

and program costs; additional administrative expenses should be cost-shared.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet, including the Guidelines for Preparing Proposals [E/AEE-92-02]. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, and the budget and contracts offices. Proposals may also be reviewed by the Agency's Office of General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with the USIA's contracting officer.

Review Criteria:

Technically eligible applications will be competitively reviewed according to the following criteria:

a. Adherence of proposed activities to the conditions described in the bilateral agreement and the program of cooperation (Article I, Paragraph V) between the United States and the Czech and Slovak Federal Republic.

b. Quality of program plan, including academic rigor, thorough conception of project, demonstration of meeting participant needs, contributions to understanding the partner country, proposed follow-up, and qualifications of program staff and participants.

c. Feasibility of the program plan and the capacity of the organization to conduct the exchange. Proposals should clearly demonstrate how the institution will meet the program objectives and plan.

d. Track record—relevant Agency and outside assessments of the organization's experience with international exchange; for organizations that have not worked with USIA, the demonstrated potential to achieve program goals will be evaluated.

e. Multiplier effect/impact—the impact of the exchange activity on the wider community and on the development of continuing ties, as well as the contribution of the proposed activity in promoting mutual understanding.

f. Value of U.S.-partner country relations—the assessment by USIA's geographic area office of the need, potential impact, and significance of the project with the partner country.

g. Cost effectiveness—greatest return on each grant dollar; degree of cost-sharing exhibited.

h. Diversity and pluralism—preference will be given to proposals that demonstrate efforts to provide for the participation of individuals from diverse regions and of different socioeconomic and ethnic backgrounds, to the extent feasible for the applicant institutions.

i. Institutional commitment as demonstrated by financial and other support to the program.

j. Follow-on activities—proposals should provide a plan for continued follow-on activity (without USIA support) which insures that USIA-supported programs are not isolated events.

k. Evaluation plan—proposals should provide a plan for evaluation by the grantee institution.

Preference Factors: Preference will be given to proposals that:

1. Include an area studies component;
2. Include a thorough orientation component for all participants; and
3. Provide an approximately equal number of American and Czech and Slovak participants.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of this request for proposals does not constitute an award commitment on the part of the government. Final awards cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the result of the review process on or about June 1, 1992. Funded proposals will be subject to periodic reporting and evaluation requirements.

Dated: March 11, 1992.

Barry Fulton,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92-6413 Filed 3-18-92; 8:45 am]

BILLING CODE 8230-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Industry Policy and Sector/Functional Advisory Committees

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Industry Policy and Sector/Functional Advisory Committees meetings including Chairman of Industry Sector and Functional Advisory Committees.

SUMMARY: The meetings will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that these meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, these meetings will be closed to the public.

DATES: The period of March 8, 1992 to March 8, 1994.

ADDRESSES: All meetings will be held at the U.S. Department of Commerce, 14th Street and Independence Avenue, Washington, DC 20230, unless an alternate site is necessary.

FOR FURTHER INFORMATION CONTACT:

Mollie Shields, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President or Clare Soptonis, Director, Trade Advisory Center, Department of Commerce.

Carla A. Hills,

United States Trade Representative.

[FR Doc. 92-6412 Filed 3-18-92; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register

Vol. 57, No. 54

Thursday, March 19, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, March 31, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement review.

CONTACT PERSON FOR MORE

INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-6576 Filed 3-18-92; 2:44 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, March 31, 1992.

PLACE: 2033 K St., N.W., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE

INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-6577 Filed 3-17-92; 2:44 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, March 31, 1991.

PLACE: 2033 K St., N.W., Washington, D.C., Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

- Application of the New York Cotton Exchange for contract designation in European Currency Unit futures
- Application of the Chicago Board of Trade for contract designation in Health Insurance futures and options
- Application of the Chicago Board of Trade for contract designation in Homeowners Insurance futures and options
- Application of the Coffee Sugar Cocoa Exchange for contract designation in Brazil Differential Coffee Futures

CONTACT PERSON FOR MORE

INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-6578 Filed 3-17-92; 2:44 pm]

BILLING CODE 6351-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:02 a.m. on Tuesday, March 17, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Matters relating to the Corporation's assistance agreement with an insured bank.

Matters relating to certain financial institutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Vice Chairman Andrew C. Hove, Jr., Director Stephen R. Steinbrink (Acting Comptroller of the Currency), and Chairman Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B), of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, N.W., Washington, DC.

Dated: March 17, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-6590 Filed 3-17-92; 3:01 pm]

BILLING CODE 6714-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1446]

TIME AND DATE: 1 p.m. (EST), March 23, 1992.

PLACE: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on February 19, 1992.

ACTION ITEMS:

New Business

C—Power

C1. Financing Assistance for Distributors as Part of TVA's Power Program.

C2. Low Density Credit for TVA Power Distributors in Rural Areas with High Operating Costs.

C3. Changes in the Rates for TVA Power.

E—Real Property Transactions

E1. Public Auction Sale of Sewer Line Easement and Sewage Treatment Plant Site Affecting 11.42 Acres of Bellefonte Nuclear Plant Property in Hollywood, Alabama.

E2. Sale of Permanent Easement Affecting 0.11 Acre of Cherokee Reservoir Land in Grainger County, Tennessee.

E3. Sale by the U.S. Department of Agriculture, Forest Service, Affecting 0.05 Acre of Former TVA Land in Carter County, Tennessee.

F—Unclassified

F1. Contracts with CDI Corporation—Southeast and American Technical Associates, Inc.

F2. Filing of Condemnation Item.

INFORMATION ITEMS:

1. Revisions to the Reservation Charge for the Interruptible Standby Power Option 1.

2. Supplement No. 3 to Contract No. TV-76868T with Coopers & Lybrand for the Design and Implementation of the TVA Quality Improvement Program.

3. Jobs and Education Bill Credit.

CONTACT PERSON FOR MORE

INFORMATION: Alan Carmichael, Manager of Media Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479-4412.

Dated: March 16, 1992.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 92-6513 Filed 3-17-92; 10:24 am]

BILLING CODE 8120-08-M

Corrections

Federal Register

Vol. 57, No. 54

Thursday, March 19, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 911177-2016]

Groundfish of the Bearing Sea and Aleutian Islands Area

Correction

In rule document 92-1665, beginning on page 2688, in the issue of Thursday, January 23, 1992, make the following correction:

On page 2688, in the first column, under **EFFECTIVE DATES:**, in the second line, delete "filing".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0094]

Drug Export; Corzide Tablets (40mg/5mg, 80mg/5mg)

Correction

In notice document 92-4866, beginning on page 7592, in the issue of Tuesday, March 3, 1992, make the following correction:

On page 7593, in the first column, in the tenth line, "1992" should read "1991".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0093]

Drug Export; Hydrea Capsules 500 mg

Correction

In notice document 92-4865, appearing on page 7592, in the issue of Tuesday, March 3, 1992, in the second column, under **FOR FURTHER INFORMATION CONTACT:**, in the first line, delete "and".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0095]

Drug Export; Pravachol Tablets 10mg and 20mg

Correction

In notice document 92-4867, appearing on page 7593, in the issue of Tuesday, March 3, 1992, make the following corrections:

1. In the first column, under **ADDRESSES:**, in the ninth line, "Amendments" was misspelled.
2. In the second column, under **SUPPLEMENTARY INFORMATION:**, in the fourth line, "provided" should read "provide".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8348]

RIN 1545-AB73

Limitations on Percentage Depletion in the Case of Oil and Gas Wells

Correction

In the issue of Monday, February 10, 1992, on page 4913, in the first column, in the correction of rule document 91-10856, in § 1.613A-3, in correction 4., in the third line, "355" should read "375".

