

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 92

[Docket No. FR-3840-I-02]

RIN 2501-AB95

Extension of HOME Investment
Partnerships Program

AGENCY: Office of the Secretary.

ACTION: Notice of Extension of HOME
Investment Partnerships Program.

SUMMARY: This document extends for one year the period that the interim rule for the HOME Investment Partnerships Program will be in effect from June 30, 1995 to June 30, 1996.

EFFECTIVE DATE: Effective on June 30, 1995 the effectiveness of the amendments to 24 CFR Part 92 published on April 19, 1994 at 59 FR 18626 and August 26, 1995 at 59 FR 44258 is extended to June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708-2470, TDD (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 92.5 of 24 CFR was added to implement a Department-wide policy for the expiration of interim rules within a set period of time if they are not issued in final form before the end of the period. The rule provides that the expiration period may be extended by notice published in the **Federal Register**. Because the expiration date for the HOME interim rule is currently June 30, 1995, and a final rule is not expected before that date, this notice extends the expiration date for an additional year. A conforming change is also being made, in a separate publication, to § 92.5.

Accordingly, the time period during which the interim rule for the HOME Investment Partnerships Program at 24 CFR part 92 will be in effect is extended for an additional year to June 30, 1996. If a final rule is published on or before June 30, 1996, the interim rule will continue in effect until the published final rule's effective date.

Dated: June 26, 1995.

Henry G. Cisneros,
Secretary.

[FR Doc. 95-16127 Filed 6-29-95; 8:45 am]

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Office of the Assistant Secretary for
Housing-Federal Housing
Commissioner

24 CFR Part 203

[Docket No. FR-3766-F-01]

RIN 2502-AG37

Electronic Payment of Periodic
Mortgage Insurance Premiums; Final
RuleAGENCY: Office of the Assistant
Secretary for Housing-Federal Housing
Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's Single Family Mortgage Insurance regulations. This rule authorizes the Federal Housing Administration (FHA) Commissioner to require that periodic mortgage insurance premiums (MIP) be remitted electronically. The purpose of this rule is to reduce the servicing costs to mortgage lenders and to enhance HUD operations.

EFFECTIVE DATE: July 31, 1995.**FOR FURTHER INFORMATION CONTACT:**

Anne L. Baird-Bridges, Acting Director, Single Family Insurance Operations Division, Room 2246, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-2438, or (202) 708-4594 (TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:**I. Background**

In 1985, the Department of Housing and Urban Development (HUD) implemented the Automated Clearing House (ACH) program, with voluntary participation by mortgagees, for electronic payment of up-front mortgage insurance premiums (MIP) for single family mortgages that are obligations of the Mutual Mortgage Insurance Fund. In 1989, HUD implemented the ACH program on a voluntary basis for electronic payment of periodic (monthly) MIP for single family insured mortgages. In these single family mortgages, mortgagees collected mortgage insurance premiums on a monthly basis from the mortgagors and promptly remitted them to HUD as required by section 530 of the National Housing Act. These premiums are sometimes referred to as section 530 premiums to distinguish them from the risk-based premium segment that was adopted later in July 1991, although regulations under section 530 also apply to that segment. In 1992, HUD made the ACH program available on a voluntary

basis to the risk-based premium segment of periodic MIP.

On June 9, 1992, HUD published a proposed rule in the **Federal Register** (57 FR 24424) that would amend the Title II regulations to permit the Federal Housing Administration (FHA) Commissioner to require that all up-front premium payments be made electronically through ACH. HUD received five comments in response to that proposed rule. Two comments were from automated clearing house associations, and expressed general approval of HUD's proposal. Two comments were from national trade associations; both were favorable to the proposal, although one expressed a number of technical operational concerns. The fifth comment, from a small lender, expressed a similar concern to one raised by one of the trade associations, namely the financial impact on small lenders.

On March 8, 1993, HUD published a final rule in the **Federal Register** (58 FR 12901) that was unchanged from the proposed rule. However, due to the concerns communicated in the comments, HUD allowed a one-year grace period for institutions making 300 or fewer new FHA single family loans per year.

II. The Method of Electronic Payment

HUD's policy prior to this final rule allowed mortgage lenders to remit payment of periodic (monthly) mortgage insurance premiums (MIP) either by mailing checks and remittance forms to the NationsBank lockbox contractor or electronically through the Automated Clearing House (ACH) program at Mellon Bank. This final rule will require the electronic payment of all periodic MIP.

In the ACH program, periodic premium collections (also referred to as section 530 premiums and risk-based premiums) are processed from mortgagees and confirmations are remitted back to the mortgagees electronically, using remote terminals or microcomputers with modems in lieu of sending checks with HUD forms. Through ACH, the mortgagee's terminal or microcomputer operator keys in the transaction data, which is transmitted to Mellon Bank.

Each day at 8 p.m. EST, the Mellon Telecash System originates an ACH file of debit transactions based on the data keyed by the mortgagee. When the debit transactions have been processed, the ACH will transmit the periodic premium data to HUD's premium collection system. Through this ACH process, the debit amount is drawn from the designated lender's bank account

electronically the next day, or can be "warehoused" and drawn on the lender's bank account on a future date. The corresponding credit entry will update HUD's account located at Mellon Bank. If the lender's bank is unable to receive an ACH entry, a paper Depository Transfer Check (DTC) is used.

