (2) and (3) of this section, in the case of a residential structure constructed prior to 1978, the developer may forego testing and abatement, and abate all applicable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii) before final endorsement. HUD or the coinsuring lender will reinspect all units after repair and before final endorsement.

(d) *Tenant protection.* Owners shall take appropriate action as prescribed by the Commissioner to protect tenants from hazards associated with abatement procedures.

(e) *Monitoring and enforcement.* (1) For multifamily insurance programs, compliance with any rehabilitation requirement will utilize the standard construction compliance regulations (e.g., 24 CFR 207.19(c)(6)) for the assurance of completion requirements for section 207 and the incomplete repair escrow requirement of section 223(f) for each program.

(2) For coinsurance, owner compliance with the requirements of this section shall be monitored by the approved coinsurance lender. Compliance with any requirements of this section shall also be enforced by the Assurance of Completion Agreement as provided under 24 CFR 251.402(d) or by escrow under 24 CFR 255.401(c).

[52 FR 1891, Jan. 15, 1987; 52 FR 9828, Mar. 27, 1987, as amended at 53 FR 20799, June 6, 1988]

**§ 200.825 HUD-owned multifamily property disposition.**

(a) *General.* The requirements of this section apply to the sale of any HUD-owned multifamily property when its use is intended for residential habitation. This section does not apply to projects for the elderly or handicapped (except for units housing children under seven years of age). The require-

ments of this section do not apply to 0-bedroom units.

(b) *Defective paint surfaces.* For residential structures constructed prior to 1978, HUD shall cause the property to be inspected for defective paint surfaces before offering the property for sale. If defective paint surfaces are found, treatment as required by 24 CFR 35.24(b)(2)(ii) shall be completed before delivery of the property to the purchaser or, if the disposition program under 24 CFR part 290 provides for repairs to be performed by the purchaser, such treatment may be included in the required reports. Residential structures assisted under section 223(f) of the National Housing Act are to be inspected and treated as set forth in this paragraph.

(c) *Chewable surfaces.* If the residential structure was constructed or substantially rehabilitated prior to 1978, HUD shall cause a random sampling of dwelling units to be tested for lead-based paint on chewable surfaces as part of the sales contracting procedure. Random testing shall be performed as described in § 200.820(c)(1). Testing shall be performed using an X-ray fluorescence analyzer (XRF) or other method approved by the Commissioner. Test readings of 1 mg/cm<sup>2</sup> or higher using an XRF shall be considered positive for presence of lead-based paint. Testing shall be conducted by a State or local health or housing agency, an inspector certified or regulated by the State or local health or housing agency, a qualified HUD inspector, or an organization recognized by HUD. The testing entity shall certify to the results of the test. Where lead-based paint on chewable surfaces is identified, the entire interior or exterior surface shall be treated. Treatment shall consist of covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii). Treatment shall be completed before delivery of the property to the purchaser, or, if the disposition program under 24 CFR part 290 provides for repairs to be performed by the purchaser, such treatment may be included in the required repairs.

(1) *EBL Child.* In the case of a residential structure constructed prior to 1978, if HUD is presented with test results that indicate a child seven years

of age or younger living in a unit has an elevated blood level or EBL, HUD must test or cause to be tested the unit occupied by the child and if such test is positive for lead-based paint, abate the unit surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii) or choose not to test and abate all the unit surfaces.

(2) *Abatement without testing.* In lieu of the procedures set forth in paragraph (c) of this section, in the case of a residential structure constructed prior to 1978, HUD, at its option, may forego testing, and abate all applicable surfaces in accordance with the methods set out in 24 CFR 35.24(b)(2)(ii).

(d) *Tenant protection.* HUD or the purchaser, as appropriate, shall take appropriate action as prescribed by the Commissioner to protect tenants from hazards associated with abatement procedures.

[52 FR 1891, Jan. 15, 1987; 52 FR 9828, Mar. 27, 1987, as amended at 53 FR 20800, June 6, 1988]

**§200.830 Compliance with other Federal, State and local laws.**

(a) *HUD responsibility.* If HUD determines that a State or local law, ordinance, code or regulation provides for lead-based paint testing or hazard abatement in a manner that provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of this subpart and that adherence to the requirements of this subpart would be duplicative or otherwise cause inefficiencies, HUD may modify or waive the requirements of this subpart in a manner that will promote efficiency while ensuring a comparable level of protection.

(b) *Participant responsibility.* Nothing in this subpart is intended to relieve any participant in the programs covered by this subpart of any responsibility for compliance with State or local laws, ordinances, codes or regulations governing lead-based paint testing or hazard abatement.

(c) *Disposal of lead-based paint debris.* Lead-based paint and defective paint debris shall be disposed of in accordance with applicable Federal, State or

local requirements. (See, e.g., 40 CFR parts 260-271.)