BILLING CODE 1505-01-D

federal register

**Thursday
March 19, 1992**

Part II

Department of Housing and Urban Development

**Office of the Assistant Secretary for
Housing—Federal Housing Commissioner**

**24 CFR Parts 200, 203, 234
Single Family Development Acceptance
of Individual Residential Water
Purification Equipment; Rule**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 234

[Docket No. R-92-1514; FR-2855]

RIN 2502-AF04

Single Family Development Acceptance of Individual Residential Water Purification Equipment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule sets out the circumstances under which the Department will agree to provide FHA mortgage insurance on single family properties for which a loan-to-value ratio (LTV) greater than 90% is proposed, and when certain of the requirements associated with water supply systems set out in 24 CFR 200.926d(f), and usually applied to such properties, cannot be met. This rule also codifies requirements already applicable to the insuring of existing single family properties. The purpose of this rule is to expand the availability of FHA mortgage insurance while assuring appropriate safeguards to protect the health and safety of potential occupants.

EFFECTIVE DATE: April 20, 1992.

FOR FURTHER INFORMATION CONTACT: Donald Fairman, Manufactured Housing and Construction Standards Division, room 6207, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone, voice: (202) 708-0718; (TDD) (202) 708-4594. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the *Federal Register*. Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for

reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading. *Other Matters.* Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410-0500; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

Background

On February 14, 1991, the Department published a proposed rule (56 FR 6216) designed to set out the circumstances under which FHA would agree to provide mortgage insurance on single family properties otherwise eligible for insurance, when certain of the requirements associated with water supply systems set out in 24 CFR 200.926d(f) cannot be met. This final rule makes effective, with changes described in the preamble, the February 14, 1991 proposed rule.

The National Housing Act, 12 U.S.C. 1702 *et seq.*, authorizes the Secretary of Housing and Urban Development to prescribe standards for determining the acceptability of one and two family residential structures (and other structures) for mortgage insurance. 12 U.S.C. 17152(f). In addition, the standards must be consistent with the national housing policy of realizing the goal of "a decent and suitable living environment for every American family" * * * 42 U.S.C. 1441.

The Secretary has prescribed Minimum Property Standards (MPS) in 24 CFR part 200, subpart S, for determining the acceptability of one and two family (and other) housing. In addition, subpart S currently references additional standards contained in HUD Handbooks 4910.1 and 4930.2, which are incorporated into the Department's regulations by authority of 24 CFR 200.927.

Water quality standards, applicable to newly constructed single family structures for which the loan-to-value ratio is greater than 90 percent, are set out in 24 CFR 200.926d(f). The cited paragraph generally sets out the requirements for acceptability of public or private water supply systems providing safe drinking water.

Section 424 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701z-15, provides that when an existing water supply does not meet HUD's minimum property standards and a permanent alternative acceptable water supply is not available, approved residential water treatment equipment or a water purification unit that provides bacterially and chemically safe drinking water may be used to provide a continuous supply of water.

Under section 424, the Department is authorized to provide terms and conditions under which residential treatment equipment may be found to meet the conditions for mortgage insurability. Cognizant of the mandate in section 424, the Department is providing, in this rule, a means by which mortgage insurance can be made available despite the lack of a supply of bacterially and chemically safe drinking water. The procedures in the rule are designed to assure, by means of an agreement between mortgagor and mortgagee (and with the assistance of health and water quality professionals), that water purification equipment to be used in the dwelling will provide continuing availability of safe and potable water.

The Department has reviewed the Environmental Protection Agency's (EPA) data and rules for the use of water treatment equipment and purification units (commonly referred to as "point of entry treatment devices"), and specifically those proposed in the *Federal Register* at 50 FR 46915 (November 13, 1985) and published in final form at 52 FR 25690 (July 8, 1987). (See 40 CFR 141.100 and 142.62(g).) The Safe Drinking Water Act provides authority for EPA to establish the conditions under which treatment devices may be used, if necessary to assure protection of public health. The Department also has reviewed a report to the Congress by the Farmers Home Administration in response to section 1304(b)(1) of the Food Security Act of 1985, 7 U.S.C. 1281, entitled "Individual Facilities for Rural Water and Waste Disposal." Additionally, HUD staff has consulted with the staff of the EPA Office of Drinking Water, and has reviewed data from the Water Quality Association.

This rule provides a means for mortgagees and mortgagors, in an area that lacks a source of safe and potable water available to otherwise-insurable dwelling units, to:

1. Arrange, by means of a contract and through the enlistment of assistance from local health authorities, for an

approved means of assuring a continuous supply of drinking water;

2. Demonstrate to the satisfaction of the Department that the water supply is and will continue to be safe; and

3. Make possible the provision by the Department of mortgage insurance under the National Housing Act.

The procedures in this rule are similar to those in Mortgagee Letter 91-4, issued January 25, 1991, regarding requirements applicable to properties not covered by the Minimum Property Standards. This rule amends the MPS to cross-reference the above-described special procedures. This rule provides a uniform regulatory standard applicable to all single family FHA insurance transactions—both new and existing single family dwellings.

Concurrently with the adoption of new §§ 203.52 and 234.64, the Department is amending § 203.550. Section 203.550, relating to a mortgagee's responsibility for collecting, managing, and disbursing escrowed monies, provides in paragraph (c) that the mortgagee's estimate of escrow requirements must be based on the best information available as to probable payments that will be required to be made from the escrow account "in the coming year." This provision as originally drawn contemplated only the accrual of monies for expenditures such as taxes and insurance that require outlays at least annually. The escrow is established under §§ 203.52(e) and 234.64(e). It includes not only monies to be expended periodically during each year for servicing and maintenance costs, but includes also a reserve for repair and replacement of equipment, as needed. Section 203.550 is revised in this rule to permit the collection and escrow of monies that may not be disbursed until some years after collection.

The escrow described in §§ 203.52(e) and 234.64(e) is exempt from the prohibition in section 10 of the Real Estate Settlement Procedures Act (RESPA), in accordance with the Secretary's authority to grant exemption under section 19(a) of that Act.

Public Comments

The Department received nine public comments on the proposed rule. Several of the comments were detailed in their criticisms of the rule and made explicit recommendations for change. The commenters, although few in number, appeared to represent a diverse cross-section of relevant interests, including an environmental engineer; an association representing water well and pump installation contractors; an association of drinking water administrators; counsel for the National Water Quality Association, representing

manufacturers of water treatment devices; an individual manufacturer of water quality devices; the Member of Congress who sponsored the amendment giving rise to the rule; a mortgage lender; the Mortgage Bankers Association; and a state conference of directors of environmental health.

A summary of the principal comments and responses, organized by subject matter, is set out below.

I. Requests for Clarification of the Rule

Comment: An environmental engineer suggested that clarification is needed on the term "purification" as used in the proposed rule. As written, the commenter said, the rule indicates that the use of purification equipment will produce a safe and potable water supply. Only disinfection with an agent such as chlorine will destroy, neutralize or inhibit the growth of pathogenic microorganisms which cause disease. Purification equipment (merely) tends to make water more aesthetically acceptable, but not necessarily to produce a safe water supply.

Response: Section 203.52(3) of the HUD proposed rule requires the system equipment to provide a water supply that meets the state or local health authority standards for water quality. Where no state or local standards exist, EPA standards arising out of the Safe Drinking Water Act must be met. Neither of these standards can be complied with without disinfecting the system. For point of entry and point of use equipment, EPA requires the system to be certified by the state. This includes a plan using effective technology to provide microbiological safety of the water. Either system must provide health protection equivalent to a central water treatment system. ("Equivalent" means the water will meet all primary and secondary drinking water standards). An approved monitoring plan, (the state or its agency) must be in place (monitoring includes physical measuring of flow rate and mechanical condition of the equipment). Attention is also provided to possible increases in heterotrophic bacteria concentrations in water treated with activated carbon. Frequent backwashing, disinfection and heterotrophic plate count monitoring may be necessary.

