

§ 959.110 Reestablishment of districts.

Pursuant to § 959.25, a single district is reestablished to include all counties in the production area as follows: the counties of Aransas, Atascosa, Bee, Brooks, Calhoun, Cameron, DeWitt, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Karnes, Val Verde, Kenedy, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Refugio, San Patricio, Starr, Uvalde, Victoria, Webb, Willacy, Wilson, Zavala and Zapata in the State of Texas.

■ 3. Add § 959.111 to read as follows:

§ 959.111 Reapportionment of Committee membership.

Pursuant to § 959.25, the Committee membership of eight producer members and five handler members and the respective alternates is reapportioned to a single district made up of all counties in the production area.

Melissa R. Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–16960 Filed 8–1–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2024–0319; Airspace Docket No. 24–ASO–6]

RIN 2120–AA66

Amendment of Class E Airspace; Reidsville, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; withdrawal.

SUMMARY: A final rule was published in the *Federal Register* on June 4, 2024, establishing Class E airspace extending upward from 700 feet above the surface for Rockingham County NC Shiloh Airport, Reidsville, NC, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving the airport. The FAA has determined that withdrawal of the final rule is warranted since this action should be considered an amendment.

DATES: Effective 0901 UTC, August 2, 2024.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:**History**

The FAA published a final rule in the *Federal Register* (89 FR 47847, June 4, 2024) for Doc. No. FAA–2024–0319, establishing Class E airspace extending upward from 700 feet above the surface within a 9.1-mile radius of Rockingham County, NC Shiloh Airport, Reidsville, NC. After publication, the FAA found that Class E airspace had already been charted for this airport. As a result, the final rule is being withdrawn, and a new final rule, amending the existing Class E airspace, will be submitted.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

■ In consideration of the foregoing, the final rule for Docket No. FAA–2024–0319 (89 FR 47847, June 4, 2024), FR Doc. 2024–12112, is hereby withdrawn.

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in College Park, Georgia, on July 29, 2024.

Andree C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2024–17008 Filed 8–1–24; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 203**

[Docket No. FR–6353–F–02]

RIN 2502–AJ66

Modernization of Engagement With Mortgagees in Default

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, HUD.

ACTION: Final rule.

SUMMARY: HUD’s regulations require mortgagees of Federal Housing Administration insured single family mortgages to meet in person, or make a reasonable effort to meet in person, with mortgagors who are in default on their mortgage payments. This rule modernizes those requirements by amending HUD’s regulations to better align with advances in electronic communication technology and mortgagor engagement preferences, while preserving consumer protections.

Specifically, this rule revises HUD’s in-person, face-to-face meeting requirements by permitting mortgagees to utilize methods of communication most likely to receive a response from the mortgagor, including remote communication methods, to meet with mortgagors who are in default on their mortgage payments. This rule also expands the meeting requirement to all mortgagors in default, including mortgagors who do not reside in the mortgaged property and those with a mortgaged property not within 200 miles of their mortgagee. This final rule adopts HUD’s July 31, 2023, proposed rule with only minor, non-substantive revisions.

DATES: Effective January 1, 2025.

FOR FURTHER INFORMATION CONTACT:

Elissa Saunders, Director, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 100 South Charles Street, Bank of America Building, Tower II, 11th Floor, Baltimore, MD 21201; telephone number 410–209–6605 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:**I. Background**

First codified in 1976, HUD’s regulations at 24 CFR 203.604 require mortgagees of Federal Housing Administration (FHA) insured single family mortgages (mortgagees) to meet in person, or make a reasonable effort to meet in person, with mortgagors who are in default on their mortgage payment. This requirement for an in-person meeting with the mortgagor, commonly referred to as the “face-to-face meeting” requirement, originated during a time when mortgage lending and servicing activities were conducted in person at locations in the local communities a mortgagee served. At that time, a face-to-face meeting between the mortgagor and mortgagee was the most effective way to discuss and facilitate loss mitigation options because knowledgeable mortgagee staff were available at locations near the mortgaged property. Beginning in the mid-1990s, many mortgagees began consolidating origination and servicing activities at centralized locations. Today, many mortgagees have a national presence and often employ a single

national servicing center or a limited number of regional servicing centers, operate without retail places of business altogether, and tend to conduct origination and servicing activities with employees and clients not being in close physical proximity. In addition, mortgagors show an increased preference to conduct business online or through other remote methods.

The current face-to-face meeting requirement also reflects a time when electronic methods for conducting virtual meetings were not widely available or commonly used. Since 24 CFR 203.604 was last amended, significant advances have been made in the mortgage industry's use of technology and mortgagors' access to such, including smartphones, tablets, and live video communications. Over the years, HUD has updated certain mortgage servicing policies to increase requirements for mortgagees to engage with mortgagors in default on their mortgage payments. To adapt to changing uses of communication technology, in updates to the FHA Single Family Housing Policy Handbook 4000.1,¹ HUD has expanded its acceptable methods for communicating with mortgagors in default situations, which currently include phone calls, emails, web portals, and other electronic methods.² In addition to HUD increasing its requirements for mortgagees to engage with mortgagors in default, the Consumer Financial Protection Bureau (CFPB) mortgage servicing regulations at 12 CFR part 1024 and State laws in many jurisdictions require engagement with mortgagors, causing mortgagees to expand their outreach processes to offer mortgagors timely loss mitigation options.

As a result of mortgagees' expanded outreach processes to mortgagors and mortgagors' ability to independently research loss mitigation options, mortgagees reported very few mortgagors who agreed to participate in face-to-face meetings with their mortgagees prior to the COVID-19 pandemic, as more thoroughly described in the Modernization of Engagement with Mortgagors in Default proposed rule (the proposed rule) that preceded this final rule.³

Due to public health concerns around the spread of COVID-19, in March 2020, HUD issued a temporary, partial waiver

of the face-to-face meeting requirement found in 24 CFR 203.604, which has been extended on several occasions and remains in effect until this final rule becomes effective on January 1, 2025 (collectively, the "waiver").⁴ Similar to the regulation revisions codified in this final rule, the waiver permitted mortgagees to use alternative methods for contacting mortgagors, including electronic methods of communication, *e.g.*, phone interviews, email, video calling services, and other communication technologies, to meet the requirements of 24 CFR 203.604. With this waiver in place, mortgagees provided over 2 million mortgagors in default with loss mitigation assistance. HUD received positive feedback from mortgagees and consumer advocates related to the added flexibility to existing loss mitigation outreach requirements permitted by the waiver.

II. The Proposed Rule

On July 31, 2023, HUD published for public comment the proposed rule to amend 24 CFR 203.604. For mortgages insured pursuant to 24 CFR part 203, except mortgages insured on Indian Land pursuant to section 248 of the National Housing Act (Section 248 Mortgages on Indian Land),⁵ the proposed rule sought to make it more convenient for mortgagors in default to meet with their mortgagee by revising the requirement that mortgagees must have a face-to-face meeting with mortgagors to instead permit mortgagees to meet with mortgagors who are in default on their mortgage payments either through a face-to-face meeting or through other communication methods as determined by the Secretary, including electronic or other remote communication methods such as telephone or video calls.

Additionally, given the proposed expanded methods of communication

⁴ The original waiver issued on March 13, 2020, and subsequent additional temporary, partial waivers to the face-to-face meeting requirement in 24 CFR 203.604 are posted on HUD's Housing Waivers web page, available at https://www.hud.gov/program_offices/administration/hudclips/waivers.

⁵ As described in the proposed rule, HUD proposed no substantive revisions to the in-person, face-to-face meeting requirement found in 24 CFR 203.604 for Section 248 Mortgages on Indian Land. Unlike other single-family mortgage insurance programs regulated under 24 CFR part 203, the National Housing Act specifically requires that mortgagees conduct a face-to-face meeting with mortgagors who are in default on their mortgage payments for Section 248 Mortgages on Indian Land. Given these statutory requirements, HUD's proposed revisions to 24 CFR 203.604 as relates to Section 248 Mortgages on Indian Land were limited to non-substantive reorganizational edits to the paragraph structure of § 203.604 to make the requirements for Section 248 Mortgages on Indian Land easier to understand.

with the mortgagor and recent FHA policy updates that make loss mitigation options available to mortgagors who do not reside in the mortgaged property, the proposed rule sought to eliminate two of the exemptions to the requirement for the mortgagee to meet with mortgagors in default currently found in 24 CFR 203.604(c). The exemptions proposed to be eliminated were (1) mortgagees are not required to meet with a mortgagor if the mortgagor does not reside in the mortgaged property and (2) a meeting with the mortgagor is not required if the mortgaged property is not within 200 miles of the mortgagee, its servicer, or a branch office of either. Finally, the proposed rule sought to amend the definition of a "reasonable effort" to arrange a meeting with the mortgagor to align with the proposed updates regarding the addition of the option to use electronic or other remote communication methods as determined by the Secretary to conduct a meeting with the mortgagor.

III. This Final Rule

After reviewing and considering the public comments received during the proposed rule stage of this rulemaking, HUD is publishing the final rule with only minor, non-substantive revisions from the proposed rule. HUD believes that this final rule will improve mortgagee engagement with mortgagors, reduce the cost of mortgage default servicing, and align HUD's regulations with advancements made in electronic communication technology and in mortgagor communication preferences, while preserving consumer protections. With the addition of other Secretary approved options for mortgagees to conduct the meeting with the mortgagor, the final rule will permit mortgagees to utilize more flexible communication and scheduling options to meet with the mortgagor at the mortgagor's convenience. Furthermore, the increased flexibility will assist mortgagors with disabilities, immunocompromised mortgagors, and mortgagors with limited English proficiency. Additionally, the final rule will reduce the expense incurred by mortgagees and the difficulties associated with making at least one trip to see the mortgagor at the mortgaged property to schedule a meeting with the mortgagor. The final rule also expands the meeting requirement to all mortgagors in default, including mortgagors who do not reside in the mortgaged property and those with a mortgaged property that is not within 200 miles of the mortgagee, its servicer, or a branch office of either.

¹ The FHA Single Family Housing Policy Handbook 4000.1 is available at https://www.hud.gov/program_offices/housing/sfh/handbook_4000-1.

² FHA Single Family Housing Policy Handbook 4000.1, section III.A.2.h. Early Default Intervention.

³ 88 FR 49392 (July 31, 2023).

While HUD's revisions to 24 CFR 203.604 update the acceptable methods that mortgagees may use to meet with a mortgagor in default, the purpose for the meeting remains the same. The meeting requirement is the mortgagor's opportunity to meet directly with trained mortgagee staff who can provide information about FHA loss mitigation options to assist the mortgagor in curing the default episode and bringing the FHA-insured mortgage current or otherwise avoiding foreclosure. Generally, mortgagors are unfamiliar with FHA's home retention loss mitigation options and do not understand what options like a short-term forbearance, loan modification, or partial claim entail. Many mortgagors are also unaware that FHA provides home disposition options for mortgagors in default who are unable to retain their homes and want to avoid foreclosure. In addition to the meeting providing an opportunity for mortgagors in default to meet with knowledgeable mortgagee staff who can explain available loss mitigation options, the meeting also provides the opportunity for the mortgagee to begin collecting the information needed to evaluate mortgagors for FHA's loss mitigation options.

IV. Public Comments

This public comment section contains a summary of the public comments that HUD received in response to the proposed rule.

A. Support for the Proposed Rule

Face-to-face meetings are not necessary and communicating with mortgagors through electronic and other remote communication methods is preferred.

Commenters in favor of the proposed rule supported a broader range of communication methods for contacting the mortgagor, such as phone calls, emails, video calls, and other communication technologies, to increase the likelihood that a mortgage servicer will receive a response from the mortgagor and be able to engage in a discussion about home retention options with defaulted mortgagors. A commenter stated that broadening the range of communication methods should increase the likelihood of a successful loss mitigation effort and retention of a mortgagor's home.

A commenter supported FHA's ongoing efforts to assist mortgagors to avoid foreclosure and to receive options that help mortgagors in hardship situations, stating that the proposed rule is a positive step in the direction of expanding opportunities to offer loan

workout solutions for distressed mortgagors.

