

preparation of environmental assessments and FONSI's under NEPA, depending upon whether or not the activities are categorically excluded from environmental assessment in accordance with 24 CFR 50.20. Categorically excluded activities require only review and compliance with the other applicable environmental laws and authorities, and do not involve a FONSI. If a FONSI or other findings are required, HUD will prepare them. As noted in § 1007.40, HUD will also require documents similar to the builder's certification required under 24 CFR 203.12(b)(2). The lessee is not responsible for preparing the FONSI, the other findings, or the builder's certification.

Section 1007.50 Certificate of Guarantee

Comment: After a lender has established credibility in packaging Section 184A loans, HUD should consider a direct guarantee process for local lenders.

HUD response: HUD will consider such an approach, although as discussed earlier, HUD intends to encourage the use of the Section 184A program by institutional borrowers to conduct larger-scale development.

Section 1007.65 Transfer and Assumption

Comment: DHHL should be notified of any assignment of loan to another servicer; assignment should be recorded in DHHL's recordation system.

HUD response: HUD agrees with the suggested change in this comment, which will assist DHHL in monitoring the status of outstanding loans in the Section 184A program and taking an active approach to prevent defaults. Because this change would affect the responsibilities of servicers and has not been subject to notice and comment, it would be included in a proposed rule HUD is planning to publish separately from today's rule.

Section 1007.75 Payment under Guarantee

Comment: Under § 1007.75(a)(1), which addresses notification, the lender should also provide written notice to DHHL if the borrower defaults.

HUD response: The HUD response to the comment under § 1007.65 addresses this issue.

Comment: Under § 1007.75(a)(2)(i), which addresses foreclosure, the holder of guarantee cannot foreclose on a DHHL lease.

HUD response: Although § 1007.75(a)(2)(i) basically tracks the statutory language of Section

184A(i)(1)(A)(ii)(I) (12 U.S.C. 1715z–13b(i)(1)(A)(ii)(I)), HUD agrees that this comment identifies the difficulties of proceeding in accordance with the statute where the borrower is an individual, Native Hawaiian leaseholder, and the security for the loan is the lessee's interest in a homestead lease. The foreclosure process in these cases would have to follow the procedure used for defaults under the Section 247 program. HUD notes that these difficulties would not be present in the case of any of the eligible institutional borrowers, where the security for the loan would not be an interest of any kind in Hawaiian Home Lands property or where the borrower holds a general lease. This is among the reasons that HUD is encouraging the use of the Section 184A program by the eligible institutional borrowers.

Comment: Under § 1007.75(a)(2)(ii), a loan could be assigned to HUD, HUD pays the claim, DHHL cancels the lease, reawards the lease and repays HUD the amount recovered through sale.

HUD response: Again, HUD notes that the situation contemplated by the comment almost certainly involves an individual, leaseholder borrower, with the lessee's interest as collateral, a situation that HUD intends to address in a manner consistent with the Section 247 program, to the extent such transactions take place under Section 184A.

III. Changes to the Interim Rule in This Final Rule

The following changes to the June 13, 2002, interim rule are made by this final rule, consistent with the discussion of public comments in this preamble, and as further explained below:

1. A new paragraph (d) is added to § 1007.20 to provide that housing that meets the minimum property standards for Section 247 mortgage insurance is deemed to meet the required housing safety and quality standards.

2. The last sentence of § 1007.30(b)(4)(i), which uses 60 days to completion of eviction as a requirement for adequate enforcement, is removed.

3. HUD is removing the initial field office review in the appeal process under § 1007.30(b)(4)(ii) to streamline the procedure from a three-step to a two-step process. The initial request for a review is to be submitted directly to the Deputy Assistant Secretary, Office of Native American Programs.

IV. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have

been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and have been assigned OMB control number 2577–0200. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the interim rule stage of this rulemaking, and continues to apply at this final rule stage. The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of General Counsel, Regulations Division, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Executive Order 12866, Regulatory Planning and Review

OMB reviewed this rule under Executive Order 12866 (entitled “Regulatory Planning and Review”). OMB determined that this rule is a “significant regulatory action” as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the rule as a result of that review are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary has reviewed this rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule would not have a significant economic impact on a substantial number of small entities. This rule provides requirements for administering a program of assistance to provide affordable housing for a specific population, Native Hawaiians, through a single state agency, the Department of Hawaiian Home Lands.