Comment: An environmental health organization commented that the rule was not sufficiently specific about what water quality standard was to be applied to individual water supplies. If the rule intends that a well serving a single family dwelling must meet the Safe Drinking Water Act (SDW) standards, quality testing alone would cost up to \$2000. In addition, the

commenting organization said, point-of-entry devices suitable for private wells may not exist or be economically feasible for some of the contaminants that may be detected by water quality testing for SDW Act compliance.

Response: Under the SDW Act, EPA has developed drinking water requirements that are required by law to be enforced by the states. Section 203.52(3) of the proposed rule provides that the water supply must meet the state or local water quality standards for drinking. These are EPA requirements that a state enforces to assure acceptable drinking water for a locality.

II. Doubts About Reliability of Available Disinfection Units

Comment: According to the environmental engineer's comments, at present, disinfection units available for individual home use leave "a lot to be desired" from the standpoint of reliability.

Response: Water purification equipment must be approved by a nationally recognized testing laboratory. In addition, the local health or state authority must certify that a system is in place that will assure safe potable water and a plan exists for the monitoring, servicing, maintenance and replacement of the water equipment. Finally, the water supply, when treated by the equipment, must meet the requirements of the health authority. The Department believes that these requirements provide reasonable assurance of a continuing supply of safe, potable water.

III. Concerns About Costs

Comment: The environmental engineer claimed that the rule's required "plan" will be cost-prohibitive to some mortgagors, thereby preventing them from purchasing a home in some areas.

Response: There will be situations where this is true. However, the Department is left with no choice. There is no alternative to carrying out the intention of the statutory amendment with a rule that will assure a constant supply of bacterially and chemically safe drinking water. HUD believes it is essential to apply the same high standard to individual water systems as is applied by EPA to water systems serving 25 or more persons.

IV. Amount of Responsibility Placed on Local Health Authorities

Comment: A national trade association expressed its concern about the lack of definition of "local health authority" included in the proposed rule. If the term is limited to governmental

departments and agencies at the local level, the commenter indicated that some states may be at a disadvantage. As an example, the commenter stated that Nebraska had only two or three counties with local health authorities. Elsewhere, reliance upon a state health agency would be the only available resource for working out the plan and the contracts contemplated by the rule.

The commenter requested that the final rule make clear that statewide health authorities, e.g., the agency responsible for drinking water programs, would be acceptable. Such a statewide authority, the commenter suggested, could set management standards and then work through other local or regional organizations, e.g., natural resources districts.

Response: The term "local health authority" is intended to include the state agency responsible for drinking water programs as well as appropriate town and city agencies. This has been clarified in the rule.

Comment: The rule, as written, will place a lot of responsibility on local health authorities who may not have the resources to carry it out, the environmental engineer commented.

Response: As a result of the SDWA, EPA requires each state, through one of its agencies, to protect the consumer by providing safe drinking water that conforms to EPA standards. In a number of states, this responsibility is delegated to the local health authority, which in turn oversees the local water department. The states are required to have adequate monitoring, testing and performance to protect the consumer. This procedure is currently in existence for public water systems, and it is the Department's position that this process can be extended to this program by the voluntary action of health authorities. It is the only practical and safe way that this program can be managed.

Comment: A manufacturers' association focused its concern on the "far too wide-ranging and nebulous powers granted local public health authorities." The requirement that a local authority certify that a point-of-entry system is in operation on the property would be, the commenter said, a prime deterrent to the use of point-of-entry equipment. Since the requirement makes it necessary to install the equipment on-site before certification, the rule would make it necessary to purchase and install expensive equipment with no certainty that the product will be certified by the local authority. The commenter recommended instead that prospective certification be permitted, based on product data supplied by the manufacturer.

Response: If the procedure outlined in this rule is followed, the only reason a local authority would have to refuse certification would be those cases where the equipment failed to provide safe potable water. The local health authorities have several matters about which they must certify, now including acceptability of the testing laboratory that approves the water purification equipment. The Department does not expect certification to occur without ample justification. Finally, this requirement for certification before occupancy allows all concerned to be assured that the correct technical decisions have been adopted. Clearly, water from the site where equipment is to be installed can be tested in advance of the equipment's installation, to afford local health authorities (and the mortgagor) an adequate demonstration that the equipment is effective before the expense of on-site installation is incurred. Nevertheless, the commenter is essentially correct in stating that the equipment must be certified as in operation on-site.

Comment: The same commenter suggested that the health authority's power to certify created the possibility that the local authority could add requirements of its own—unspecified in the rule—to the basic requirement that the water quality provided by the equipment be satisfactory.

Response: With reference to a state agency or local health authority's adding requirements, local knowledge will be required to control local problems. EPA has established the requirements, but the states are responsible for enforcement. The normal procedure for local requirements is to compare them with HUD criteria and enforce the higher standard. HUD will not object or interfere with the enforcement of higher local or state requirements.

Comment: Installation, monitoring, and servicing are limited by the rule to an "approved" entity selected by the local health authority. The commenter urged that, again, this placed too much discretion in local authority, and recommended that the rule instead provide that a list of acceptable installers, monitors and servicers be specified. (The commenter asserted that only one nationwide certification program exists for identifying qualified servicers—the Certified Water Specialist program administered by the Water Quality Association—the commenting organization.)

Response: The Department believes that mortgage insurance that can be in force on a property for thirty years and beyond must provide the protection afforded by this rule in the most

permanent manner possible. This results in placing basic responsibilities with state and local governments, rather than with business or industry groups that can change with little or no notice. The Department has inadequate information on the ever-changing universe of local water purification industry members. This function is better suited to local agencies with first hand information available on the activities of nearby businesses.

The question on the number of certifying organizations available to serve the needs of these requirements currently presents a small problem. However, the promulgation of this rule can be expected to result in the activation of a number of companies with skills in this area.

Comment: An association representing state drinking water administrators expressed some concern about the impact of the rule on state and territorial drinking water programs. The commenter observed that the responsibilities placed on health authorities came at a time when drinking water agencies are experiencing a shortfall in resources to adopt and implement Safe Drinking Water Act amendments. Additionally, some doubt was expressed whether some health agencies had the legal authority to certify point-of-entry water purification systems, or to enforce the performance of service contractors.

Response: This comment reintroduces the problem of cost from the government aspect. Again, the Department believes that it has no choice. If local or state governments lack either resources or authority, the Department will be unable to provide mortgage insurance for properties with water access problems of this type, while providing necessary protection for the mortgagors. The Department recognizes that the rule is not likely to result in availability, in all localities, of mortgage insurance for properties requiring water purification systems.

Comment: A manufacturer argued that the rule's requirement that local health authorities certify the equipment's sufficiency to assure an uninterrupted supply of safe and potable water was unnecessary in light of the requirements for a monitoring and maintenance plan. The commenter questioned how a local authority would be able to make the determination, given the need to maintain the equipment in accordance with a monitoring and maintenance plan. It was urged that the local health authority's role be dropped from the rule.

Response: The Department feels that the importance of the functions required by this rule necessitates participation by the local health authority. There is no alternative agency or group with the assured staying power of local and State governments. These agencies possess the skills, are closer to the problem and will have the facilities to accomplish the work where they agree to take part in this program. It is expected that assurances of continuing acceptable water quality will involve both review of monitoring records and making provision of water analysis tests.

Comment: A lender who said that he had contacted three health departments stated that none of the three would agree to approve a Plan of the kind described in the proposed rule, because to do so, they said, would risk legal liability in the event of system failure of future contamination to the water consumed by the homeowner.