[52 FR 1891, Jan. 15, 1987]

**Subparts P-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 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)(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 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

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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 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 shall 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)(iv) also shall apply 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;

(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, 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) (1), (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,

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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 jurisdictions 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

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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]

### § 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.
- (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.)

(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 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.

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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 unne-

cessary 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)(iv) of this section, these site design standards are applicable 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), (3) and (4)(ii) 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*—(i) *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) *“Critical Actions” as defined in 24 CFR 55.2(b)(2).* The lowest floor of a structure (including the basement and all mechanical, electrical, and service equipment) shall be at or above the FEMA-designated 500-year frequency flood elevation. “Critical Actions” located in FEMA-designated “floodways” (as defined in 24 CFR 55.2(b)(4)) and “coastal high hazard areas” (as defined in 24 CFR 55.2(b)(1)) are prohibited.

(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.

(vii) In all cases in which a Direct Endorsement (DE) mortgagee submits to HUD for endorsement for insurance a mortgage on a newly constructed one- to four-family dwelling (including a newly erected manufactured home) which was processed by the DE mortgagee, the DE mortgagee shall determine whether the property is located in a

100-year floodplain as designated on maps of the Federal Emergency Management Agency and, if so, shall obtain a final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) before submitting the application for insurance to HUD. Such mortgages shall not be eligible for insurance unless the DE mortgagee submits the LOMA or LOMR to HUD with the mortgagee’s request for endorsement.

(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 .....	<sup>1</sup> 100
Seepage Pit .....	<sup>1</sup> 100
Absorption Bed .....	<sup>1</sup> 100
Sewer Lines w/Permanent Watertight Joints .....	10
Other Sewer Lines .....	50
Chemically Poisoned Soil .....	<sup>3</sup> 25
Dry Well .....	50
Other .....	( <sup>2</sup> )

<sup>1</sup>This 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.

<sup>2</sup>The recommendations or requirements of the local health authority shall apply.

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<sup>3</sup>This 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.

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**§ 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.

(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

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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, 1993 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]

**§ 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.**

An updated copy of the Minimum Property Standards is available for public examination in (1) the Information Center, room 1202, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, and in each HUD Regional, Area, and Insuring Office; and (2) the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington DC 20408. 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, DC 20402.

[39 FR 26895, July 24, 1974]

**§ 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 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 amend-

ment 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 part 24 of this title.

(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 certification shall be withheld until a finding of compliance is achieved.

(ii) *Quality control review*. Each administrator shall examine participating manufacturer's facilities and quality control procedures to determine that they are adequate to assure continuing production of products that shall comply with the applicable standard. These quality control procedures shall be documented in the administrator's and manufacturer's files. If a manufacturer's quality control system is not satisfactory to the administrator, validation of the manufacturer's declaration of certification shall be withheld.

(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 man-

ufacturer'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 ad-

vance 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 Laboratories<sup>1</sup> may be used as a guideline.

(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]

**§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 conformance 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

<sup>1</sup>Copies are available from the American Council of Independent Laboratories, Inc., 1725 "K" Street, NW., Washington, DC 20006.

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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington DC 20408.

(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]

**§200.938 Supplementary specific requirements under the HUD Building Product Standards and Certification Program for Aluminum Fenestration Products.**

(a) *Applicable Standards.* (1) All aluminum fenestration products shall be designed, manufactured, and tested in compliance with the following American National Standards Institute and American Architectural Manufacturers Association standards:

(i) ANSI/AAMA 101-93—Voluntary Specifications for Aluminum and Poly (vinyl chloride) (PVC) Prime Windows and Glass Doors;

(ii) ANSI/AAMA 1102.7-89—Voluntary Specifications for Aluminum Storm Doors;

(iii) ANSI/AAMA 1002.10-93—Voluntary Specifications for Insulating Storm Products for Windows and Sliding Glass Doors;

(iv) AAMA 1600-90—Voluntary Specification for Skylights.

(2) These standards have been approved by the Director of the Federal Register for incorporation by ref-

erence. The standards are available from the American Architectural Manufacturers Association, 35 East Wacker Drive, Chicago, IL 60601 or the American Material Standards Institute, Inc., 11 West 42nd Street, New York, NY 10036. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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 aluminum fenestration product shall be marked as conforming to UM 39b. The label shall be located on each aluminum fenestration product 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 procedure 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 aluminum fenestration products, 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 sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

[58 FR 67673, Dec. 22, 1993]

**§200.939 Supplementary specific requirements under the HUD Building Product Standards and Certification Program for Wood Fenestration Products.**

(a) *Applicable standards.* (1) All wood fenestration products shall be designed, manufactured, and tested in compliance with the following National Wood Window and Door Association standards:

