





ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

MEMORANDUM FOR: Julia R. Gordon, Assistant Secretary for Housing – Federal
Housing Commissioner, H

THROUGH: 
Jeffrey D. Little, General Deputy assistant Secretary for
Housing, H

FROM: 
Ethan D. Handelman, Deputy Assistant Secretary for
Multifamily Housing Programs, HT

SUBJECT: Environmental Assessment and Findings of No Significant Impact
under the National Environmental Policy Act for the Disbursing
Multifamily Mortgage Proceeds: Permitting Mortgagees to
Disburse Mortgage Proceeds with Mortgagor-Provided Funds:
Proposed Rule (FR-6423-P-01)

It is the finding of this office that issuance of this proposed rule does not constitute a major federal action having any individually or cumulatively significant effect on the human environment and therefore, does not require the preparation of an environmental impact statement.

Pursuant to the Code of Federal Regulations (CFR), mortgagees seeking to originate a Federal Housing Administration (FHA)-insured mortgage regulated pursuant to 24 CFR part 200, subpart A, must comply with the project completion funding requirements in 24 CFR 200.54 which require that a mortgagor deposit funds with its mortgagee (mortgagor-provided funds) that are sufficient, when added to the proceeds from the FHA-insured mortgage, to assure completion of planned multifamily or healthcare facility project work, material and to pay the initial service charge, carrying charges, and legal and organization expenses (collectively, “project-related expenses”) incident to the construction of the project.

Typically, 24 CFR 200.54(b) requires that the funds deposited by the mortgagor must be disbursed in full for project work, material and project-related expenses before the mortgagee may disburse any mortgage proceeds. HUD requires that mortgagees disburse the mortgagor-provided funds in full before disbursing any mortgage proceeds as a basic risk measure.

For most mortgages regulated pursuant to 24 CFR part 200, subpart A, the mortgagor-provided funds are disbursed in full to pay for project-related expenses with the initial advance

of the insured mortgage proceeds at the time the insured mortgage is endorsed. For certain mortgages, however, the amount of mortgagor-provided funds exceeds the amount of project-related expenses due at the time the insured mortgage is endorsed.

Given that 24 CFR 200.54(b) does not permit insured mortgage proceeds to be disbursed until the mortgagee disburses all mortgagor-provided funds, the mortgage cannot be pooled into a mortgage-backed security (MBS) guaranteed by the Government National Mortgage Association (Ginnie Mae) without conflicting with 24 CFR 200.54(b). As such, for an insured mortgage to be pooled into a guaranteed MBS, the insured mortgage proceeds must be permitted to be disbursed.

This rule proposes to solve the conflict by adding an exception to the requirement in 24 CFR 200.54(b) that would permit mortgagees, where the funds provided by the mortgagor are not fully disbursed with the initial advance of the insured mortgage proceeds, to disburse up to 1 percent of the mortgage amount initially endorsed for insurance before requiring that the funds provided by the mortgagor be disbursed in full. This proposed exception would permit a mortgagee to disburse mortgage proceeds at the time the mortgage is initially endorsed for insurance up to a maximum of 1 percent of the initially endorsed mortgage amount.

The proposed rule would not change environmental review procedures nor modify any environmental requirements applicable to properties insured under HUD's FHA multifamily mortgage insurance programs. Applications for mortgage insurance are evaluated on a case-by-case basis and each project is analyzed for environmental impact based on the set of environmental standards outlined in Chapter 9 of the Multifamily Accelerated Processing (MAP) Guide issued by Multifamily Housing which in turn are based on HUD's regulations implementing the National Environmental Policy Act of 1969 (NEPA). Prior to issuing a Firm Commitment, all projects will be required to have environmental clearance approved by HUD pursuant to 24 CFR Part 50 that will assess the potential environmental impacts in a local setting before the impacts or any choice-limiting activities may take place. The environmental review may result in rejection of the proposal for the demonstration or require mitigation measures.

For the above reasons, this Office concludes that a Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Attachment:

Proposed Rule FR-6423-P-01 - Disbursing Multifamily Mortgage Proceeds: Permitting Mortgagees to Disburse Mortgage Proceeds with Mortgagor-Provided Funds

Concurrences:

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APPROVED:

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Julia Gordon Date
Assistant Secretary for Housing – Federal
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