Response: The Department is not able to determine the degree or extent of liability risk associated with this regulation. This regulation is designed to provide safeguards that will minimize these risks if all the requirements are observed. Undeniably, it is possible that some local health authorities might decline to undertake the role outlined in the rule. Nothing in the rule compels a local authority to carry out this function.

Comment: The health authorities also stated (according to the commenting lender) that contractors would be unable to afford the cost of product liability insurance in an amount necessary to provide insurance to the health authority as well as to the contractor performing inspections. The cost of such insurance, the lender-commenter observed, would have to be passed on to the purchasing homeowner.

Response: Again, where local resources or the willingness to assume responsibility are unavailable to observe the requirements of this regulation, necessary protection cannot be provided for the mortgagor, and the Department will not be in a position to offer mortgage insurance for properties requiring individual water systems.

Comment: Finally, according to the commenter, the health authorities he interviewed said that they would not act to provide "approval" of selected contractors to provide inspections, servicing, etc., because this, too, would risk legal liability for the health authority.

Response: Identification and approval of contractors to provide the necessary services to individual water systems is an essential part of the program. Someone from the local jurisdiction, or from the state, must be willing to

assume responsibility for a monitoring plan for this type of equipment. Where P.O.E. or P.O.U. equipment is used by local water companies, EPA rules at 40 CFR parts 141 and 142 require the state or its agency to review and approve a monitoring plan that includes a service plan for the equipment. While in the case of this rule, state/local government participation will be voluntary, the parallel process under the EPA rules should mean that experience with similar monitoring responsibilities exists, and this experience should pave the way for state/local participation in monitoring processes like those outlined in today's rule.

Comment: Given the circumstances he described (summarized above), the lender suggested the adoption of the regulation as proposed would "appear to be an exercise in futility." The commenter recommended a more informal approach—requiring the installation of an appropriate treatment device when contamination is apparent, and having the mortgagor execute a certificate acknowledging his awareness of the contamination and agreeing to maintain the treatment equipment in the future. Going beyond these minimal requirements, the lender said, will prove to be impractical.

Response: The Department has an obligation under the law to act in a cautious and prudent manner in establishing this new procedure. Both life safety and health are at risk for mortgagors or occupants of these properties. In addition, lenders, and the Department as insurer, are entitled to procedures that are designed to assure more than minimal attention to the future livability of the insured property. These considerations are too important to allow either equipment or procedures that are less safe than can be provided through the best available means.

Comment: A state organization representing environmental health officials commented that while a program to allow point-of-entry devices for the financing of existing dwellings might be justifiable, "we find no justification for allowing the financing of new housing under the same criteria." It is inappropriate, the commenter stated, "to knowingly allow new housing stock to be created and financed where the water supply is unsafe. This is a practice contrary to sound public health policy, creating new populations-at-risk which previously did not exist."

With reference to existing housing stock, the commenter did not oppose the use of point-of-entry devices, but stated that the certification process proposed (whether for existing or new housing) is "unworkable and unacceptable to local

environmental health authorities in California."

Lender and borrower, the commenter continued, are placed in a "Catch 22" position: While the rule leaves local health officials free not to participate, it suggests to borrowers that a procedure exists for permitting insured financing to be secured.

Response: The thrust of these comments appears to be opposition to the legislation, rather than the methods HUD will employ to comply with the Act.

Comment: The commenter stated that liability and practical concerns would lead to the unwillingness of local health authorities to participate in the certification process—especially in California. The rule would place local health authorities in a role not authorized by law, and local legal counsels will advise against any such role. Similarly, the commenter said, local health authorities would be unwilling to certify that a point-of-entry system would provide an uninterrupted supply of safe and potable water. Additionally, in California, all point-of-entry devices must have the approval of the State Department of Health Services. Unless a particular device was on the State's approved list, local authorities would have no authority to approve it.

Response: Where a state or locality is not able to participate in this program, mortgage insurance cannot be provided for properties with these particular problems. The local or state health authority is absolutely necessary to the provision of protection of life safety and health afforded by the procedures outlined in this regulation.

V. Requests for Changes in the Rule

Comment: An environmental engineer for a state health and rehabilitative service recommended withdrawing the rule as now written, in order to allow "more time to analyze the situation." The commenter suggested that different areas of the country might require specific plans to meet their needs.

Response: Different types of water contamination require different types of treatment devices and may need individual plans to meet their needs. However, this is not new. Water contamination of different types is being treated on a daily basis, using the necessary equipment to provide safe drinking water. Monitoring plans are in effect and the equipment is being serviced. The Department does not agree that waiting longer to implement a rule to carry out the statutory direction would lead to a better rule.

Comment: Another commenter asked for more information about the estimated number and location of single family developments that would be affected by the rule, and for clarification of how the standards would be applied to developments of single family homes.

Response: No means exists accurately to estimate the number of properties that will apply for mortgage insurance under this authority. Under information collection requirements in the proposed rule, the Department has estimated 1000 applicants per year, nationwide. This may well be a generous estimate—especially after the needs of an initial group of mortgagors, who may have a present need, have been satisfied.

Comment: A commenter representing an association of safe drinking water administrators asked whether the rule would authorize local health authorities to apply drinking water standards that were specific to single family developments, or whether they would be called upon to apply the requirements applicable to public water systems. The commenter observed that 1986 Safe Drinking Water Act amendments required public systems to comply with standards for 83 drinking water contaminants, as well as filtration and disinfection requirements. While application of this standard to single family developments would be "admirable," the commenter said, additional research would be required to determine the costs, to the home buyer and to the state agency, of doing so.

Response: The requirements of the SDWA Act only apply to private or public systems that serve more than 25 persons. To assure that all mortgagors have access to potable water, HUD has decided that, to qualify for FHA insurance, homes in systems serving fewer than 25 persons (including individual homes with their own water systems) must comply either with local or state water quality standards or, in the absence of these standards, with the relevant EPA standard.

Comment: An equipment manufacturer recommended that service contractors, rather than manufacturers, be called upon to provide maintenance information, because local service contractors will be more knowledgeable about the specific water quality, and thus more qualified to determine maintenance and replacement needs.

In general, the manufacturer asked for a rule that allowed for more flexibility regarding product testing, and one that permitted point-of-use devices.

Response: The Department believes that the basic responsibility for the manufacture, establishment of maintenance needs, as well as

directions for installation and use of the equipment lies with the equipment manufacturer. The role of the service contractor should be to follow the directions and repeat any necessary instructions supplied by the equipment manufacturer. Proper maintenance or servicing of the equipment must be assured.

Point-of-Use devices have been included in this final rule, as discussed under part VII of the preamble.

VI. Support for Use of Residential Water Treatment Systems

Comment: A trade association representing the ground water industry stated its full support for the rule's intention to provide a realistic option to "the importation of water by sometimes extraordinarily expensive water pipelines."

VII. Point of Entry and Point of Use

Comment: Considerable comment was received from industry sources and from the sponsoring Member of Congress on this issue. In general, it was urged that point of use devices be authorized by the rule, in circumstances where dangers from ingestion were the only water-related health concerns present.

A manufacturers' association asked that the rule be expanded to permit "point-of-use" as well as point-of-entry devices. The commenter expressed its view that the rule's prohibition of point-of-use devices "undercuts the plain language of the enabling statute." According to the commenting association, the limitation would deprive consumers of a safe alternative in circumstances when it would prove too costly—and unnecessary—to remove a particular contaminant from all household water, rather than just drinking water.