A commenter stated that modernizing the permissible methods to communicate with mortgagors will save time, money, and reduce foreclosures. Another commenter supported using modernized communication methods because attempts to reach mortgagors through face-to-face meetings can be costly, difficult to arrange, and may not be fully successful in resulting in a meeting with the mortgagor.

One commenter stated that the mortgage servicing industry has for many years urged HUD to eliminate the outdated requirement for mortgage servicers to conduct in-person, face-to-face meetings with mortgagors who are in default on their mortgage payments. The commenter stated that they support the goal of providing greater flexibility for mortgage servicers to educate mortgagors on available loss mitigation solutions through utilizing modern communication technology.

Another commenter stated that the proposed rule offers communication options for mortgagors that are potentially more convenient than an in-person, face-to-face meeting. A different commenter stated that these proposed changes are supported by the data referenced in the proposed rule and will reduce the regulatory burden in reaching out to mortgagors in default.

A commenter stated that § 203.604, as written, is costly and has not been successful. The commenter also stated that there is no need to require a property visit when mortgage servicers have a Quality Right Party Contact (QRPC) when using modern methods and tools.

One commenter stated that credit unions have indicated that they may be able to service their FHA-insured mortgage loans more efficiently if they do not have to worry about how to address the burdensome face-to-face meeting requirements and could use technology to meet with mortgagors from their central servicing headquarters. The commenter stated that credit unions also believe that the proposed changes will provide for greater efficiency in the loss mitigation process, permitting credit unions to provide more timely information to members in default.

A commenter stated that through the COVID-19 pandemic, mortgage servicers have simplified their processes to improve mortgagor outcomes and that mortgagors facing financial hardship should be able to continue to engage with their mortgage servicers through remote methods of contact that have proven their effectiveness. Another

commenter, referencing information cited in the proposed rule, stated that the proposed changes reflect consumer preferences in how consumers use technology for their banking services in a post-pandemic world.

HUD Response: HUD appreciates the comments and agrees that the revisions to 24 CFR 203.604 will assist mortgagors in default by improving their engagement with mortgagees. The meeting described in § 203.604 is designed to provide information about and steps to resolve the mortgagor's default and avoid foreclosure. Additionally, HUD believes that mortgagors with disabilities or difficulty accessing an in-person meeting will be greatly assisted by the expanded options that may be used to meet with their mortgagee.

Removal of the 200-mile exemption.

Multiple commenters supported the proposed rule's removal of the 200-mile exemption that provided that a meeting with the mortgagor is not required if the mortgaged property is not within 200 miles of the mortgagee, its servicer, or a branch office of either. Some commenters supported the removal of the 200-mile exemption from the proposed rule to create equal opportunity for all mortgagors to engage with their mortgage servicer regardless of where the mortgagor lives.

Commenters stated that because nonbank mortgage servicers without branch offices increasingly service FHA-insured loans, the 200-mile exemption effectively eliminates the opportunity for a meeting for many mortgagors. One commenter stated this is important because nonbank mortgage servicers have limited branch offices, which could allow the nonbank servicers to meet the qualifications for the current 200-mile exemption in many instances.

The commenters also stated that HUD's proposal to retain the mandatory meeting and remove the 200-mile exemption provides a specific opportunity for mortgage servicers and mortgagors to prepare and fully discuss the options that are available to the mortgagor, which will promote compliance with HUD's regulations. One commenter stated that they strongly support HUD's decision to remove the 200-mile exemption because the mandatory meeting will facilitate foreclosure alternatives under FHA's unique loss mitigation waterfall.

HUD Response: HUD appreciates the comments and agrees that the change will assist more mortgagors in default. The 200-mile exemption is no longer relevant for many reasons, including those raised by the commenters. HUD agrees with the comment that removing

the 200-mile exemption from the rule will create equal opportunity for all mortgagors to engage with their mortgage servicer, regardless of the mortgagor or mortgagee's physical location.

Removal of the mortgagor not residing in the mortgaged property exemption.

A commenter stated that all mortgagors in default should be able to engage with their mortgage servicer regardless of whether the mortgagor occupies the mortgaged property.

HUD Response: HUD appreciates the comment and agrees that the change will assist more mortgagors in default. The non-occupant exemption is no longer relevant, as HUD has expanded its loss mitigation assistance to all mortgagors in default, including mortgagors who do not reside in the mortgaged property. This revision to § 203.604 will create equal opportunity for all mortgagors to engage with their mortgage servicer, regardless of the location of the mortgaged property.

Mandatory meetings should occur early in the default process.

Commenters stated that they strongly support HUD's proposal to retain the mandatory meeting that mortgage servicers must hold with mortgagors early in the default process.

One commenter stated that if mortgage servicers comply with HUD's rule to conduct the meeting relatively early in the default cycle, the arrearage at the time of a meeting is likely to be of short duration and therefore more manageable through timely application of FHA's loss mitigation waterfall. The commenter stated that they support HUD's further clarification that the mortgage servicer must conduct the meeting prior to foreclosure.

The commenter also stated that the mandatory meeting is designed to ensure that mortgage servicers consider loss mitigation options early in the process in order to avoid prolonged defaults by mortgagors and to minimize risk to the Mutual Mortgage Insurance Fund (MMIF). The commenter stated that mortgage servicers have frequently argued in court that their post-foreclosure actions satisfy the regulation in the absence of pre-foreclosure compliance. The commenter described the case of *Wells Fargo Bank v. Awadallah*, 41 NE3d 481 (Ohio Ct. App. 2015), where the lender claimed that it did not have to visit the home prior to filing foreclosure because it engaged in a mediation session scheduled by the court after a foreclosure case had been filed. The commenter stated that the court in *Awadallah* rejected this argument, reversing the trial court's issuance of a decree of foreclosure. The

commenter stated that advocates continue to face this type of argument in court, and HUD's further clarification is warranted. The commenter stated that loss mitigation is important for mortgagors at all stages of default, and that mediation is an important tool; however, efforts to address defaults after foreclosure has been filed are not a substitute for the early intervention involved in the mandatory meeting.

HUD Response: HUD appreciates the comments and agrees that it is important to retain the meeting requirement between mortgagors and mortgagees early in the default and prior to foreclosure. This meeting provides an important step in helping mortgagors resolve their default and avoid foreclosure.

B. Objections to the Proposed Rule

Benefits of the face-to-face meeting and limits of remote communication methods.

Some commenters expressed generally that they do not support the proposed rule. One commenter supported the modernization of the requirements in 24 CFR 203.604 but did not support the approach outlined in the proposed rule.

Commenters stated that in-person, face-to-face contact programs are highly effective and have helped countless mortgagors re-engage with their mortgage servicers to pursue repayment and loss mitigation solutions. A commenter stated that the removal of the face-to-face contact attempt requirement in § 203.604 will add significant risk to all stakeholders, including the mortgagor, the mortgage servicer, and HUD. Commenters stated that the assistance from the in-person, face-to-face outreach to mortgagors has irreplaceable value and is immeasurable compared to any other mortgagor outreach tool available. Additionally, commenters stated that in-person, face-to-face contact requirements exist to assist mortgagors who need the most help, are behind on mortgage payments, and are unsure what help is available to them. One commenter stated that informing mortgagors about the advantages of the direct meeting option makes it more likely that they will engage in the loss mitigation process.

A commenter stated that without the in-person, face-to-face contact attempt, there is a significant increase in the risk of foreclosure and that foreclosure is detrimental to a family and very costly to mortgage servicers. The commenter also stated that the cost of foreclosure would greatly exceed the cost to perform an in-person visit to the property, especially given the low cost

of mortgagor outreach often provided by professional borrower outreach companies.

Commenters stated that certain people, like older people, members of underserved communities, and those who live in inner cities and rural areas especially benefit from the face-to-face meeting. The commenters said that these populations may be less adept in their use of technology and the in-person requirement helps bridge a communication gap. Commenters further stated that these communities will be most negatively impacted by the proposed rule.

One commenter stated that the in-person, face-to-face meeting requirement is important because, regardless of whether or not in-person contact is made during a visit, a contact letter or loss mitigation package is hand-delivered to the mortgagor or left at the property. The commenter stated that this is important because it informs the mortgagor that there are mortgage assistance options available and it assures the mortgagor that the mortgage servicer wants to help the mortgagor. Commenters said that although the meeting required by § 203.604 could be conducted virtually, the in-person attempt to contact the mortgagor is necessary in many cases to bring awareness to the mortgagor that the mortgagee is trying to contact the mortgagor.

Commenters stated that a benefit of the face-to-face meeting is it allows the mortgage servicer to comfort the mortgagor during their hardship, which may cause embarrassment, fear, or reluctance to contact the mortgage servicer. A commenter stated that the in-person, face-to-face contact from the mortgage servicer to the mortgagor helps instill confidence in the mortgagor.

Commenters stated that the benefit of the face-to-face meeting in 24 CFR 203.604 is the mortgage servicer is required to have the mortgagor meet with someone who has the authority to propose and accept reasonable repayment plans. A commenter said that such an individual with this authority would also be able to resolve other critical issues and problems that exist between the mortgagee and mortgagor. The commenter stated that by eliminating the face-to-face requirement in 24 CFR 203.604, and instead permitting remote communication methods, mortgagors will not be able to speak with a mortgage servicer representative who cares or understands mortgagors' issues.

A commenter said that the face-to-face contact requirement is an effective tool that mortgage servicers should use to

engage mortgagors who have not responded to contact attempts made through remote communication methods.

Commenters stated that it is important for both the mortgagor and mortgage servicer to continue having in-person, face-to-face contact because this will enhance mortgage servicer QRPC and ultimately increase loan workouts to help more mortgagors remain in their homes. One commenter stated that the face-to-face contact requirement has helped mortgagors for decades and allows mortgage servicers to communicate with more mortgagors and increase full and partial payments made in an effort to cure the mortgage default. The commenter also said that FHA-insured loans are considered high risk by their nature, and that FHA-insured mortgages require additional controls to mitigate risk, such as the face-to-face requirement. Another commenter believed that visits to the property would lead to loan workouts that not only allow thousands of mortgagors to retain their homes but would reduce HUD credit losses by more than \$250 million.

A commenter stated that remote contact efforts alone are insufficient to maximize mortgagor response. Commenters stated that many obstacles make it improbable that a mortgage servicer will be able to contact a defaulted mortgagor using remote communication methods, referencing obstacles such as tools that block toll free numbers, laws preventing autodialing to cell phones without consent, email spam filters, and mortgagors ignoring calls from unknown numbers.

One commenter stated that the proposed rule would be counterproductive to the CFPB's mission to protect consumers. The commenter stated that it is incorrect to assume that all people who own a home use email, text messaging, mail, and phone calls. The commenter also stated that members of underserved communities who do not respond to their mortgage servicer or have access to email, text message, or phone calls represent a large portion of the demographic that the CFPB is designed to protect.

A commenter stated that the information regarding "consumer communication preferences" discussed in the proposed rule conveys misaligned and misleading feedback. The commenter stated that the consumer communication preferences referenced in the proposed rule relate to routine correspondence from a mortgage servicer, e.g., monthly statements,

notices, escrow analysis statement. The commenter stated that these communication preferences may be relevant to mortgagors not in default on their mortgage; however, the preferences are not relevant to mortgagors who are behind on payments and potentially ignoring a mortgage servicer's remote communication contact attempt out of a feeling of embarrassment or helplessness or a fear of losing their home to foreclosure.

Other commenters said that, while remote communication methods may be successful for a portion of the default mortgagor population, the face-to-face contact attempt should still be performed as a final attempt to equip mortgagors with vital information that could be the difference between becoming current on the loan and losing the home to foreclosure.

HUD Response: HUD appreciates the comments. HUD agrees that it is important to retain the required meeting to help mortgagors resolve their default and avoid foreclosure. HUD believes that by expanding mortgagees' outreach options, the methods for conducting the meeting, and the requirement to hold the meeting with all mortgagors in default prior to foreclosure will reduce the risk of foreclosures, lessen impacts to HUD's MMIF, and decrease costs for mortgagees. HUD believes making two verifiable attempts is sufficient to arrange this meeting, in addition to the multiple outreach requirements as part of early default intervention. HUD appreciates the commenter's concern regarding outreach methods and will take these comments into consideration in developing implementation policy. HUD also agrees with the commenter that a benefit of the required meeting is that the mortgagor has an opportunity to speak with a mortgagee who has the authority to propose and accept reasonable repayment plans. This benefit will be retained while the methods available for conducting the meeting are expanded.

