

**Findings and Other Matters***National Environmental Policy Act*

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(k) of the Department's regulations, the policies and procedures contained in this rule relate only to administrative decisions, which do not constitute development decisions and do not affect the physical condition of a project area or building. Therefore, this rule is categorically excluded from the requirements of the National Environmental Policy Act.

*Regulatory Flexibility Act*

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Secretary hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule implements statutory authority intended to protect the Department's programs from abusive practices, but it will have no adverse or disproportionate economic impact on small businesses.

*Executive Order 12606, The Family*

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this final rule does not have potential for significant impact on family formation, maintenance, and general well-being. No significant change in existing policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns. Therefore, the rule is not subject to review under the Order.

*Executive Order 12612, Federalism*

The General Counsel, as the Designated Official under Section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the final rule is not subject to review under the Order.

*Semiannual Agenda*

This rule was listed as item 1379 in the Department's Semiannual Agenda published on May 8, 1995 (60 FR 23368, 23369) under Executive Order 12866 and the Regulatory Flexibility Act.

**List of Subjects***24 CFR Part 25*

Administrative practice and procedure, Loan programs—housing and community development, Organization and functions (Government agencies).

*24 CFR Part 26*

Administrative practice and procedure.

*24 CFR Part 202*

Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 25, 26, and 202 are amended as follows:

**PART 25—MORTGAGEE REVIEW BOARD**

1. The authority citation for part 25 is revised to read as follows:

**Authority:** 12 U.S.C. 1708(c), 1708(d), 1709(s), 1715b and 1735(f)–14; 42 U.S.C. 3535(d).

2. Section 25.2 is revised to read as follows:

**§ 25.2 Establishment of Board.**

The Mortgagee Review Board (the Board) was established in the Federal Housing Administration, which is in the Office of the Assistant Secretary for Housing—Federal Housing Commissioner, by section 202(c)(1) of the National Housing Act (12 U.S.C. 1708(c)(1)), as added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989). Except as limited by this part, the Board shall exercise all of the functions of the Secretary with respect to administrative actions against mortgagees and lenders and such other functions as are provided in this part. The Board may, in its discretion, approve the initiation of a suspension or debarment action against a mortgagee or lender by any Suspending or Debarring Official under part 24 of this subtitle A. The Board shall have all powers necessary and incident to the performance of these functions. The Board may redelegate its authority to review submissions and conduct hearings under § 25.8. The Board may also redelegate its authority to impose administrative sanctions on the grounds specified in §§ 25.9 (e), (h), and (u), and to take all other nondiscretionary acts. With respect to actions taken against Title I lenders and loan correspondents, the Board may redelegate its authority to

take administrative actions for failure to remain in compliance with the requirements for approval in 24 CFR 202.3(j), 202.4(a), 202.5 (a) and (c), and 202.6 (a) and (e).

3. In § 25.3, definitions for “*Hearing officer*” and for “*Hearing official*” are added in alphabetical order, to read as follows:

**§ 25.3 Definitions.**

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*Hearing officer.* An Administrative Law Judge or Board of Contract Appeals judge authorized by the Secretary, or by the Secretary's designee, to issue findings of fact or other appropriate findings under § 25.8(d)(2).

*Hearing official.* An official designated by the Board to conduct hearings under § 25.8.

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4. Section 25.5 is amended by revising paragraphs (c)(1), (c)(2), and (d)(4)(iii), to read as follows:

**§ 25.5 Administrative actions.**

\* \* \* \* \*

(c) *Suspension*—(1) *General.* The Board may issue an order temporarily suspending a mortgagee's HUD/FHA approval if there exists adequate evidence of violation(s) under § 25.9 and continuation of the mortgagee's HUD/FHA approval, pending or at the completion of any audit, investigation, or other review, or such administrative or other legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. Suspension shall be based upon adequate evidence.

(2) *Duration.* A suspension shall last for a specified period of time, but not less than 6 months and generally not more than 1 year. The Board may extend the suspension for an additional 6 months if it determines that the extension is in the public interest. These time limits may also be extended upon the voluntary written agreement of the mortgagee.

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(iii) Upon receipt of the Board's decision under § 25.8(e).

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5. Section 25.7 is revised to read as follows:

**§ 25.7 Notice of administrative action.**

Whenever the Board takes an action to issue a letter of reprimand, to place a mortgagee on probation, or to suspend or withdraw a mortgagee's approval, the Board shall promptly notify the mortgagee in writing of the