Quoting the statute (12 U.S.C. 1701z-15(a)), the commenter asserted that the key provision was that the water purification equipment be capable of providing bacterially and chemically safe drinking water. The commenter quoted the following EPA regulations:

"A State may require a public water system to use bottled water or point-of-use devices as a condition for granting an exemption from the requirements of § 141.61(a) of this part." (40 CFR 142.57)

"The State may require a public water system to use bottled water or point of use devices or other means as a condition of granting a variance or an exemption from the requirements of § 141.61(a), to avoid an unreasonable risk to health." (40 CFR 142.62(e))

Finally, the association quoted the amendment's sponsor, Representative Douglas Bereuter of Nebraska, in an

August 11, 1988 floor statement about his intention in introducing the amendment earlier. Mr. Bereuter made clear that his intention had been that point-of-use devices providing safe drinking water would be acceptable, unless a contaminant posed a health risk (when the water was used for non-drinking purposes). Remarks of Rep. Bereuter, 134 Cong. Rec. H6969 (Daily Ed.) August 11, 1988.

Summarizing, the commenter urged that the rule allow point-of-use devices when the only contaminant which was of concern in a particular fact situation was drinking water-related. The association "readily acknowledges" that point-of-use equipment will not protect against contaminants contained in water provided at other outlets.

"(However) if there is a contaminant which is not removed or reduced by a point-of-use device, then the local public health authority would not certify its use."

The congressional sponsor of the amendment on which HUD's proposed rule is based, Douglas Bereuter of Nebraska, provided comments on the point-of-use issue as well. Mr. Bereuter affirmed that it was his intention as sponsor that point-of-use systems be allowed.

An equipment manufacturer urged that HUD abandon the prohibition on point-of-use equipment, on grounds that the limitation was unrealistic and costly to consumers. It was suggested that point-of-entry requirements should be applied only where a contaminant poses a significant health risk from "non-ingestion exposure routes."

Response: The Department has given careful consideration to the question of point-of-use devices. After reviewing the comments on this subject, HUD has determined that, under proper circumstances, point-of-use devices will afford the same level of protection that will be obtained with point-of-entry devices. This level of protection can only be provided by supplying one of these devices for each water faucet connected to the residential water system. Without this kind of thorough protection, uninformed people—new occupants or visitors—may be exposed to unnecessary danger. Accordingly, the final rule has been modified to permit point-of-use devices where their use is employed on all water outlets in a residential water system.

VIII. Regulations Too Onerous

Comment: An association representing manufacturers and sellers of water quality treatment products expressed its concern that the rule

would impose so many unnecessary and onerous requirements on potential users of water treatment products that is would be "highly unlikely that many homes will be equipped with these devices." The commenter quoted the rule as evidence that HUD itself recognized this fact.

Response: The Department is aware that this is a complex rule. The essence of this rule is the protection of life safety and health through the use and application of highly sophisticated technical equipment on an individual home basis. The only responsible approach to this problem on a national scale is through the use of proven procedures employing the best available trained personnel. Any reduction in the level of protection afforded would be less than responsive to section 424 of the Housing and Community Development Act of 1987.

Comment: The same commenter argued that the rule's provision for approval of water purification equipment by a nationally recognized testing laboratory was objectionable. The commenter asserted that only one private foundation laboratory exists, and that organization, the National Sanitation Foundation, certifies products to standard for removal of only 40 of more than 200 contaminants on the EPA list of primary drinking water contaminants. That laboratory, according to the commenter, can only certify point-of-use equipment. Accordingly, the commenter believes that the combination of the third-party certification requirement and the point-of-entry requirement in the rule would prevent the use of any point-of-entry purification systems.

If HUD insists on equipment certification, the commenter continued, it should permit either third party approval (it is unclear what the commenter believed this would entail) or "self-certification by the unit's manufacturer."

The regulation's failure to define a "nationally recognized testing laboratory" or to identify any such facilities creates an ambiguity, the commenter said, that would give too much discretionary power to local health officials. This power could lead to an effective monopoly for product testing and approval services—at the expense of consumer choice and cost.

In summary, the association recommended that testing be conducted by the manufacturer using "scientifically valid test methods," and that the installer provide the consumer with a water test to show that the product is performing as promised. The installer should also be required to provide the

consumer with a maintenance schedule for filter changes, the commenter suggested.

A water purification equipment manufacturer expressed similar concerns. The commenter stated that it had numerous products certified under the standards of the only nationally recognized laboratory, the National Sanitation Foundation, but that NSF standards do not cover all products. For that reason, the commenter urged that it would be inappropriate to mandate that certification by a testing entity be a universal requirement. The manufacturer asked that the rule be modified to provide that equipment must be approved either by a nationally recognized testing laboratory or "tested using scientifically valid test methods."

Response: The Department has discussed this matter with staff at the National Sanitation Foundation, including the question of the number of contaminants for whose removal the Foundation can certify products. The response is that the Foundation is in the process of developing tests and protocols for the entire current list of contaminants published by EPA, and will continue to develop these methodologies for contaminants identified on future lists published by EPA. These tests and protocols extend to both point-of-use and point-of-entry equipment. Foundation personnel explain that lack of requirements has resulted in lack of demand in this area, and that new attention to these needs (such as this regulation) can be expected to result in greater demand, technical attention and laboratory participation in the development of treatment facilities for individual wells.

The question of third party certification on the manufacture of this equipment, as opposed to self-certification, has been considered by the Department. Third party certification serves to provide a periodic check on the quality control procedures of the manufacturer to help assure safe functional equipment. The Department has decided that equipment providing protection to life safety and health fully justifies this level of inspection.

The question of providing a definition for "nationally recognized testing laboratory" poses a different problem. "Nationally recognized testing laboratory" is a term of art used at times to describe a professionally competent organization with licensed personnel, appropriate, properly calibrated equipment and a record of successful experience in analysis and approval of the work described. To reduce the apparent ambiguity of this requirement, the Department has added that such a

laboratory must be acceptable to the local or State health authority.

Comment: Representative Bereuter also criticized this aspect of the rule. "My understanding is that no lab test is able to duplicate the many and varied conditions of non-potable water, and thus that any lab test will not accurately reflect whether a purification system will work in all cases. Only a test of the device on the site in which it is to be used would seem to prove accurate."

Response: There is no question that untreated water will have to be tested to provide guidance in the selection of appropriate treatment devices. The final proof of the availability of bacterially and chemically safe drinking water can only be made after treatment devices are in operation. This is the intent of §§ 203.52(b)(3) and 234.64(b)(3).

IX. Notice to Applicant Mortgages

Comment: A manufacturers' association also questioned the rule's proposed requirement that mortgagors be given notice that a property has a "hazardous water supply." Many public water systems, the commenter asserted, operated under variances from the EPA because of the presence of one or more contaminants in their water supply, but these cities are not required to state that their water is "hazardous." The commenter recommended that no such notice be required, or, alternatively, that the term "hazardous" be replaced with a notice that the "water supply does not meet applicable federal, state or local standards."

Response: The commenter's observation concerning public water systems is correct. However, public systems are required to have a state-approved monitoring plan certified that indicates their maintenance schedule for the system. These monitoring plans include testing and maintenance on a regular basis to assure the state that the water system is safe for human consumption. Copies of the water tests must be submitted to the state on a regular basis. The state is required by EPA to require adequate certification of performance and field testing. In the case of private systems, with no public organization to undertake these functions, it appears both reasonable and prudent to provide case-by-case notice to the occupant of a property with a water supply that may be hazardous to the health of a family.

X. Administration of Escrow Account for Maintenance, Repair and Reserves for Replacement

Comment: A loan servicer commented that while administering an escrow

account for maintenance, repair and reserves for replacement of water purification equipment would be a "servicing nightmare," as a technical matter it could be done.

Response: The Department is aware that servicing escrow accounts—particularly accounts of the type involved in this rule—presents difficulties for a mortgagee. However, there is no practical alternative.