For mortgagors with FHA-insured mortgages, starting in early 2020, HUD temporarily waived the in-person meeting requirement due to public health concerns around the COVID-19 pandemic. Through this temporary waiver, HUD gained critical experience over four years allowing mortgagors to employ alternative methods to in-person outreach and in-person meetings. Overall, mortgagees achieved great success in helping mortgagors resolve their default through alternative measures. During the period the waiver has been in place, over 2 million mortgagors in default were successfully assisted to bring their mortgages current

after a default episode. Furthermore, in a Mobile Fact Sheet updated in January 2024, the Pew Research Center reported that "today, 95% of U.S. adults say they use the internet" and that "the vast majority of Americans (97%) now own a cellphone of some kind" and that 90% own a smartphone, up from 35% in 2011.⁶ As reported in the Mobile Fact Sheet, the data reflects a very high use of the internet, cellphones, and smartphones extends across income, race and ethnicity, age, and geography.

By expanding this meeting to all mortgagors in default, the outreach methods, and the means of conducting, the meeting will help more mortgagors avoid foreclosure, including those with disabilities, who are immunocompromised, and whose schedules and other obligations make an in-person meeting difficult.

The updates are intended to modernize HUD's current in-person, face-to-face meeting requirement by permitting mortgagees to utilize additional methods of communication, as determined by the Secretary, that are most likely to receive a response from the mortgagor, including electronic and other remote communication methods. Although HUD will no longer require the meeting be conducted in person, HUD is not precluding the meeting from being held in-person if the mortgagee offers such an option and it is the mortgagor's preference.

Commenters say that property visits help mortgagors avoid foreclosure and reduce loss/costs.

One commenter cited information that described a five-month case study conducted on a nationwide in-person, face-to-face program with mortgagors who were greater than 45 days past due on their mortgage payment. The commenter cited the following data from the case study: 27 percent of the mortgagors in the case study called in after the in-person visit by the mortgage servicer; 40 percent of the mortgagors in the case study made a payment; and an additional 6.6 percent of the mortgagors in the case study were put into a loan workout. The commenter stated that the data on mortgage servicers provided by the Mortgage Bankers Association (MBA) listed in the proposed rule states that a mortgage servicer invested \$3.9 million but only realized a 5.8 percent interview acceptance rate. The commenter stated that if this data is applied to the statistics produced in the

⁶ Pew Research Center, Mobile Fact Sheet, Tech Adoption Trends (Jan. 31, 2024), available at <https://www.pewresearch.org/internet/fact-sheet/mobile/#:~:text=The%20vast%20majority%20of%20Americans,a%20cellphone%20of%20some%20kind.>

five-month case study, the actual value of that mortgage servicer's face-to-face program can be simulated. The commenter provided the following estimates: \$3.9 million in outreach costs equates to approximately 78,000 mortgagors contacted through a mortgage servicer's face-to-face program, which would yield 21,060 mortgagors contacting the mortgage servicer following an in-person visit by the mortgage servicer, 31,200 mortgagors making a full or partial mortgage payment, and 5,148 mortgagors being placed on a loan workout.

A commenter cited data from what the commenter described as a 13-month study of mortgagor response data reported by a large mortgage servicer. The mortgage servicer performed a national face-to-face mortgagor outreach campaign where the mortgagors were approximately 60 days past due on their mortgage loan. As described by the commenter, the key performance indicators monitored in the 13-month study include: (1) payments received by the mortgage servicer after the face-to-face contact attempt was performed; (2) new loss mitigation workouts initiated after the face-to-face contact attempt was performed; and (3) mortgagors who called the mortgage servicer after the face-to-face contact was performed. As stated by the commenter, as a result of the noted mortgage servicer's face-to-face contact program, 40.63 percent of mortgagors made a full or partial loan payment, 4.81 percent pursued a loss mitigation workout to cure the delinquency, and 26.58 percent called their mortgage servicer.

Another commenter provided data demonstrating that property visits help mortgagors avoid foreclosure and reduce losses and costs. The sources cited by the commenter included a blog post published on the Federal Housing Finance Agency Insights Blog in 2023; HUD's Annual Report to Congress regarding the Financial Status of the Federal Housing Administration Mutual Mortgage Insurance Fund for fiscal year (FY) 2022; a report written by RMA Associates, LLC in 2022; and an article published on the Urban Institute's website in 2018.

The commenter stated that mortgage servicers report that, in all market environments, 20 to 30 percent of distressed mortgagors are unresponsive to traditional phone, electronic, and mail contact attempts, including being unresponsive to mortgagors' passive contact attempts. The commenter stated, however, that in-person property visits communicating an offer to help distressed mortgagors, even without a direct contact, lead many unresponsive

mortgagors to reach out to their mortgagees. The commenter stated that many financial institutions that hold mortgage credit risk pay for visits to the mortgaged property because this contact method works.

The commenter, describing cited market data, stated that the data from one industry service provider shows that a visit to the mortgaged property of unresponsive delinquent mortgagors led 40 percent of these unresponsive mortgagors to contact their mortgage servicer. The commenter stated that of those mortgagors who contacted their mortgage servicer, half resolved their loan delinquency without foreclosure. The commenter stated that, while a portion of unresponsive mortgagors are expected to self-cure, the proposed rule would result in approximately 20 percent of unresponsive mortgagors proceeding to foreclosure who could avoid foreclosure if a visit to the property is conducted.

The commenter went on to state that, as of year-end for FY 2022, the commenter estimates that visits to the mortgaged property of delinquent mortgagors who are unresponsive to initial contact attempts would lead to thousands of additional mortgagors avoiding foreclosure and retaining their homes. The commenter also estimated that, as of year-end FY 2022, property visits to delinquent mortgagors who are unresponsive to initial contact attempts could reduce the net present value of HUD credit expenses by more than \$250 million. The commenter stated that in a future year similar to FY 2022, property visits could reduce the total claim amount by an estimate of more than \$40 million. The commenter further estimated that the cost of visits to the mortgaged properties of delinquent mortgagors who are unresponsive to initial contact attempts would be \$3.4 million.

One commenter described laws in various jurisdictions that require mortgage servicers to offer mortgagors in default the opportunity to participate in a face-to-face meeting as part of foreclosure-prevention and mediation program with the mortgage servicer. The commenter stated that rates at which mortgagors accept an offer for a meeting has varied by program and jurisdiction; however, at the lower end of the range, between 20 and 30 percent of the mortgagors offered the opportunity to participate in a face-to-face foreclosure-prevention meeting have chosen to do so. The commenter described participation rates of mortgagors in many different jurisdictions having face-to-face foreclosure-prevention meetings with their mortgage servicers. The

commenter also stated that scheduled meetings, including those held face-to-face, are effective in preventing foreclosures and increasing mortgage servicers' compliance.

The commenter stated that, while the data collected about the existing State and local laws that facilitate meetings is of great importance in determining the proper conclusions to draw from the mortgage servicers' data, it is essential to keep in mind that these laws are not a substitute for the requirements of § 203.604. The commenter stated that fewer than a dozen States have enacted a legal requirement for mortgage servicers to offer a face-to-face meeting to mortgagors in default. The commenter stated that these State and local requirements are typically triggered by the mortgage servicer taking a concrete step to begin foreclosure proceedings where the loan has been accelerated and foreclosure documents have been filed or recorded. The commenter stated that HUD's conclusion that defaulted mortgagors show a preference for meeting with their mortgage servicers using technology instead of face-to-face is inconsistent with the data about mortgagor attendance at State and local foreclosure prevention and mediation programs cited by the commenter. The commenter highlighted that the data it cited regarding State and local foreclosure prevention and mediation programs is current as of 2022, when current technologies exist, so the existence of the technologies does not mean that they no longer want or value in-person meetings.

Commenters stated that the success of State and local foreclosure prevention and mediation programs for mortgagors in foreclosure demonstrates that mortgagors want to engage with their mortgage servicers. The commenters stated that, like the HUD rule, these programs set up face-to-face meetings between mortgagor and mortgage servicers. As stated by the commenters, participation in the programs has ranged from 20 to 80 percent of eligible mortgagors. The commenters stated that the programs have documented high rates of success in avoiding foreclosures. The commenters stated that these programs succeed because they set standards and hold mortgage servicers accountable for complying with them.

A commenter stated that, given the data showing successful outcomes from various jurisdictions that require mortgage servicers to offer mortgagors in default the opportunity to participate in face-to-face foreclosure-prevention meetings, including with the mortgage servicer, the commenter disagrees with

HUD's conclusion that mortgagors in default do not want to meet directly with their mortgage servicers, and instead, have demonstrated a "preference" for virtual meetings. The commenter stated that the attitude of the mortgage servicer staff and the resources the mortgage servicer devotes to communication can make a critical difference for outcomes in default servicing.

HUD Response: HUD appreciates the comment and shares the commenter's concerns to help mortgagors in default avoid foreclosure and to avoid costs and losses relating to foreclosures. HUD appreciates the data provided by the commenters but does not have the ability to validate the information and data cited by the commenters. HUD notes that commenters did not provide data to demonstrate that these mortgagors would otherwise not engage with their servicer and that these mortgagors ultimately avoided foreclosure. As stated previously, HUD believes that by expanding mortgagees' outreach options, the methods for conducting the meeting, and the requirement of holding the meeting with all mortgagors in default prior to foreclosure will reduce the risk of foreclosures, lessen impacts to HUD's MMIF, and decrease costs for mortgagees.

HUD agrees with the commenter's statement that rates at which mortgagors accept an offer for a meeting vary significantly. Therefore, by expanding the methods for mortgagee outreach to mortgagors, and the means of conducting these meetings, HUD believes that more mortgagors will participate.

HUD also appreciates the commenter sharing information about State and local foreclosure-prevention and mediation programs. However, HUD recognizes that the foreclosure-prevention program data provided is not a suitable comparison to the requirements under 24 CFR 203.604 for several reasons, including that mortgagors participating in a foreclosure-prevention or mediation program are already in the foreclosure process. The requirements under 24 CFR 203.604 require engagement with mortgagors early in default and prior to initiating foreclosure.

HUD appreciates the commenters' concerns about mortgagee compliance with default servicing requirements and is developing guidance to ensure that mortgagees properly comply with the requirements of 24 CFR 203.604 to assist mortgagors in resolving their default and avoiding foreclosure. HUD agrees that the requirements in 24 CFR 203.604

do not replace mortgagees' requirements to comply with other laws, including any State or local laws that mandate participation in a foreclosure-prevention program.

The proposed rule does not adequately address the issue of unresponsive mortgagors.

One commenter stated that the proposed rule lacks a clear solution for engaging defaulted mortgagors who are unresponsive. The commenter said that in later stages of default, mortgagors are harder to reach and, if not cured, the mortgage servicer is forced to foreclose.

Another commenter said that prior to pursuing face-to-face contact at the mortgaged property, a mortgage servicer will have already exhausted the use of remote communication method efforts for upwards of 60 days. The commenter stated that the proposed rule offers no replacement for a face-to-face contact but instead simply reduces the required level of due diligence that is required to be performed to cure a default on a mortgage.

HUD Response: HUD agrees with the commenters' concerns about reaching unresponsive mortgagors in default. The primary goal of this rulemaking is not to address unresponsive mortgagors, but HUD believes these revisions may improve the responsiveness of mortgagors in default by allowing mortgagees to leverage various communication options to engage with mortgagors and conduct the meeting.

Mortgagors may face different circumstances when entering into mortgages compared to mortgagors in default.

One commenter stated that the analogy in HUD's proposed rule between online mortgage originations and foreclosure avoidance is unreliable because mortgagors facing foreclosure are in a starkly different economic situation than mortgage applicants. The commenter stated that mortgagors facing foreclosure are in a financial crisis and, among mortgagors, they are probably the most likely to have lost their home internet access or have out-of-date, unreliable, or broken smartphones or computers. The commenter stated that mortgagors may be able to travel to their mortgage servicer for a face-to-face meeting but may not be able to restore their internet service or pay for a new computer or smartphone.