(i) NWWDA Industry Standard I.S. 2-93—Wood Windows;

(ii) NWWDA Industry Standard I.S. 3-88—Wood Sliding Patio Doors.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. The standards are available from the National Woodwork Manufacturers Association, 400 West Madison Street, Chicago, IL 60606. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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 is required to be on the certification label issued by the Administrator to the manufacturer. Each wood fenestration product shall be marked as conforming to UM 59b. The label shall be located on each wood fenestration product 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 wood fenestration products, 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 sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

[58 FR 67673, Dec. 22, 1993]

**§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 de-

signed, 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 Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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]

**§200.941 Supplementary specific requirements under the HUD Building Products Standards and Certification Program for Poly (vinyl chloride) (PVC) Fenestration Products.**

(a) *Applicable standards.* (1) All PVC plastic fenestration products shall be

designed, manufactured, and tested in compliance with the following American National Standards Institute standard or American Society for Testing and Materials standard:

(i) ANSI/AAMA 101-93—Voluntary Specifications for Aluminum and Poly (vinyl chloride) (PVC) Prime Windows and Glass Doors; or

(ii) ASTM D 4099-89—Standard Specification for Poly (vinyl chloride) (PVC) Prime Windows/Sliding Glass Doors.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. These standards are available from the American National Standards Institute, 1430 Broadway, New York, NY 10018 or the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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 PVC fenestration product shall be marked as conforming to UM 85a. The label shall be located on each PVC fenestration product 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 PVC fenestration products, 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 sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington DC 20408.

(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 procedural requirements under HUD Building Product Standards and Certification Program for the Grademarking of Lumber.**

(a) *Applicable standards.* (1) Lumber shall be grademarked in accordance with the following standard:

U.S. Department of Commerce Voluntary Product Standard PS 20-70 "American Softwood Lumber Standard"

This standard has been approved by the Director of the Federal Register for incorporation by reference. It is available from the National Bureau of Standards, Gaithersburg, Maryland 20143. The standard is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington DC.

(b) *Labeling or marking.* (1) Under the procedures set forth in §200.935(d)(6), concerning labeling or marking of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard is 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;

(i) The registered symbol which identifies the grading agency;

(ii) Species or species combination;

(iii) Grade;

(iv) Identification of applicable grading rules when not indicated by the species identification or agency symbol;

(v) Mill or grader;

(vi) For members which are less than 5" nominal thickness, indication that the lumber was green or dry at the time of dressing; and

(vii) Indication that the lumber is finger jointed, where applicable.

(2) The certification mark shall be affixed to each piece of lumber.

(c) *Periodic tests and quality control inspections.* Periodic tests and quality control inspections shall be carried out

by the Board of Review of the American Lumber Standards Committee as defined in PS 20-70.

[51 FR 1369, Jan. 13, 1986]

**§ 200.944 Supplementary specific requirements under the HUD Building Products 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 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 Com-

mercial" (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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington DC.

(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 quality 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, Phila-

delphia, 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 Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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 Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(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 Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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 Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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, Electro-

lytic-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 Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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 Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(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]

**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**

**§ 200.1302 Additional expiring programs—savings clause.**

No new loan assistance, additional participation, or new loans are being insured under the programs listed in this section.

(a) Any existing loan assistance, ongoing participation, or insured loans under the following programs will continue to be governed by the regulations in effect as they existed immediately before May 1, 1996:

- Part 215 Rent Supplement Payments Program
- Part 222 Serviceperson's Mortgage Insurance Program
- Part 237 Special Mortgage Insurance for Low and Moderate Income Families

(b) Any existing loan assistance, ongoing participation, or insured loans under the following program will continue to be governed by the regulations in effect as they existed immediately before December 26, 1996:

- Part 233 Experimental Housing Mortgage Insurance Program

[61 FR 60160, Nov. 26, 1996]

EDITORIAL NOTE: At 61 FR 54267, Oct. 17, 1996, § 200.1301 was redesignated as § 200.1302.

**§ 200.1303 Annual income exclusions for the rent supplement program.**

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).

[61 FR 54503, Oct. 18, 1996]

**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 Office of the FEDERAL REGISTER, 800 North Capital Street, NW., Suite 700, Washington, DC. 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 Aluminum Sheet Metal Work in Building Construction

American Architectural Manufacturers Association, 1540 East Dundee Road, Paletine, 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 Condensation Resistance of Windows, Doors and Glazed Wall Sections

AAMA 1504-88 Voluntary Standards for Thermal Performance of Windows, Doors and Glazed Wall Sections

- 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
- 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-Based 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/ft<sup>3</sup> (2,700 kN-m/m<sup>3</sup>))
- 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

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 Sleeving (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
- 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

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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]