Comment: The Mortgage Bankers Association commented that while the rule proposes that mortgagees escrow estimated amounts for maintenance of the equipment, no remedy is proposed for handling costs that exceed the amount in escrow. In addition, the Association observed that the plan requirements outlined in the rule, if not flexibly administered, carried the potential to be abused by service contractors to the detriment of mortgagors and mortgagees.

Escrow shortages caused by repair or replacement expenses that exceeded the amount escrowed for this purpose would only be acceptable to the mortgagee if the rule provided flexibility to collect the additional funds needed within 30 days. Otherwise, it would be unreasonable to expect lenders to assume liability for expenses over which they have no control, and no expert knowledge in estimating.

Response: Escrow overruns should occur relatively infrequently in this program. When overruns do occur, they are expected to be handled through routine procedures. These include increased payments by the mortgagor, and in some cases, direct assessments.

XI. Maintenance Contracts

Comment: A mortgage lender from California suggested that the organization or individual who contracts to provide maintenance would have to be well-acquainted with the equipment to be serviced, and at least in some states, would need appropriate licensing.

Response: Servicing organizations will have to be fully acquainted with manufacturers instructions for the installation and maintenance of water purification equipment. The certification requirements for local health authorities are intended, insofar as possible, to assure that only qualified organizations will be accepted. Assuring that state licensing requirements are met will be the joint responsibility of local health authorities and the servicing organizations themselves.

Comment: The same commenter estimated that annual testing fees could run as high as \$500, depending on the level of testing required. Since this

expense would have to be a part of the escrowed account for maintenance, repair and replacement, it would appear that the escrow might prove overly burdensome for the average FHA buyer.

Response: The Department is aware of this potential problem. However, HUD sees no alternative to equipment and upkeep costs necessary to provide chemically and bacterially safe drinking water. Presumably the problem will be self-correcting: If the water supply available to a particular property poses equipment and upkeep costs beyond the mortgagor's willingness to pay, the suitability of the property for residential housing will be judged negatively.

Comment: The MBA reflected that the rule places mortgagors and mortgagees at the mercy of specialized manufacturers, installers and consultants. Particularly in rural areas, the commenter stated, where the number of qualified water contractors may be limited, the tendency may be to make very conservative judgments of potability. This could lead to abuses by contractors. Water that is perfectly safe with a point-of-use system, for example, may be deemed unsafe—not because it is hazardous to mortgagors, but because it would be more profitable to contractors to install a point of entry system.

The maintenance, disclosure and escrow requirements outlined in HUD's proposal, the MBA stated, would be very difficult for lenders to administer. HUD field offices must be absolutely certain that the addition of water purification equipment is in the best interest of mortgagors.

Response: Health authority participation, and laboratories run by professional and usually licensed personnel, should, in HUD's view, generally avert the problem of fraudulent representation of water quality.

Dependency on state and local governments, and the use of qualified laboratories will serve the purpose of assuring the need for water purification equipment, as well as assuring the designation of correct equipment and procedures to remove water impurities.

Other Matters

Paperwork Reduction Act

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Sections 203.52 and 234.64 of this rule have been determined by the Department to contain collection of information

requirements. Information on these requirements is provided as follows:

Description of the Need for Information and its Proposed Use: This information collection will enable HUD to assure that the parties to an insured mortgage transaction involving property without a water supply that is safe and potable in the absence of treatment have taken adequate steps to safeguard the health and safety of inhabitants of the insured dwelling. Submission of the required information to HUD will provide a means for the Department to monitor the efficacy of the procedures provided in the rule, and will ensure that these procedures are carried out as a prerequisite to the availability of mortgage insurance.

The Department solicits comments on the reporting and recordkeeping burdens associated with the "Plan" set out as a feature of this rule, including comments on the Department's estimates of the time required to complete the Plan. Comments are invited on Ways that this burden could be reduced.

Form Number: None.

Respondents: Mortgagors and mortgagees (jointly) who proposed to enter into insured mortgage transactions involving single family dwellings in areas with water supplies requiring treatment.

Frequency of Submission: One submission per insured mortgage transaction.

Reporting Burden:

No. of Respondents	x	Frequency of Response	x	Hours Per Response
7000		1 per year		1,357 hrs.

Total Burden Hours: 9500 hours.

(These estimates assume: 1000 applicants per year, each requiring a total of 9.5 hours in the first year to complete collection of information responses required by the rule. The 9.5 hours includes time for preparation of plans, certifications, service contracts, preparation of escrow reviews, mortgagee certifications, and annual water analyses.

Thereafter, in "out" years, previous year applicants would require one hour per year to complete water analysis—i.e., to obtain samples and tests. Accordingly, in year one the total information burden is estimated at 9500 hours, in year two, 10500 hours (9500 for estimated 1000 applicants + 1000 hours for annual water analysis for previous year's applicants). Burden thereafter would increase by 1000 hours annually, because of accumulation of applicants requiring follow-up testing.

NEPA

A Finding of No Significant Impact with respect to the environment has

been made with reference to the content of this final rule (as revised) in accordance with HUD regulations at 24 CFR part 50, with implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of Rules Docket Clerk at the above address.

Executive Order 12291

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The per-unit cost of installing water purification equipment can vary greatly, in a range running from a few hundred dollars to several thousand dollars. However, the estimated cumulative cost of this equipment—even assuming the maximum of 1000 insurance applications under this program in a year's time—could not even approach the dollar costs necessary to cause an economic effect of the magnitude described in Executive Order 12291. The Department estimates that gross equipment costs for the maximum 1000 homes seeking insurance would fall within a range of \$1.5 to \$2 million per year. In any event, the total cost of this equipment would be an inappropriate measure of the economic burden imposed by the rule, since some portion of these homes would be constructed and equipped with water purification equipment, whether or not FHA mortgage insurance was sought in the financing of the mortgage.

Regulatory Flexibility

The Secretary, in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), has reviewed this rule before its publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule will provide an opportunity, to mortgagors in areas with poor access to public water supplies, to secure FHA mortgage insurance upon demonstrating that an effective means has been arranged to

secure safe drinking water through the use of individual water purification systems. Only a relatively small number of mortgagees are expected to be provided mortgage insurance under the circumstances described in the rule. While the requirements associated with the insurance of mortgages under these circumstances are more strenuous than those facing mortgagors and mortgagees in other single family transactions, they are considered the minimum necessary for accomplishing the goal of affording access to mortgage insurance only under circumstances that will assure the safety of the water supply serving the dwelling unit. Given the subject matter, no effective means exist to reduce the regulatory burden to be applied, as it relates to small mortgagees or other small entities affected by the rule.

Semiannual Agenda

This rule was listed as sequence number 1399 on the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380, 53407) in accordance with Executive Order 12291 and Regulatory Flexibility Act.

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 rule is not subject to review under the Order. While the rule provides for the exercise of certain important responsibilities by local or state health authorities, associated with the provision of mortgage insurance, the functions described in the rule are not mandated; local or state health authorities will remain free to participate in the process described in the rule, or to refrain from so participating.

Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule provides a means, under special circumstances, for securing FHA mortgage insurance for otherwise-uninsurable properties, and a means to

assure the safety and potability of drinking water serving the premises. Any effect on the family would likely be indirect and insignificant.

Accordingly, the Department proposes to amend 24 CFR parts 200, 203 and 234 as follows:

PART 200—INTRODUCTION

1. The authority citation for part 200 would continue to read as follows:

Authority: Titles I and II, National Housing Act (12 U.S.C. 1701–1715z–18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 200.926d would be amended by revising paragraph (f)(2)(ii) to read as follows:

§ 200.926d Construction requirements.