Another commenter stated that references in the proposed rule to the growth of technology in terms of completing mortgage applications have nothing to do with using similar technology to assist mortgagors in saving their homes and avoiding foreclosure. The commenter stated that

the use of technology in mortgage originations with the mortgagor meetings should not be equated to the use of technology with mortgage servicers for the meeting described in 24 CFR 203.604.

Another commenter stated that HUD incorrectly compared different contexts, specifically relating the increase in the use of automated processes to originate mortgages to mortgagors' communication preferences after a default episode. The commenter stated that mortgagors who have fallen behind in payments often face barriers of shame and fear when a mortgage servicer contacts them and the mortgage servicer is an entity that the mortgagor did not choose. The commenter stated that establishing trust is a much greater concern in the default servicing context than is the case for loan origination.

HUD Response: HUD appreciates and shares the commenter's concern about assisting mortgagors in default and preventing foreclosure. HUD understands the commenters' concern that references to data regarding mortgagor communication preferences when originating a mortgage are not exactly the same as those for mortgagors' communication preferences when experiencing a default. As HUD acknowledged in the proposed rule, some of the studies were focused on origination, not foreclosure. HUD agrees with these commenters that there are differences between origination and foreclosure. HUD pointed to this trend in origination only as part of a larger point that mortgagor communication preferences have evolved, and mortgagees are moving to technology solutions to meet this demand.

As mentioned by the commenter, HUD agrees that fear and shame may prevent a mortgagor in default from participating in an in-person meeting with their mortgagee, an entity whom the mortgagor did not choose. However, for some mortgagors who feel such shame, the converse could also be true and allowing mortgagees to use expanded outreach tools to engage mortgagors, and permitting the use of remote technologies to conduct the meeting, may help reduce the shame that these mortgagors may otherwise feel if asked to participate in a face-to-face meeting.

C. Revisions to the Proposed Rule and HUD Guidance

HUD should revise the requirements regarding mandatory meetings.

Commenters stated that mortgage servicers that fail to conduct the mandatory meeting with mortgagors

should not have the right to proceed to foreclosure.

One commenter said that a face-to-face contact attempt should be conducted at the mortgaged property prior to day 61 of default to increase mortgagor engagement early in the default cycle to reduce the risk of foreclosure. The commenter stated that once contact is made with the mortgage servicer, a “face-to-face meeting” could then be scheduled and conducted by phone or other virtual means.

Additionally, the commenter stated that it is important that the final rule specifies that the mortgagor should determine the method of communication that best facilitates that mortgagor’s participation. The commenter said that mortgage servicers should provide multiple options for accessing the meeting. The commenter stated that they understand the proposed rule as continuing to allow mortgagors the option to have the meeting conducted face-to-face as one of the options, and that certain mortgagors may prefer video conferencing to an in-person meeting because it is more convenient.

The commenter stated that on the other hand, HUD must prohibit mortgage servicers from limiting mortgagors to a telephone meeting or a phone call. The commenter said that HUD rejected such a proposal in 1976, when HUD first developed the meeting requirement and a commentator proposed that HUD allow a telephonic interview to satisfy the meeting requirement. The commenter stated that HUD rejected this proposal, noting that phone calls could play a role in the meetings, but if the calls “did not produce results,” mortgage servicers must use other means that allow for a more direct interview. The commenter stated that if in 1976 HUD considered reliance solely on telephone calls for meetings to be inappropriate, the same concern should be heightened today. The commenter stated that with the proliferation of offshore vendors, robocall platforms, and privacy concerns, telephone calls will not be the desired option for many mortgagors. The commenter stated that mortgagors, not the mortgage servicers, must have the final say on which form of communication will make the meeting most productive.

Additionally, the commenter stated that at the meeting the mortgage servicer must assess the mortgagor for all available options and document that it did so. The commenter stated that if an option is denied, the representative must explain and document the reason for the decision, and HUD should

require the mortgage servicer to provide the mortgagor with a written summary of the meeting, including the identity of all individuals present. The commenter stated that this summary will promote mortgagor understanding and focus HUD’s oversight of compliance.

HUD Response: HUD appreciates the comments and agrees that mortgage servicers must conduct, or attempt to conduct, a meaningful and productive meeting with mortgagors prior to foreclosure. Although HUD has not historically considered reliance solely on telephone calls to be appropriate to satisfy the mandatory meeting requirement, due to the growth of digital and global commerce since 1976, particularly in the mortgage industry, and changes in consumer behavior, HUD has determined that face-to-face meetings are not always the most effective way to engage with a mortgagor prior to foreclosure. HUD agrees with the commenter that mortgage servicers must make a good faith attempt to establish live contact with the mortgagor and conduct a meaningful pre-foreclosure meeting. HUD appreciates the detailed recommendations, including the recommendation to allow the mortgagor to select which method they prefer to use to participate in the required meeting, and will take these comments into consideration in developing implementation policy regarding specific guidance on how and when mortgagees must attempt to arrange and conduct the mandatory meeting. Although HUD will no longer require the meeting be conducted in person, HUD is not precluding the meeting from being held in-person if the mortgagee offers such an option and it is the mortgagor’s preference. HUD acknowledges the commenter’s concern about mortgagee compliance and will consider how to address that as part of implementation of the final rule.

HUD should revise its guidance relating to the requirements of 24 CFR 203.604.

Commenters urged HUD to revise its guidance to ensure that mortgage servicers follow the spirit of § 203.604 and to require that a scheduled meeting be conducted with certain minimal procedural standards. The commenters stated that HUD should provide guidance regarding the letter and structure of the meeting in the following ways: (1) the mortgage servicer must provide specific notice regarding scheduling of the meeting so that mortgagors understand what options are offered for the meeting and its purpose; (2) the mortgage servicer must give the mortgagors options of when the meeting will be held so that it does not interfere

with their schedules and so mortgagors have time to prepare; (3) the mortgage servicer should provide mortgagors with options on how the meeting should be conducted, including an invitation to involve an advocate in the meeting and to hold the meeting in person, if feasible; (4) the mortgage servicer representative who is present must be trained in FHA loss mitigation and have authority to determine eligibility; (5) the mortgage servicer must document the meeting and share the meeting summary with the mortgagor; and (6) the mortgage servicer must develop a written plan that describes the concrete steps it has taken to implement the meeting requirement and this plan must be integrated in HUD’s quality control.

A commenter stated that HUD must explicitly require the mortgage servicer to schedule the meeting with the mortgagor in advance so that the mortgagor is able to have the meeting at a time that does not conflict with work, childcare obligations, or other significant life issues. The commenter stated that the mortgagor must have reasonable time to prepare for the meeting, including to assemble documents, prepare questions, review the mortgage servicer’s documents, and arrange for a housing counselor or other advocacy assistance.

Another commenter suggested that HUD update the FHA Single Family Housing Policy Handbook 4000.1 to make clear that among the available options, a mortgage servicer may, but is not required to, offer or provide an in-person meeting to the mortgagor. The commenter stated that unless HUD makes clear that the in-person meeting is not required by the mortgage servicer, some mortgagors may demand a face-to-face meeting and the mortgage servicer would be required to fly representatives out to the mortgagors in other States or retain a local vendor to handle the meeting.

HUD Response: HUD appreciates the detailed recommendations and will take these comments into consideration in developing implementation policy, including specific guidance on the information that mortgagees must provide to mortgagors prior to the meeting, how and when mortgagees must attempt to arrange and conduct the mandatory meeting, and how mortgagors select their preferred method to participate in the meeting.

HUD should revise the requirements regarding mandatory notices to mortgagors.

A commenter stated that notices to mortgagors must clearly identify the loan as subject to HUD guidelines and not rely on generic content designed for

all mortgagors in the mortgage servicer's portfolio. The commenter stated that the notice should identify and briefly describe the major HUD home retention and home disposition loss mitigation options, including forbearance, partial claims, modifications, pre-foreclosure sales, and deeds in lieu. The commenter stated that this is especially important given HUD's unique loss mitigation options and the persistent failure of mortgage servicers to offer the proper option. The commenter stated that HUD should provide a model for mortgage servicers to use that describes these options. The commenter further stated that the notice should identify any financial or other information the mortgagor should have available for a meeting.

Additionally, the commenter stated that if HUD ends the requirement for the personal delivery of written notices of the opportunity for meetings, it must replace the requirement with a reliable alternative. The commenter stated that the current rule requires certified mail, which is extremely valuable to ensure that the notice was properly sent and received. The commenter stated that in addition to certified mailing of the notice, it should also be sent by regular mail because that is generally faster than certified mail and many mortgagors resist certified mail. The commenter stated that mortgage servicers must be informed that they cannot rely solely on electronic communications to notify mortgagors of the meeting opportunity. Another commenter stated that the proposed rule, as drafted, would increase the number of mortgagors who lose their homes through foreclosure and significantly increase HUD's credit losses. The commenter stated that revising § 203.604 by eliminating the requirements of sending at least one letter certified by the Postal Service and at least one trip to the mortgaged property to instead require two verifiable attempts to contact the mortgagor utilizing methods determined by the Secretary would have a negative impact on mortgagors and the MMIF because a mortgagee would be permitted to discontinue efforts to contact delinquent mortgagors after two failed attempts.

The commenter said that so long as § 203.604 mandates service of a written notice of the meeting option, any "consent" by a borrower to accept an electronic record as a substitute for the written notice will be unenforceable. The commenter said the Electronic Transactions in Global and National Commerce (E-sign) Act allows consumer consent to an electronic record that can override a legal requirement for a

written notice if certain safeguards are implemented, citing to 15 U.S.C. 7001(c). However, the commenter said the E-Sign's general allowance for a waiver that permits reliance on electronic records does not apply to foreclosure-related notices and cited 15 U.S.C. 7003(b)(2)(B).

HUD Response: HUD appreciates the comments and agrees with the commenters' concerns that required notification to mortgagors must be provided in ways that will be reliable and verifiable. HUD appreciates the detailed recommendations and will take these comments into consideration in developing implementation policy regarding specific guidance on the content of the notice to mortgagors and how and when mortgagees must attempt to arrange and conduct the mandatory meeting. Existing policy in the FHA Single Family Housing Policy Handbook 4000.1 currently outlines early delinquency engagement requirements, including notices, disclosures, and contact requirements. Any necessary changes to these requirements will be addressed in implementation policy. HUD will also ensure that all electronic notice and signature requirements are in line with the applicable statutory requirements.

The mortgage servicer should make clear the purpose of the meeting.

A commenter stated that the most important thing that mortgage servicers should do when meeting with, or scheduling the meeting with, the mortgagor is to make clear that the purpose of the meeting is to assist the mortgagor in avoiding foreclosure and to provide options to help keep the mortgagor in their home and that the mortgagor should not fear they might lose their home on the day of the meeting.

HUD Response: HUD appreciates the comments and shares the commenter's position that the purpose of the required meeting with the mortgagee is to inform the mortgagor of their options to resolve their default and avoid foreclosure. HUD will take these comments into consideration in developing implementation policy, including specific information that mortgagees must provide to mortgagors and how and when mortgagees must attempt to arrange and conduct the mandatory meeting.

HUD should replace the term "meeting" in 24 CFR 203.604(a)(1) and define other specific terms.

One commenter stated that HUD should replace the term "meeting" with an alternative term in § 203.604(a)(1), such as "engagement" or "contact." The commenter stated that the term

"engagement" should be defined as "an activity where an authorized human representative of the mortgagee communicates to a mortgagor regarding available loss mitigation options through acceptable methods of communication in real time." The commenter stated that use of the term "meeting" suggests in-person contact, and thus, undermines the proposed rule's revisions to communicate with mortgagors online or through remote methods. The commenter stated that, in contrast, creating an "engagement" standard clearly effectuates and helps avoid unnecessary confusion regarding the proposed rule's purpose to modernize contact with a mortgagor in default, while recognizing the inefficiency of an in-person meeting. The commenter stated that for mortgage servicers to properly implement an engagement standard, effective FHA Single Family Housing Policy Handbook 4000.1 guidance should clearly describe how mortgage servicers may conduct their engagement with distressed mortgagors. The commenter also stated that the adoption of an "engagement" standard further aligns FHA's Early Default Intervention standards with Fannie Mae and Freddie Mac's definition of QRPC.