(f) * * *

(2) * * *

(ii) Water that, to be potable, requires continuing or repetitive treatment to be safe bacterially or chemically shall also comply with the requirements of 24 CFR 203.52 or 24 CFR 234.64, whichever is applicable.

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

3. The authority citation for part 203 would continue to read as follows:

Authority: Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, subpart C is issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

4. A new § 203.52 would be added to subpart A, to read as follows:

§ 203.52 Acceptance of individual residential water purification equipment.

If a property otherwise eligible for insurance under this part does not have access to a continuing supply of safe and potable water without the use of a water purification system, the requirements of this section must be complied with as a condition to acceptance of the mortgage for insurance. The mortgagee must provide appropriate documentation with the submission for insurance endorsement to address each of the requirements of this section.

(a) *Equipment.* Water purification equipment must be approved by a nationally recognized testing laboratory acceptable to the local or state health authority.

(b) *Certification by local (or state) health authority.* A local (or state)

health authority certification must be submitted to HUD which certifies that:

(1) A point-of-entry or point-of-use water purification system is currently in operation on the property. If the system in operation employs point-of-use equipment, the purification system must be employed on each water supply source (faucet) serving the property. Where point-of-entry systems are used, separate water supply systems carrying untreated water for flushing toilets may be constructed.

(2) The system is sufficient to assure an uninterrupted supply of safe and potable water adequate to meet household needs.

(3) The water supply, when treated by the equipment, meets the requirements of the local (or state) health authority, and has been determined to meet local or state quality standards for drinking water. If neither state nor local standards are applicable, then quality shall be determined in accordance with standards set by the Environmental Protection Agency (EPA) pursuant to the Safe Drinking Water Act. (EPA standards are prescribed in the National Primary Drinking Water requirements, 40 CFR parts 141 and 142.)

(4) There exists a Plan providing for the monitoring, servicing, maintenance, and replacement of the water equipment, which Plan meets the requirements of paragraph (f) of this section.

(c) *Mortgagor notice and certification.* (1) The prospective mortgagor must have received written notification, before the mortgagor signed a sales contract, that the property has a hazardous water supply that requires treatment in order to remain safe and acceptable for human consumption. The notification to the mortgagor must identify specific contaminants in the water supply serving the property, and the related health hazard arising from the presence of those contaminants.

(2) The mortgagor must have received, with the notification described in paragraph (c)(1) of this section, a written good faith estimate of the maintenance and replacement costs of the equipment necessary to assure continuing safe drinking water.

(3) A copy of the notification statement (including cost estimates), dated before the date of the sales contract, and signed by the prospective mortgagor to acknowledge its receipt, must accompany the submission for insurance endorsement. If a sales contract is signed in advance of the disclosure required by this paragraph, another sales contract must be executed after the information is provided to the

prospective mortgagor and he or she has acknowledged receipt of the disclosure.

(4) The prospective mortgagor must sign a certification, substantially in the form set out in this paragraph (c)(4), at the time the application for mortgage credit approval is signed. This certification must be submitted to HUD:

Mortgagor's Certificate. I hereby acknowledge and understand that the home I am purchasing has a water purification system which I am responsible for maintaining.

I understand that the individual water supply is unsafe for consumption unless the system is operating properly. I am aware that if I do not properly maintain the system, the water supply will not be purified or treated properly, thereby rendering the water supply unsafe for consumption.

I also understand that the Department of Housing and Urban Development does not warrant the condition of the property, will not give me any money for repairs to the water purification system, and has relied upon the local (or state) health authority to assure that the water supply, when processed by properly maintained equipment, is acceptable for human use and consumption.

[Mortgagor's signature and date]

(d) *Service contract.* Before mortgage closing, the mortgagor must enter into a service contract with an organization or individual specifically approved by the local (or state) health authority to carry out the provisions of the required Plan for servicing, maintenance, repair and replacement of the water purification equipment. A copy of the signed service contract must be provided to HUD.

(e) *Escrow for maintenance and replacement.* The mortgagee must establish and maintain an escrow account which provides for the accumulation of funds paid with the mortgagor's monthly mortgage payment adequate to assure proper servicing, maintenance, repair and replacement of the water purification equipment. The amount to be collected and escrowed by the mortgagee shall be based upon information provided by the manufacturer for the maintenance and replacement of the water purification equipment and for other charges anticipated by the service contractor. The initial monthly escrow amount shall be stated in the Plan. Disbursements from the account will be limited to costs associated with the normal servicing, maintenance, repair or replacement of the water purification equipment. Disbursements may only be made to the service contractor or its successor, to equipment suppliers, to the local (or state) health authority for the performance of testing or other required services, or to another entity approved by the health authority. So long as water

purification remains necessary and the mortgage is insured by HUD, the mortgagee must maintain the escrow account.

(f) *Approved Plan.* A Plan, in the form of a contract entered into by the mortgagor and mortgagee and approved by the local (or state) health authority, must set out conditions that must be met by the parties as a condition to insurance of the mortgage by HUD. To be approved by the health authority:

(1) The Plan must set forth the respective responsibilities to be assumed by the mortgagor and the mortgagee, as well as the other entities who will implement the Plan, i.e., the health authority and the service contractor. In particular:

(i) The Plan must set out the responsibilities of the health authority for monitoring and enforcing performance of the service contractor, including any successor contractor that the health authority may later have occasion to name. By its approval of the Plan, the health authority documents its acceptance of these responsibilities, and the Plan should so indicate;

(ii) The Plan must provide for the monitoring of the operation of the water purification equipment, as well as for servicing (including disinfecting), and for repairing and replacing the system, as frequently as necessary, taking into consideration the system's design, anticipated use, and the type and level of contaminants present. Installation, servicing, repair and replacement of the water purification system must be performed by an individual or organization approved for the purpose by the local (or state) health authority and identified in the Plan. In meeting the requirements of paragraph (f)(1)(ii) of this section, the Plan may incorporate by reference specific terms and conditions of the service contract required under paragraph (d) of this section.

(iii) Under the Plan, responsibility for monitoring the performance of the service contractor and for assuring that the water purification system is properly serviced, repaired, and replaced rests with the local (or state) health authority that has given its approval to the Plan. The Plan must confer on the health authority all powers necessary to effect compliance by the service contractor. The health authority's powers shall include the authority to notify the mortgagor of any noncompliance by the service contractor. The plan must provide that, upon any notification of noncompliance received from the health authority, the mortgagor shall have the right to discharge the service contractor

for cause and to appoint a successor organization or individual as service contractor; and

(iv) The Plan must provide for the mortgagor to make periodic escrow payments necessary for the servicing, maintenance, repair and replacement of the water purification system, and for the mortgagee to disburse funds from the escrow account as required, to the appropriate party or parties.

(2) The Plan must provide that if the dwelling served by the water purification system is refinanced, or is sold or otherwise transferred with a HUD-insured mortgage, the Plan will:

(i) continue in full force and effect;

(ii) impose an obligation on the mortgagor to notify any subsequent purchaser or transferee of the necessity for the water purification system and for its proper maintenance, and of the obligation to make escrow payments; and

(iii) require the mortgagor to furnish the purchaser with a copy of the Plan, before any sales contract is signed.

(g) *Periodic analysis.* Any Plan developed in accordance with this section must provide that an analysis of the water supply shall be obtained from the local (or state) health authority no less frequently than annually, but more frequently, if determined at any time to be necessary by the health authority or by the service contractor.

5. In subpart C, § 203.550 would be amended by revising the first sentence in paragraph (c), and by adding a new second sentence to paragraph (c), to read as follows:

§ 203.550 Escrow accounts.