The commenter also encouraged HUD to define the term "acceptable methods of communication." The commenter stated that HUD should define "acceptable methods of communication" to include "efforts such as outbound telephone calls, web, portal, text, email, or remote or electronic means, such as virtual/online/video calls, as outlined under the FHA Single Family Housing Policy Handbook 4000.1, III.A.2.h.iv (Communication Methods). Acceptable methods of communication can include 'in-person' as an option."

HUD Response: HUD appreciates the commenter's interest in using the most relevant term for this requirement and believes that the term "meeting" best reflects the type of required engagement that the mortgagee must conduct or attempt to conduct with the mortgagor in default. "Engagement" and "contact" are broad terms, whereas this rule refers to a meeting with specific purpose. By specifying that this is a meeting, HUD is reiterating its importance as well as HUD's commitment to retaining this requirement. HUD will take these comments into consideration in developing implementation policy that clarifies acceptable methods of communication. Furthermore, this rule does not preclude mortgagees from using additional engagement or contact efforts to assist the mortgagor in

resolving the delinquency to avoid foreclosure.

HUD should align the requirements to arrange the engagement under the proposed 24 CFR 203.604 with FHA's early default intervention standards.

One commenter stated that a mortgage servicer's engagement with a mortgagor or a mortgage servicer's reasonable effort to arrange such an engagement should align with FHA's existing early default intervention standards. The commenter stated that mortgage servicers conduct exhaustive outreach strategies to establish contact with delinquent mortgagors to meet the early intervention servicing requirements of the CFPB, FHA, and various State laws. The commenter stated that HUD guidance should clearly state that compliance with FHA standards is sufficient to meet a mortgage servicer's obligations under the updated rule. Specifically, the commenter requested that guidance clarify that an outbound telephone call where loss mitigation is discussed with a mortgagor constitutes the required contact.

The commenter also stated that by aligning the proposed changes with FHA's existing early intervention standards, mortgage servicers are provided with discretion to offer a variety of appropriate methods of communication. The commenter said this flexibility also eliminates the need for mortgage servicers to send a separate letter to inform mortgagors of in-person meetings, further simplifying processes and avoiding confusion on the mortgagor's part as to how to obtain mortgage assistance.

HUD Response: HUD appreciates the comments and agrees that it is important to retain the required meeting between mortgagors in default and mortgagees as an important step in helping mortgagors resolve their default and to avoid foreclosure. HUD appreciates the recommendations and will take these comments into consideration in developing implementation policy regarding specific guidance on how and when mortgagees must attempt to arrange and conduct the mandatory meeting.

HUD should make clear that the requirements in 24 CFR 203.604 are in addition to those of the Real Estate Settlement Procedures Act's early intervention requirements and clarify that § 203.604 does not apply where compliance with the rule would otherwise conflict with the law.

One commenter stated that HUD should clarify that the regulation does not apply where compliance would conflict with the law. Specifically, the commenter stated that HUD should not

require a mortgage servicer to engage with a mortgagor in instances where a mortgage servicer has received a cease-and-desist order or a mortgagor has received a discharge through Chapter 7 bankruptcy, as required by the Fair Debt Collection Practices Act. The commenter suggested that this exemption could be included in the regulation by adding "unless otherwise prohibited by law" as an exemption in the rule.

Another commenter stated that HUD should make clear that § 203.604 sets out requirements that are in addition to those in 12 CFR part 1024 for the Real Estate Settlement Procedures Act (RESPA) requirements, otherwise referred to as Regulation X. The commenter stated that Regulation X directs mortgage servicers to contact mortgagors at an early stage of default and give them certain limited information, including basic information about loss mitigation and mortgage servicer contacts. The commenter stated that Regulation X allows mortgage servicers to combine the content of the early intervention notice with the text of other notices the mortgage servicer delivers to satisfy a different legal requirement. The commenter stated that a mortgage servicer providing the minimum early intervention notice required under Regulation X does not comply with the requirements under 24 CFR 203.604 but that some mortgage servicers may mistakenly believe they have met the requirements under 24 CFR 203.604 by only providing the minimum notice required under the Regulation X early intervention requirements.

The commenter expanded on why the Regulation X early intervention notice does not comply with the requirements of § 203.604, stating that the Regulation X notice does not require the mortgagee to inform the mortgagor of the availability of the specific FHA loss mitigation options or provide a description of the options. The commenter also stated that the basic Regulation X notice does not inform the mortgagor about the benefits of the meeting available under § 203.604.

HUD Response: HUD appreciates the recommendations and will take these comments into consideration in developing implementation policy, including specific guidance on complying with 24 CFR 203.604 and other regulatory and statutory requirements. A mortgagee's responsibilities under this updated regulation do not replace or supersede the requirement to fulfill their obligations under other applicable Federal, State, and local laws.

HUD should reimburse mortgage servicers for the cost of in-person visits.

A commenter who opposed removal of the face-to-face requirement stated that the implementation of a direct reimbursement incentive from HUD to mortgage servicers for the costs of the face-to-face contact would likely ease the cost concerns of mortgage servicers. Another commenter supported the removal of the face-to-face requirement but suggested HUD reimburse expenses if the mortgagee chooses to attempt an in-person, face-to-face meeting with the mortgagor. A different commenter suggested that the rule should be revised so that FHA requires and pays for a visit to the mortgaged property if the mortgagor has been unresponsive to two remote contact attempts.

HUD Response: HUD appreciates the commenters' suggestions. Helping mortgagors in default to avoid foreclosure is in the shared best interest of the mortgagor, the mortgagee, and HUD. HUD policy outlines specific outreach requirements to mortgagors in default, which is included in the cost of servicing. Currently, HUD provides incentives to mortgagees when certain loss mitigation actions are completed to offset the cost to service mortgages in default.

HUD should update the HUD-2008-5-FHA form.

One commenter recommended that HUD update form HUD-2008-5-FHA "Save Your Home: Tips to Avoid Foreclosure" to include the expanded methods of permitted communication.

HUD Response: HUD appreciates the commenter's recommendations. HUD will review form HUD-2008-5-FHA, Save Your Home: Tips to Avoid Foreclosure, and will make revisions, as needed.

HUD should use the Single Family Drafting Table prior to finalizing the rule.

A commenter stated that FHA should utilize the Single Family Drafting Table to receive comments before finalizing policy updates to the FHA Single Family Housing Policy Handbook 4000.1 and that this should be completed before the implementation date of the policy. The commenter stated that the Single Family Drafting Table is important to use in this situation because it is very difficult to fully appreciate the operational impacts and implementation challenges raised by the proposed rule as key elements are currently undefined. The commenter stated that mortgage servicers should have the opportunity to evaluate an appropriate implementation deadline to adjust the operations before the required effective date.

HUD Response: HUD appreciates the commenter's request to utilize the Single Family Drafting Table and will take this suggestion into consideration in developing implementation policy related to this rule.

D. Data Cited in the Proposed Rule

HUD should not rely upon the MBA-provided data cited in the proposed rule.

Multiple commenters stated that HUD should not rely on the mortgage servicers' data provided by the MBA that is cited in the proposed rule ("MBA-provided data") because the data is flawed regarding homeowner participation in face-to-face meetings. One commenter stated that the cited data should not be relied upon either in this rulemaking or when HUD revises the FHA Single Family Housing Policy Handbook 4000.1 to add guidelines for the conduct of the mandatory meetings.

Another commenter suggested that, to get appropriate data, homeowners should be asked about face-to-face meetings. The commenter believed a significant majority of homeowners would report that no mortgage servicer contacted them to offer a face-to-face meeting consistent with the requirements in 24 CFR 203.604.

One commenter stated that the statistical references to MBA-provided data regarding the low in-person, face-to-face "interview acceptance rate" used by HUD to support the proposed changes is concerning and that MBA's data paints an incomplete picture. The commenter stated that this MBA-provided data overlooks the most important value-add of the in-person, face-to-face requirement—the in-person visit to the property increases mortgagor response. The commenter stated that, after in-person, face-to-face contact is made, a mortgagor will generally digest the information presented by the mortgage servicer and then contact the mortgage servicer or submit a request for mortgage assistance. The commenter stated that the MBA-provided data does not account for the statistics regarding QRPC, loan workouts initiated, or payments made after the in-person, face-to-face visit to the mortgagor's home. The commenter further stated that the MBA-provided data presents only partial data from three mortgage servicers, noting that there are hundreds of mortgage servicers that service FHA-insured mortgages. The commenter stated that many mortgage servicers realize the value of operating an in-person, face-to-face contact program.

Multiple commenters disagreed with the suggestion in the data HUD cited in the proposed rule that mortgagors are

not interested in having a meeting with their mortgage servicers. The commenters stated that the data does not account for the frequency by which mortgage servicers do not comply with the current version of § 203.604. In support of the statements, the commenters cited information from the National Consumer Law Center, Home Foreclosures at 6.2 (2d ed. 2023), available at <https://library.nclc.org/>, and the HUD Office of Inspector General's (OIG) report, Servicers Generally Did Not Meet HUD Requirements When Providing Loss Mitigation Assistance to Borrowers With Delinquent FHA-Insured Loans, 2023-KC-0005 (June 13, 2023). The commenters said that when mortgage servicers have complied with the requirements, the mortgage servicer's actions often meet the letter, but not the spirit, of the regulation and do not facilitate engagement with mortgagors.

One commenter stated that the data relied upon by HUD in the proposed rule does not necessarily mean that mortgagors do not want in-person meetings or that mortgagors would not take advantage of the option to have the mandatory meeting in person if the rule were properly enforced. The commenter stated that HUD's conclusion in the proposed rule that "mortgagors are demonstrating their preference for interacting with mortgagees through technology" is speculative. The commenter stated that data shows that mortgagors in default want to interact with their mortgage servicers, including through face-to-face meetings, and that these face-to-face interactions produce favorable outcomes for many mortgagors, as well as for investors in mortgage loans.

The commenter went on to state that another reason HUD should not rely on the mortgage servicer data on mortgagor engagement with the face-to-face meeting in this rulemaking or subsequent development of guidance is that HUD appears to have assumed that the mortgage servicers providing the data have properly complied with the face-to-face meeting regulation. The commenter stated that this assumption is not warranted given "significant and persistent evidence of mortgage servicer non-compliance with HUD loss mitigation guidelines, including the face-to-face meeting rule." The commenter stated that the data describing limited uptake of meetings in the current proposed rule leaves questions unanswered. The commenter said that it is not clear that a different way of offering meetings, through technology, on its own, would yield significantly different results. The

commenter stated that truly engaging with mortgagors and providing essential information about loss mitigation also has a profound effect on mortgagor outcomes.

The commenter stated that it is disappointed by HUD's apparent acceptance that the meetings did not take place because the current rule relies on outdated "technology" and that it is concerned by HUD's apparent lack of scrutiny of mortgage servicers' claims regarding past non-participation in the meetings. The commenter stated that according to the MBA-provided data, mortgagors simply did not want to participate in "face-to-face" meetings; however, the commenter stated that it is not aware of efforts to ask the mortgagors why they did not participate in § 203.604 meetings.

HUD Response: HUD appreciates the comments and shares the commenter's concerns about helping mortgagors in default to resolve their delinquency to avoid foreclosure. HUD prioritizes mortgagor outcomes and safeguarding the MMIF in all regulatory and policy decisions impacting FHA Single Family mortgages. HUD agrees with the commenter that these decisions should not be based solely on the perspective of any one industry partner or industry group.

HUD has taken into consideration the comments provided by all stakeholders. When considering information provided through comments, HUD is focused on the most relevant data that directly relates to the servicing of FHA mortgages currently subject to HUD's requirements.

HUD also notes that information provided by commenters regarding foreclosure-prevention mediation programs discuss efforts that assist mortgagors at a much later stage in the foreclosure process and involve consumer advocates and the court system, unlike the meeting required through this rule. The commenters' comparisons of mortgagors in distinctly different scenarios may not adequately consider these specific and important differences.

As stated in the subsection titled "Benefits of the face-to-face meeting and limits of remote communication methods" of this final rule, HUD believes that by expanding the methods mortgagors may use to schedule and conduct the meeting, more mortgagors will participate in the meeting with the mortgagee.

E. Responses to HUD's Specific Request for Comment in the Proposed Rule

What should constitute a "reasonable effort" and a "verifiable attempt" for the purposes of 24 CFR 203.604?

A commenter urged HUD to be as expansive as possible when defining "reasonable effort" and "verifiable attempt." The commenter stated that any communication that offers homeowners the opportunity either to meet in person or connect with the mortgagee via the to-be-defined-by-HUD acceptable electronic means should be considered as evidence that a mortgagee made a "reasonable effort" to contact the homeowner. The commenter stated that a "verifiable attempt" should be any record of an action taken to reach a defaulted mortgagor who is noted in the mortgagee's business records, including any notes made by the mortgagee's representative to the mortgagor file.

Another commenter agreed with HUD's proposed rule that two verifiable attempts to meet is "reasonable" and stated that these attempts to meet should be documented. A commenter stated that a "reasonable effort" would entail an effort to meet before three full monthly installments are due and at least 30 days before foreclosure is commenced. The commenter stated that these efforts should be reflected in the mortgagee's files as evidence of meeting HUD's requirements.

One commenter stated that a "reasonable effort" should be defined as two verifiable attempts by the mortgage servicer to establish contact with a delinquent mortgagor as required under the FHA Single Family Housing Policy Handbook 4000.1, III.A.2.h.vi (Contact Efforts with Delinquent Borrowers). The commenter also stated that "verifiable attempt" should be defined as the required note in the servicing file documenting compliance with FHA Single Family Housing Policy Handbook 4000.1, III.A.2.h.vi (Contact Efforts with Delinquent Borrowers).

HUD Response: HUD appreciates the comments and agrees that it is important to continue requiring the mortgagee to make at least two verifiable attempts to conduct this meeting with mortgagors in default and to document these efforts. Further, HUD appreciates the commenter's suggestion that HUD allow mortgagees to utilize a broad range of communication methods to reach mortgagors. HUD is taking these comments into consideration in developing policy regarding how and when mortgagees must attempt to arrange the meeting.

F. Mortgagee Compliance With 24 CFR 203.604

Mortgagee noncompliance with mandatory meeting rule.

One commenter stated that oversight from HUD OIG has shown consistent problems with mortgage servicer compliance with HUD regulations and mortgage servicer reporting of their own compliance to HUD. Citing a HUD OIG October 2016 report entitled "Single-Family Mortgage Insurance Claims" (2017-KC-0001), the commenter stated that HUD OIG reviewed a sample of FHA insurance claims paid out over a five-year period. The commenter stated they were particularly concerned about HUD OIG's finding regarding the frequency with which mortgage servicers misrepresented their actions when filing insurance claims with HUD. As stated by the commenter, according to HUD OIG's survey sample, mortgage servicers in approximately 45 percent of cases failed to reduce their claim amounts due to their noncompliance with HUD guidelines when they should have reduced those claim amounts. Instead, as stated by the commenter, the mortgage servicers asked for and received full insurance claims as if they had complied with the guidelines.

Citing a HUD OIG September 2017 report entitled "HUD Did Not Have Adequate Controls to Ensure that Servicers Properly Engaged in Loss Mitigation" (2017-LA-0004), the commenter stated that HUD OIG found that mortgage servicers frequently failed to properly engage in loss mitigation and that HUD failed to meet its oversight obligations. The commenter stated that the report found almost 30% of claims that HUD OIG reviewed had "significant servicing deficiencies." The commenter stated that specifically, with respect to the face-to-face meeting rule, the audit found that in 17 percent of cases, "there was no attempt for a face-to-face interview with delinquent borrowers or it was not attempted within the required timeframe. Regulations at 24 CFR 203.604(b) require servicers to attempt the interview before three unpaid payments."

The commenter stated that significant issues with mortgage servicer compliance with HUD requirements have continued. Citing additional reports issued by HUD OIG, commenters stated that HUD OIG found that mortgage servicers persistently failed to comply with the FHA loss mitigation waterfall. A commenter stated that in a June 13, 2023, report, entitled "Servicers Generally Did Not Meet HUD Requirements when Providing Loss

Mitigation Assistance to Borrowers with Delinquent FHA-Insured Loans" (2023-KC-0005), HUD OIG found that "nearly half of the borrowers did not receive the correct loss mitigation assistance." The commenter stated that while this report focuses on specific loss mitigation options and not outreach requirements such as the mandatory meeting rule, there is no reason to believe that servicers are better at complying with the face-to-face meeting rule than the waterfall provisions. The commenter stated that, based on the findings in the HUD OIG June 2023 report, expanded access to mandatory meetings will improve compliance with HUD requirements if offered in earnest by trained mortgage servicer staff. The commenter stated that, instead, the report suggests continued problems with FHA servicing as outlined in HUD OIG's 2016 and 2017 reports and calls into question HUD's reliance on mortgage servicer data on compliance. Commenters stated that they believe that if HUD implements the proposed rule without effective oversight, it will have the same failed impact as the old rule.

One commenter stated that case law regarding FHA-insured foreclosures further confirms mortgage servicer resistance to comply with the mandatory meeting rule. The commenter, citing court decisions from Florida, Indiana, Massachusetts, New York, Ohio, and U.S. Federal court, stated that judicial decisions show mortgage servicers failed to provide notice by certified mail, ignored the obligation to visit the home to arrange a meeting, sought to use mediation or some other event as a substitute for a meeting, failed to keep proper records of what they are doing, and simply took no action to properly arrange a mandatory meeting when they are required to do so. The commenter stated that while these cases involve individual mortgagors, HUD should assume that servicing failures are not anomalous. The commenter stated that, moreover, these cases are illustrative in light of the HUD OIG reports over a period of years that show mortgage servicers failing to comply with the mandatory meeting rule. The commenter stated that given all of this, HUD simply should not rely on mortgage servicer data in making policy decisions.

A commenter described that mortgagors have contacted HUD to report mortgagees not complying with § 203.604 and that HUD would not assist the homeowners. The commenter said that, except for in a few States, courts have not required mortgagees to comply with HUD's regulations,

including § 203.604, when taking a foreclosure action, even though HUD's regulations are incorporated by reference into notes and mortgages. The commenter stated that the reason State courts have not required mortgagee compliance with § 203.604 is because the courts were waiting to receive guidance from HUD but HUD never provided that guidance.

HUD Response: HUD appreciates the comments and agrees that compliance with this requirement is important in helping mortgagors resolve the default to avoid foreclosure. Further, HUD agrees that the need to comply with the requirements in 24 CFR 203.604 exists, regardless of the communication methods used to reach and conduct the meeting with the mortgagor. HUD is reviewing compliance oversight of this required meeting and is taking these comments into consideration. HUD appreciates the commenters' information regarding various court cases involving FHA-insured mortgages. While HUD will continue to monitor the trends in foreclosure cases throughout the Nation, HUD cannot comment on the individual cases referenced by the commenter in this rulemaking. HUD similarly appreciates the commenter's concerns about mortgagor reporting of mortgagee non-compliance with HUD requirements. HUD encourages mortgagors who are experiencing issues with resolving the delinquency or scheduling this meeting with their mortgagee to call 1-800-CALL-FHA (1-800-225-5342).

HUD notes that the October 2016 HUD OIG audit "Single-Family Mortgage Insurance Claims" (2017-KC-0001) cited does not specifically address mortgagee compliance with the in-person requirement.

Recommendations for HUD monitoring of mortgagee compliance with 24 CFR 203.604.

Commenters stated that HUD should require mortgage servicers to develop a written plan that describes the concrete steps it has taken to implement the meeting requirement and that this plan must be integrated in HUD's quality control. A commenter stated that a concrete plan for conducting meetings is key to accountability and oversight. The commenter stated that the absence of such a plan is a clear indication that the mortgage servicer does not take the meeting requirement seriously. The commenter stated that elements of a plan must include: (1) the allocation of designated staff to handle the meetings; (2) provision for training and supervision of the designated staff to process mortgagor requests and conduct meetings; (3) description of the content

of notices to mortgagors; (4) the protocol for conduct of meetings; (5) documentation of the application of the FHA loss mitigation waterfall at the meeting; (6) a document summarizing the outcome of a meeting for mortgage servicer records and that is provided to the mortgagor; and (7) a protocol for reporting data to HUD on numbers of meetings and outcomes.

The commenter stated that HUD should give its mortgage servicers a fixed deadline to submit the plan to HUD. The commenter stated that each FHA mortgage servicer's plan should be available to the public through the mortgage servicer and HUD's website. The commenter stated that HUD should provide model notice forms and model plans to minimize burden on mortgage servicers.

The commenter went on to state that mortgage servicers must be required to report regularly on the status of their meetings, with data on numbers of mortgagors eligible, participation rates, and outcomes. The commenter stated that HUD must actively investigate patterns of failure to conduct meetings and determine causes of non-participation. The commenter stated that mortgage servicers that report low participation must develop plans to improve their practices so that rates improve. The commenter stated that among other data points, HUD's Neighborhood Watch system should be adjusted to include data on each mortgage servicer's conduct of meetings.

Commenters stated that information on the lack of mortgagor engagement under the current meeting rule was available to HUD for years. The commenters stated that if HUD had timely investigated to find the cause of the systemic issues, HUD could have demanded remedial actions from the mortgage servicers and followed up with appropriate oversight, but this never happened.

One commenter stated that while it appreciates HUD's acknowledgement of the important function that these meetings perform, the commenter has concerns about how a modified rule would be implemented. The commenter stated that this concern stems from HUD's long-standing failure to ensure that mortgage servicers implement the existing rule. The commenter stated that when there is accountability and oversight, as in certain State and local programs, meetings between mortgagors and mortgage servicers take place with a robust frequency and produce good results. The commenter stated that meetings are not difficult to arrange when mortgage servicers act intentionally to facilitate them.

HUD Response: HUD appreciates the comments and agrees that compliance with this requirement is important in helping mortgagors resolve mortgage defaults to avoid foreclosure. Further, HUD agrees that the need to comply with the meeting requirements exists regardless of the communication methods used for outreach and conducting the meeting with the mortgagor. HUD is reviewing compliance oversight of this required meeting and is taking these comments into consideration in developing policy regarding how and when mortgagees must attempt to arrange and conduct this meeting.

G. Keys to Meaningful Engagement With the Mortgagor

Commenters stated they recognized that if the removal of the 200-mile exemption is finalized, not every mandatory meeting under § 203.604 could be in person; however, commenters stated that HUD must take steps to ensure that the meeting with the mortgagor is meaningful. A commenter suggested that "FHA keep front of mind the keys to engagement" with a mortgagor: (1) making quality contact with a mortgagor who is experiencing hardship; and (2) providing the mortgagor with an understanding of their options to address their mortgage delinquency.

HUD Response: HUD appreciates the comments and agrees that it is important to retain a meaningful meeting requirement between mortgagors in default and mortgagees. HUD believes that by expanding this meeting to all mortgagors in default, the options for outreach, and the methods for conducting the meeting will improve mortgagor's access to participate in a meeting, leading to more resolved defaults and fewer foreclosures. HUD appreciates the recommendations and will take these comments into consideration in developing policy regarding how and when mortgagees must attempt to arrange and conduct the mandatory meeting and the information that must be provided to the mortgagor.

H. Value of the Mandatory Meeting Regardless of Whether the Meeting Is In-Person or Held Remotely

One commenter stated that they agree with HUD's characterization of the goal of the § 203.604 meeting. Commenters stated that the meeting provides particular value for FHA-insured mortgagors and for the MMIF. Commenters stated that because HUD has developed its own loss mitigation waterfall with concepts like a partial claim, the meeting facilitates better

mortgagor understanding of the assistance options available. Commenters said that where a full submission of documents is not required before providing relief, the meeting is even more valuable because the mortgagor and mortgage servicer can work together to identify a loss mitigation option during the meeting.

One commenter stated that the mandatory meeting facilitates effective communication that is necessary due to the nuanced and unique nature of FHA's loss mitigation system. The commenter stated that having the meeting scheduled in advance gives the mortgagor and the mortgage servicing representative the chance to prepare. The commenter stated that the mandatory meeting provides a specific opportunity for mortgagors to seek clarity and a path forward to stability.