(c) Except in the case of escrow accounts established for the purpose of monitoring, servicing, maintenance and replacement of water purification equipment in accordance with § 203.52 or § 234.64 of this chapter, the mortgagee's estimate of escrow requirements shall be based on the best information available as to probable payments which will be required to be made from the account in the coming year. Mortgagees may, in the case of escrow accounts created for purposes of § 203.52 or § 234.64, estimate escrow requirements based on the best information available as to probable payments which will be required to be made from the account on a periodic basis throughout the period during which the account is maintained.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

6. The authority citation for part 234 continues to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Section 234.520(a)(2)(ii) is also issued under sec. 201(a), National Housing Act (12 U.S.C. 1707(a)).

7. A new § 234.64 would be added to subpart A, to read as follows:

§ 234.64 Acceptance of individual residential water purification equipment.

If a property otherwise eligible for insurance under this part does not have access to a continuing supply of safe and potable water without the use of a water purification system, the requirements of this section must be complied with as a condition to acceptance of the mortgage for insurance. The mortgagee must provide appropriate documentation with the submission for insurance endorsement to address each of the requirements of this section.

(a) *Equipment.* Water purification equipment must be approved by a nationally recognized testing laboratory acceptable to the local or state health authority.

(b) *Certification by local (or state) health authority.* A local (or state) health authority certification must be submitted to HUD which certifies that:

(1) A point-of-entry or a point-of-use water purification system is currently in operation on the property. If the system in operation employs point-of-use equipment, the purification system must be employed on each water supply source (faucet) serving the property. Where point-of-entry systems are used, separate water supply systems carrying water for flushing toilets may be constructed.

(2) The system is sufficient to assure an uninterrupted supply of safe and potable water.

(3) The water supply, when treated by the equipment, meets the requirements of the local (or state) health authority, and has been determined to meet local or state quality standards for drinking water. If neither state or local standards are applicable, then quality shall be determined in accordance with standards set by the Environmental Protection Agency (EPA) pursuant to the Safe Drinking Water Act. (EPA standards are prescribed in the National Primary Drinking Water requirements, 40 CFR parts 141 and 142.).

(4) There exists a Plan providing for the monitoring, servicing, maintenance, and

replacement of the water equipment, which Plan meets the requirements of paragraph (f) of this section.

(c) *Mortgagor notice and certification.*

(1) The prospective mortgagor must have received written notification, before the mortgagor signed a sales contract, that the property has a hazardous water supply that requires treatment in order to remain safe and acceptable for human consumption. The notification to the mortgagor must identify specific contaminants in the water supply serving the property, and the related health hazard arising from the presence of those contaminants.

(2) The mortgagor must have received, with the notification described in paragraph (c)(1) of this section, a written good faith estimate of the maintenance and replacement costs of the equipment necessary to assure continuing safe drinking water.

(3) A copy of the notification statement (including cost estimates), dated before the date of the sales contract, and signed by the prospective mortgagor to acknowledge its receipt, must accompany the submission for insurance endorsement. If a sales contract is signed in advance of the disclosure required by this paragraph, another sales contract must be executed after the information is provided to the prospective mortgagor and he or she has acknowledged receipt of the disclosure.

(4) The prospective mortgagor must sign a certification, substantially in the form set out in this paragraph (c)(4), at the time the application for mortgage credit approval is signed.

This certification must be submitted to HUD:

Mortgagor's Certificate. I hereby acknowledge and understand that the home I am purchasing has a water purification system which I am responsible for maintaining.

I understand that the individual water supply is unsafe for consumption unless the system is operating properly. I am aware that if I do not properly maintain the system, the water supply will not be purified or treated properly, thereby rendering the water supply unsafe for consumption.

I also understand that the Department of Housing and Urban Development does not warrant the condition of the property, will not give me any money for repairs to the water purification system, and has relied upon the local (or state) health authority to assure that the water supply, when processed by properly maintained equipment, is acceptable for human use and consumption.

[Mortgagor's signature and date]

(d) *Service contract.* Before mortgage closing, the mortgagor must enter into a service contract with an organization or

individual specifically approved by the local (or state) health authority to carry out the provisions of the required Plan for servicing, maintenance, repair and replacement of the water purification equipment. A copy of the signed service contract must be provided to HUD

(e) *Escrow for maintenance and replacement.* The mortgagee must establish and maintain an escrow account which provides for the accumulation of funds paid with the mortgagor's monthly mortgage payment adequate to assure proper servicing, maintenance, repair and replacement of the water purification equipment. The amount to be collected and escrowed by the mortgagee shall be based upon information provided by the manufacturer for the maintenance and replacement of the water purification equipment and for other charges anticipated by the service contractor. The initial monthly escrow amount shall be stated in the Plan. Disbursements from the account will be limited to costs associated with the normal servicing, maintenance, repair or replacement of the water purification equipment. Disbursements may only be made to the service contractor or its successor, to equipment suppliers, to the local (or state) health authority for the performance of testing or other required services, or to another entity approved by the health authority. So long as water purification remains necessary and the mortgage is insured by HUD, the mortgagee must maintain the escrow account.

(f) *Approved Plan.* A Plan, in the form of a contract entered into by the mortgagor and mortgagee and approved by the health authority, must set out conditions that must be met by the parties as a condition to insurance of the mortgage by HUD. To be approved by the health authority:

(1) The Plan must set forth the respective responsibilities to be

assumed by the mortgagor and the mortgagee, as well as the other entities who will implement the Plan, i.e., the health authority and the service contractor. In particular:

(i) The Plan must set out the responsibilities of the health authority for monitoring and enforcing performance of the service contractor, including any successor contractor that the health authority may later have occasion to name. By its approval of the Plan, the local (or state) health authority documents its acceptance of these responsibilities, and the Plan should so indicate;

(ii) The Plan must provide for the monitoring of the operation of the water purification equipment, as well as for servicing (including disinfecting), and for repairing and replacing the system, as frequently as necessary, taking into consideration the system's design, anticipated use, and the type and level of contaminants present. Installation, servicing, repair and replacement of the water purification system must be performed by an individual or organization approved for the purpose by the local (or state) health authority and identified in the Plan. In meeting the requirements of paragraph (f)(1)(ii) of this section, the Plan may incorporate by reference specific terms and conditions of the service contract required under paragraph (d) of this section.

(iii) Under the Plan, responsibility for monitoring the performance of the service contractor and for assuring that the water purification system is properly serviced, repaired, and replaced rests with the local (or state) health authority that has given its approval to the Plan. The Plan must confer on the health authority all powers necessary to effect compliance by the service contractor. The health authority's powers shall include the authority to notify the mortgagor of any noncompliance by the

service contractor. The plan must provide that, upon any notification of noncompliance received from the health authority, the mortgagor shall have the right to discharge the service contractor for cause and to appoint a successor organization or individual as service contractor; and

(iv) The Plan must provide for the mortgagor to make periodic escrow payments necessary for the servicing, maintenance, repair and replacement of the water purification system, and for the mortgagee to disburse funds from the escrow account as required, to the appropriate party or parties.

(2) The Plan must provide that, if the dwelling served by the water purification system is refinanced, or is sold or otherwise transferred with a HUD-insured mortgage, the Plan will:

(i) continue in full force and effect;

(ii) impose an obligation on the mortgagor to notify any subsequent purchaser or transferee of the necessity for the water purification system and for its proper maintenance, and of the obligation to make escrow payments; and

(iii) require the mortgagor to furnish the purchaser with a copy of the Plan, before any sales contract is signed.

(g) *Periodic analysis.* Any Plan developed in accordance with this section must provide that an analysis of the water supply shall be obtained from the local (or state) health authority no less frequently than annually, but more frequently, if determined at any time to be necessary by the health authority or by the service contractor.

Dated: March 12, 1992.

Arthur J. Hill,

Assistant Secretary for Housing—Federal Housing Commissioner.

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