Another commenter stated that revisions to 24 CFR 203.604 should maximize the potential for mortgagees to engage with distressed mortgagors about loan rehabilitation and home retention to ensure that FHA responsibly manages its mortgage guarantee program for mortgagors and the MMIF for U.S. taxpayers.

HUD Response: HUD appreciates the comments and agrees that it is important to retain the value of the required meeting between mortgagors in default and mortgagees. HUD appreciates the recommendations and will take these comments into consideration in developing policy regarding how and when mortgagees must attempt to arrange and conduct the mandatory meeting and the information that must be provided to the mortgagor.

I. Mandatory Meeting Helps HUD Satisfy Its Multiple Statutory Obligations

One commenter stated that the mandatory meeting helps HUD satisfy its multiple statutory obligations to stabilize homeownership for low- to moderate-income mortgagors and mortgagors of color. The commenter stated that, for the FHA-insured loan program at issue in this proposed rule, the National Housing Act requires that FHA must make decisions "to meet the housing needs of the borrowers that the single family mortgage insurance program under this subchapter is designed to serve." The commenter further stated that in its design of programs, including loss mitigation programs, HUD has the obligation to affirmatively further fair housing. The commenter stated that, under 42 U.S.C. 3608(e)(5), HUD must "administer the programs and activities relating to housing and urban development in a

manner affirmatively to further the policies of the Fair Housing Act." The commenter stated that this obligation for HUD is particularly relevant to FHA's insured loan program because Black and Latino mortgagors rely heavily on it to purchase homes. The commenter stated that these statutory obligations require HUD to take into account the needs of their specific mortgagors and design systems to promote their mortgagors' success. The commenter stated that the mandatory meeting facilitates HUD's statutory goals because they improve outcomes for low- to moderate-income mortgagors.

HUD Response: HUD appreciates the comments and agrees that it is important for mortgagors in default to meet with their mortgagees to resolve their mortgage default and to avoid foreclosure. HUD's goal is for mortgagors in default to have this opportunity to learn about loss mitigation options that may help them prevent foreclosure and retain their homes.

HUD's commitment to low-to-moderate income mortgagors, first-time mortgagors, and underserved and minority mortgagors extends to considering how best to reach these mortgagors after a default. By expanding the options for mortgagor outreach and the methods for conducting the meeting, HUD believes that other permissible forms of communications will best assist the mortgagors that FHA is designed to serve.

J. Mortgage Servicers Must Accommodate Mortgagors With Disabilities and Mortgagors With Limited English Proficiency

Mortgage servicers must accommodate the needs of mortgagors with disabilities.

One commenter stated that mortgage servicers should pay special attention to the needs of mortgagors with disabilities. The commenter stated that mortgagors with a disability should be informed whether an assistive device or other reasonable accommodation will be provided at the meeting with the mortgage servicer. The commenter, citing information from the Centers for Disease Control and Prevention, stated that over one quarter of adults in the United States have a disability and the percentage of people living with disabilities increased during the pandemic.

The commenter, citing provisions within the FHA Single Family Housing Policy Handbook 4000.1, further stated that mortgage servicers are required to comply with the Fair Housing Act and provide meaningful access to face-to-

face meetings for people with disabilities. The commenter stated that this includes providing communication technology or devices to ease access to the meetings for the visually impaired, Deaf, and hard-of-hearing communities, including an onsite interpreter if necessary. The commenter stated that the Department should work with mortgage servicers to ensure that template notices of the meeting are provided in plain-language formats to make the information accessible to people with intellectual and developmental disabilities. The commenter also stated that mortgage servicers should be required to ask mortgagors whether they have communication disabilities and record their needed auxiliary aid or service in the file so that mortgagors consistently receive effective communication from the mortgage servicer.

The commenter went on to state that to improve accessibility, HUD should also continue to refer mortgagors to available HUD-approved housing counselors in all communications. The commenter stated that many mortgagors will be more comfortable and better able to understand and access their options when they have the assistance of housing counselors during the meetings, whether they are conducted in person, through videoconferencing, or over the phone. The commenter stated that HUD should promote the use of housing counseling and ensure that for homeowners who need in-person interaction, the housing counseling agency can meet with the homeowner in-person and help to coordinate the internet or phone call with the mortgage servicer.

HUD Response: HUD appreciates the commenter's suggestions and shares the commenter's concerns about mortgagors with disabilities. HUD agrees that housing counseling serves as a valuable resource for mortgagors in default. HUD's existing policy in the FHA Single Family Housing Policy Handbook 4000.1 requires that mortgagees accommodate mortgagors with disabilities, including providing assistive technology or sign language interpreters, if requested by the mortgagor. In addition, the FHA Single Family Housing Policy Handbook 4000.1 requires that mortgagees provide all mortgagors in default with information on the HUD Housing Counseling services available. This rule also does not prohibit face-to-face meetings, and FHA participating lenders must be prepared to offer other methods to meet the different communication needs of their borrowers and prevent discriminatory effects.

In addition, HUD believes that expanding this meeting to all mortgagors in default, the outreach methods, and the means of conducting the meeting will help more mortgagors resolve their mortgage default and avoid foreclosure, including mortgagors with disabilities. This rule does not prohibit face-to-face meetings and reminds FHA participating lenders to meet different communications needs of their borrowers and prevent discriminatory adverse effects.

Mortgage servicers must accommodate the needs of mortgagors with limited English proficiency.

One commenter stated that in developing guidance on the mandatory meeting requirement, it is absolutely crucial that mortgage servicers accommodate mortgagors with limited English proficiency (LEP), especially when the mortgage servicer communicates with mortgagors in default about their right to a meeting under § 203.604. The commenter, citing information from the U.S. Census Bureau, stated that LEP individuals collectively comprise roughly one in twelve Americans, nearly two thirds of whom speak Spanish. The commenter, citing information from the CFPB and the Federal Housing Finance Agency, stated that the challenges that LEP mortgagors face in the mortgage market have been well studied, and that the findings are all unanimous—LEP mortgagors face barriers both understanding the terms of their mortgage loans and in resolving problems when they face hardship.

The commenter stated that an opportunity to meet directly with trained mortgagee staff could make an enormous difference for an LEP mortgagor struggling to understand their options. The commenter stated that it is important that LEP individuals have a meaningful chance to learn that they have this right and that they get the most out of these meetings once they take place. The commenter stated that this is especially relevant given HUD's obligation to affirmatively further fair housing.

The commenter stated that according to the FHA Single Family Housing Policy Handbook 4000.1, mortgage servicers already must take reasonable steps to provide meaningful access to persons with LEP, such as providing oral interpretation or written translation of vital documents. The commenter stated that while this requirement is clear, English-only written communications remains the industry standard for speaking to advocates representing homeowners in foreclosure. The commenter stated that

this reality is troubling but not surprising. The commenter further stated that apart from this general mandate to provide meaningful access, there is little detail around how mortgage servicers can meet these obligations and, perhaps most importantly, what mortgage servicer conduct constitutes a failure to meet these obligations.

The commenter recommended that HUD unambiguously impose language access requirements to the most vital communications between mortgagors and mortgage servicers, beginning with notice of the opportunity to meet directly with mortgage servicer staff under § 203.604. The commenter recommended that HUD implement this requirement in two steps. First, the commenter stated that notices of this right to a meeting should always be bilingual, in both English and Spanish, to enable mortgage servicers to reach the largest proportion of LEP mortgagors. The commenter stated that at a minimum, mandatory, yet brief, Spanish language disclosures should be added to predominantly English language notices explaining that mortgagors have a right to meet with “trained mortgagee staff” to discuss loss mitigation and that mortgagors may request an interpreter for the meeting at no cost to the mortgagor. The commenter stated that these brief tagline disclosures could also be provided at the bottom of English language notices in a range of languages to reach a larger proportion of LEP mortgagors. Second, the commenter stated that HUD should require mortgage servicers to provide a translated notice whenever the mortgage servicer is both aware of a consumer's language preference and if HUD has provided a model translated notice in that language. The commenter stated that this will ensure that the mandate reaches a broader proportion of language groups. The commenter stated that to accompany these requirements, HUD should publish a model bilingual notice, model tagline disclosures in a range of languages, and additional fully translated notices in at least the top five most commonly spoken languages among U.S. individuals with LEP: Spanish, Chinese, Vietnamese, Korean, and Tagalog.

The commenter also stated that it is absolutely essential that mortgagors with LEP or other language barriers be able to fully participate in these meetings when they take place. The commenter stated that to this end, HUD should clarify that mortgage servicers must provide language services for these meetings without delay and without any cost to these mortgagors. The

commenter stated that the language of the mandate in the FHA Single Family Housing Policy Handbook 4000.1 to provide meaningful language access is nearly identical to the mandate to provide meaningful language access under Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and the implementing HUD guidance entitled “Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” (72 FR 2732, Jan. 22, 2007). Thus, the commenter stated that HUD's LEP guidance to recipients of Federal financial assistance through the LEP Toolkit, including HUD-approved housing counseling agencies, may be instructive. The commenter stated that while the HUD guidance offers narrow safe harbors when it comes to providing written assistance to individuals with LEP, these exceptions do not exist for oral interpretation. Thus, the commenter stated that all entities subject to the HUD guidance should provide oral interpretation to all LEP individuals who would benefit from language assistance. The commenter recommended that HUD implement a similar standard for the meeting requirement under § 203.604. The commenter stated that in addition, HUD should provide more detailed guidance on acceptable interpreter qualifications, when to use telephonic, virtual, or in-person interpretation services, and expressly prohibit the use of ad hoc interpreters, which the commenter defined as self-reported bilingual persons who lack formal training, provided by the mortgagor as a substitute for qualified interpretation services offered by mortgage servicers.

Commenters also stated that HUD should require mortgage servicers to communicate in writing about the required meeting in the mortgagor's preferred language and to explicitly offer simultaneous language interpretation at the mortgagor's request, at no additional cost to the mortgagor. Two commenters stated that HUD should add to its current regulations by requiring mortgage servicers to collect and maintain information on mortgagor language preference and provide vital loss mitigation information in mortgagors' preferred language.

HUD Response: HUD appreciates the comments and shares the commenters' concerns about providing meaningful language access to mortgagors with limited English proficiency. HUD agrees that mortgagees should take reasonable steps to provide meaningful access to

mortgagors with LEP when the mortgage servicer communicates with mortgagors in default about their right to a meeting under § 203.604. Existing policy in the FHA Single Family Housing Policy Handbook 4000.1 requires mortgagees to provide meaningful access to notices and disclosures when mortgagor communications have been requested by persons with LEP, including oral interpretation and/or written translations of vital documents. Furthermore, mortgagees must provide highlight visible information regarding any availability of language access services offered by the mortgagee for mortgagors with LEP, this information must be provided, at a minimum, in Spanish and must include an advisement to seek translation or other language assistance. While HUD appreciates the comments regarding LEP mortgagors, revising requirements related to mortgagees' interactions with LEP mortgagors are outside of the scope of this rulemaking.

HUD believes that expanding this meeting to all mortgagors in default, the outreach methods, and the means of conducting the meeting will help accommodate mortgagors with limited English proficiency to address their mortgage default and avoid foreclosure.

K. HUD Should Monitor Mortgage Servicer Use of Artificial Intelligence

One commenter stated that given the rise of artificial intelligence (AI), HUD should specifically require human interactions during the default process and monitor mortgage servicer use of AI. The commenter, citing articles entitled "The Future of Mortgage Lending: How AI and Humans Can Coexist" and "Mr. Cooper is Improving the Home-Buyer Experience with AI and ML," stated that mortgage companies are using AI throughout the loan process, including in underwriting and servicing. The commenter, citing an article entitled "Guaranteed Rate Deploys Gateless' Smart Underwrite Solution," stated that this technology can automate mechanical tasks including extracting and validating information from documents to determine whether the information satisfies an investor or guarantor's guidelines. The commenter stated that AI systems are used to detect fraud, predict the risk of default, and analyze data in support of servicing decisions. The commenter, citing an article entitled "Big Purple Dot Integrates with ChatGPT for AI-Powered Customer Support," stated that companies use natural language processing systems, like ChatGPT, to provide customer service chat features

and respond to customer service requests.

The commenter stated that while streamlining and automating parts of the loan process can benefit consumers, the servicing of loans in default demands a human touch and individualized attention. The commenter stated that mortgagors facing foreclosure are often under intense financial pressure and need to quickly evaluate and access complicated loss mitigation options. The commenter stated that mortgagors need to meet with a human who can assess their financial situation holistically based on a full view of their situation and offer workable options. The commenter stated that such individualized assessments are necessary for sustainable outcomes that will permanently get mortgagors back on track and avoid foreclosure. The commenter stated that by funding HUD-approved housing organizations to provide default and delinquency counseling, the Department shows that it understands the value of such human/connections.

The commenter stated that given the popularity and availability of AI systems, mortgage servicers may be tempted to replace human personnel with AI generated content or chat features for all or a part of the meeting conducted remotely. The commenter stated that mortgage servicers may, for example, require that mortgagors interact extensively with a chat feature at the start of a meeting before accessing human personnel. The commenter stated that such technological hurdles can be a barrier to consumers who are anxious and afraid about losing their home and need the assurance fostered by interaction with a live person. The commenter, quoting an article entitled "The Future of Mortgage Lending: How AI and Humans Can Coexist," stated that as one industry official said, the "human touch, rapport, trust and empathy that comes with face-to-face interactions are still considered critical in the mortgage industry and not fully replicable by AI—ever."

The commenter further stated that there is currently little publicly available information on how AI is deployed in the servicing of defaulted mortgages. The commenter stated that there may be concerns that AI systems treat similarly situated mortgagors differently in assessing risk, servicing defaulted loans, or offering loss mitigation options. The commenter stated that at least one company, Infosys Mortgage Default Prediction System, in assessing risk of default, uses data on unemployment rates in the mortgagor's location and job sector. The commenter

stated that use of this data may prove problematic if it persistently leads to negative outcomes, given well-documented occupational segregation that puts many workers of color in lower-wage jobs that are subject to layoffs.

The commenter stated that given the dearth of information, HUD should require that mortgage companies explain how AI is being deployed in default servicing, what types of data is collected and how it is used, and how AI supports default servicing decisions related to loss mitigation options. The commenter stated that the Department should ensure that mortgage servicers are abiding by commonly accepted standards regarding the design, deployment, and testing of these models, such as the standards outlined in the Blueprint for an AI Bill of Rights that was published by the White House in October 2022.

HUD Response: HUD appreciates the comments and shares the commenter's concerns about providing a meaningful meeting between mortgagors in default and their mortgagees to help resolve a mortgagor's default and to prevent foreclosure. HUD recognizes that there are challenges, opportunities, and limitations to emerging technologies including artificial intelligence. HUD will take these concerns into consideration in developing guidance regarding how and when mortgagees must attempt to arrange and conduct this mandatory meeting.

L. HUD Should Extend the Temporary, Partial Regulatory Waiver of the Face-to-Face Meeting Requirements in 24 CFR 203.604

A commenter urged HUD to extend the temporary, partial regulatory waiver of the face-to-face meeting requirements in 24 CFR 203.604, currently in place, so as to minimize the potential disruption that would arise if the rule is not finalized before the waiver expires. The commenter further stated that HUD should align the expiration date of the waiver with the effective date of any final rule and the applicable guidance in the FHA Single Family Housing Policy Handbook 4000.1. Specifically, the commenter recommended that HUD extend the waiver through calendar year 2024 and then rescind the waiver when the new rule and guidance are effective. The commenter stated that returning to requiring in-person meetings, even temporarily, unnecessarily complicates a mortgage servicer's operations, adds costs, and increases the risk of noncompliance. The commenter additionally stated that a return to in-person meetings would inconvenience

consumers. The commenter, referencing the mortgage servicer data in the proposed rule, stated that mortgagors accepted in-person meetings less than 0.1 percent of the time and that avoiding a gap before the new rule is effective should be a priority of HUD.

HUD Response: HUD appreciates the comments and the commenter's concerns. On April 4, 2024, HUD further extended the waiver of 24 CFR 203.604 until this final rule becomes effective on January 1, 2025. Extending the waiver until this final rule becomes effective will allow for a smoother transition from the waiver to these updated regulatory requirements and forthcoming policy implementation guidance. This will limit confusion that could have been caused by removing the waiver prior to the effective date of the updated regulation and accompanying policy. It will also remove the burden on industry partners of having to temporarily resume full compliance the regulation, which would require significant effort in staffing, contracting, and updating internal processes and borrower communications for an interim period.

VI. Findings and Certifications

Regulatory Review—Executive Orders 12866, 13563, and 14094

Pursuant to Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The order also directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” Executive Order 13563 further directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. Executive Order 14094 (Modernizing Regulatory Review) amends section 3(f) of Executive Order 12866, among other things. As discussed above, this final rule revises HUD's in-person, face-to-face meeting requirements by permitting mortgagees to utilize methods of communication

most likely to receive a response from the mortgagor, including remote communication methods to meet with mortgagors who are in default on their mortgage payments. This rule also expands the meeting requirement to all mortgagors in default, including mortgagors who do not reside in the mortgaged property and those with a mortgaged property not within 200 miles of their mortgagee. This rule was determined to be not significant under Executive Orders 12866, 13563, and 14094.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The updates described in this rule are limited to permitting mortgagees to communicate with mortgagors who are in default on their mortgage payments via electronic or other communication methods as determined by the Secretary rather than in-person. Since mortgagees are already required to communicate with these mortgagors, this rule only alters the options for how mortgagees communicate with this population of mortgagors. If there is an economic impact on mortgagees, it falls equally on all mortgagees. Further, HUD anticipates that the rule will have a net positive economic impact on mortgagees by reducing the expenses associated with making an in-person visit to a mortgagor's property to comply with the requirements of 24 CFR 203.604.

Environmental Impact

This rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either: (i) imposes substantial direct compliance costs on State and

local governments and is not required by statute, or (ii) preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

For the reasons stated above, HUD amends 24 CFR part 203 as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

■ 1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1707, 1709, 1710, 1715b, 1715z–16, 1715u, and 1715z–21; 15 U.S.C. 1639c; 42 U.S.C. 3535(d).

■ 2. Revise § 203.604 to read as follows:

§ 203.604 Contact with the mortgagor.

(a) For mortgages insured pursuant to this part, except those mortgages insured on Indian Land pursuant to section 248 of the National Housing Act:

(1) The mortgagee must conduct a meeting with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid and at least 30 days before foreclosure is commenced, or at least 30 days before assignment is requested if the mortgage is insured on Hawaiian homelands pursuant to section 247 of the National Housing Act. The meeting with the mortgagor must be conducted in a manner as determined by the Secretary.

(i) If default occurs on a repayment plan, the mortgagee must conduct a meeting with the mortgagor, or make a reasonable effort to arrange such a

meeting, no later than 30 days after such default.

(ii) [Reserved]

(2) A meeting with the mortgagor is not required if:

(i) The mortgagor has clearly indicated that they will not cooperate in the meeting;

(ii) The mortgagor is on a repayment plan to bring the mortgage current, and the mortgagor is meeting the terms of the repayment plan; or

(iii) A reasonable effort to arrange a meeting with the mortgagor is unsuccessful.

(3) A reasonable effort to arrange a meeting with the mortgagor shall consist of, at a minimum, two verifiable attempts to contact the mortgagor utilizing methods determined by the Secretary.

(b) For mortgages insured on Indian Land pursuant to section 248 of the National Housing Act:

(1) The mortgagee must conduct a face-to-face meeting with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid and at least 30 days before assignment is requested.

(i) If default occurs on a repayment plan arranged other than during a face-to-face meeting, the mortgagee must have a face-to-face meeting with the mortgagor, or make a reasonable effort to arrange such a meeting, within 30 days after default or at least 30 days before assignment is requested.

(ii) [Reserved]

(2) A face-to-face meeting is not required if:

(i) The mortgagor has clearly indicated that they will not cooperate in the meeting;

(ii) The mortgagor is on a repayment plan to bring the mortgage current, and the mortgagor is meeting the terms of the repayment plan; or

(iii) A reasonable effort to arrange a meeting with the mortgagor is unsuccessful.

(3) A reasonable effort to arrange a face-to-face meeting with the mortgagor shall include at a minimum, one letter sent to the mortgagor certified by the Postal Service as having been dispatched and at least one trip to see the mortgagor at the mortgaged property. In addition, the mortgagee must document that it has made at least one telephone call to the mortgagor for the purpose of trying to arrange a face-to-face meeting. The mortgagee may appoint an agent to perform its responsibilities under paragraph (b) of this section.

(4) The mortgagee must also:

(i) Inform the mortgagor that HUD will make information regarding the

status and payment history of the mortgagor's loan available to credit bureaus and prospective creditors;

(ii) Inform the mortgagor of other available assistance, if any; and

(iii) Inform the mortgagor of the names and addresses of HUD officials to whom further communications may be addressed.

Julia R. Gordon,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 2024-16728 Filed 8-1-24; 8:45 am]

BILLING CODE 4210-67-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R10-OAR-2023-0553; FRL-11570-01-R10]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Idaho; Delegation of Authority, Federal Plan for Existing Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Idaho's request to implement and enforce the Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators (HMIWI) Constructed on or before December 1, 2008 (the Federal Plan). The Federal Plan establishes emission limits, monitoring, and other requirements for certain existing HMIWI units. The EPA and the Idaho Department of Environmental Quality (IDEQ) entered into a Memorandum of Agreement (MOA), effective November 7, 2014, documenting the policies, responsibilities, and procedures the IDEQ will follow, as well as the authorities retained by the EPA.

DATES: This final rule is effective on September 3, 2024.

ADDRESSES: The EPA has established a docket for this action, identified by Docket ID No. EPA-R10-OAR-2023-0553 at <https://www.regulations.gov>. All documents cited in this rule or used by the EPA in its analysis of this rulemaking (with the exception of documents containing confidential business information and documents generally available to the public), including the IDEQ's submittal are accessible through the docket. If alternative means of reviewing the documents is required, please contact

the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Bryan Holtrop, Air and Radiation Division, EPA, Region 10, 1200 Sixth Avenue, Suite 155, M/S 15-H13, Seattle, WA 98101-3144, telephone number: (206) 553-4473, email address: holtrop.bryan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 129 of the Clean Air Act (the "CAA" or "Act"), titled "Solid Waste Combustion," requires the EPA to develop and adopt standards for solid waste incineration units pursuant to sections 111(d) and 129 of the Act. The EPA promulgated revisions to the emissions guidelines (EG) for HMIWI units on April 4, 2011 (76 FR 18407), and May 13, 2013 (78 FR 28052), as amended by a correction published on September 6, 2013 (78 FR 54766). Codified at 40 CFR part 60, subpart Ce, this final rule sets limits for nine pollutants under section 129 of the CAA: Cadmium (Cd), carbon monoxide (CO), hydrogen chloride (HCL), lead (Pb), mercury (Hg), nitrogen oxides (NO_x), particulate matter (PM), dioxins/furans, and sulfur dioxide (SO₂). The EG apply to existing HMIWI units, which are those units that commenced construction on or before December 1, 2008, or that commenced modification on or before April 6, 2010 (see 40 CFR 60.32e).

CAA section 129 also requires each state in which HMIWI units are operating to submit a plan to implement and enforce the EG with respect to such units. State plan requirements must be "at least as protective" as the EG and become federally enforceable upon approval by the EPA. The procedures for adoption and submittal of state plans are codified in 40 CFR part 60, subpart B. For each state that does not submit a plan, the EPA is required to develop and implement a Federal Plan within two years following promulgation of the emission guidelines. Accordingly, the EPA promulgated the HMIWI Federal Plan on May 13, 2013 (78 FR 28052). The EPA implementation and enforcement of the Federal Plan is viewed as an interim measure until a state assumes its role as the preferred implementer of the emission guidelines requirements stipulated in the Federal Plan. In the Federal Plan rulemaking, the EPA strongly encouraged each state and local agency in a jurisdiction that did not submit an approvable state plan to request delegation of the HMIWI Federal Plan so that it can have the