The processing of late charges will not change through the ACH process. Late charges will still be assessed if a payment is not received by the 10th of the month. Interest will still be due if the payment is made more than 20 days after the 10th of the month. In the ACH program, the late charge and interest amount can be entered on the input screen.

Under this final rule, periodic MIP for all mortgages insured under the General Insurance Fund, the Special Insurance Fund, and the periodic risk-based segment of MIP for more recent mortgages insured under the Mutual Mortgage Insurance Fund will be collected electronically. Excluded under periodic risk-based MIP are condominium GPMs, GEMs, and ARMs which are not insured under section 203(b) of the National Housing Act. Also excluded are any section 203(b) mortgages insured pursuant to sections 233(e) (older declining areas), 238(c) (military impacted areas), 247 (Indian reservations), and 248 (Hawaiian home lands), since those mortgages are not obligations of the Mutual Mortgage Insurance Fund. HUD will transmit specific administrative instructions implementing this rule to all HUD-approved mortgagees before the rule's effective date.

III. Benefits of Electronic Payment

The method of electronic payment provides many benefits to the mortgage lenders that will reduce their servicing costs and enhance operations. The advantages of electronic payment are:

- (1) The electronic transfer of debits and credits in the ACH program can increase the lender's control of payment initiation and funds availability.
- (2) Banking costs are reduced.

Electronic transfers costs less than paper check and wire transfers.

- (3) Accounting reconciliation is reduced. Payments are computerized and cash application is more automated than with manual systems.

- (4) Built-in edits can reduce data errors created by manual recording.

- (5) The chance of lost or late mail is eliminated.

Although mortgage lender participation in the ACH transfer system for collecting periodic MIP has been minimal, electronic payment provides

reduced servicing costs and enhanced operations to lenders as well as HUD.

IV. This Final Rule

This final rule amends the Single Family Mortgage Insurance regulations to authorize the FHA Commissioner to require the electronic payment of periodic MIP. In addition, the rule will correct an inadvertent omission of the language that permits HUD to require electronic payment of up-front MIP. The final rule for the electronic payment of up-front mortgage insurance premiums, published in the **Federal Register** on March 8, 1993 (58 FR 12901), inadvertently deleted a reference in § 203.259a to new § 203.285 regarding risk-based MIP for 15-year mortgages. HUD had added that reference in an interim rule published in the **Federal Register** on October 14, 1992 (57 FR 46980). When HUD issued the October 1992 interim rule in final form on July 30, 1993 (58 FR 41003), it added one reference to § 203.285, but left out the sentence about electronic MIP. A corrective rule issued on March 24, 1994 (59 FR 13882) added a second reference to § 203.285, but that correction still left out the sentence on electronic MIP.

V. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking (24 CFR part 10). However, part 10 provides for exceptions from that general rule when HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. Because of its experience in promulgating the amendment to the Title II regulations for electronic payment of insurance premiums through ACH and the voluntary participation in the ACH program by some lenders in the electronic payment of periodic MIP, as described in the "Background" section of this preamble, HUD finds that prior public procedure is unnecessary.

VI. Regulatory Reform

Consistent with Executive Order 12866 and President Clinton's memorandum of March 4, 1995 to all Federal departments and agencies on the subject of Regulatory Reinvention, HUD is reviewing all its regulations to determine whether they can be eliminated, streamlined, or consolidated

with other regulations. As part of this review, HUD has reviewed this rule and determined that it furthers the President's objectives on regulatory reform. With this rule, HUD more closely conforms its practices with those in the private sector, by adopting an advanced technological process that relieves a paperwork and financial burden on lenders.

VI. Other Matters

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule implements a program that will enhance operations and be cost beneficial for all participating lenders.

Environmental Impact Statement

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality, and 24 CFR 50.20(k) of the HUD regulations, this rule is categorically excluded from the requirements of the National Environmental Policy Act. The rule relates solely to internal administrative procedures, the content of which do not involve a development decision or affect the physical condition of project areas or building sites, but only relate to the performance of accounting, auditing, and fiscal functions.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. Specifically, the requirements of this rule are directed to lenders, and do not impinge upon the relationship between the Federal Government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and thus is not subject to review under the Order. No

significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

Regulatory Agenda

This rule was listed as item number 1415 in HUD's Semiannual Agenda of Regulations published on May 8, 1995 (60 FR 23368, 23370) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

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.

Accordingly, 24 CFR part 203 is amended as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b and 1715u; 42 U.S.C. 3535(d).

2. Section 203.259a is amended by adding a new sentence to the end of paragraph (b), to read as follows:

§ 203.259a Scope.
* * * *

(b) * * * In the cases that the Commissioner deems appropriate, the Commissioner may require, by means of instructions communicated to all affected mortgages, that up-front MIP be remitted electronically.

* * * *

3. A new § 203.269 is added to the end of the undesignated center heading "Mortgage Insurance Premiums—Periodic Payment", to read as follows:

§ 203.269 Method of payment of periodic MIP.

In cases that the Commissioner deems appropriate, the Commissioner may require, by means of instructions communicated to all affected mortgagees, that periodic MIP be remitted electronically.

4. Section 203.284 is amended by revising paragraph (f) to read as follows:

§ 203.284 Calculation of up-front and annual MIP on or after July 1, 1991.
* * * *

(f) *Applicability of other sections.* The provisions of §§ 203.261, 203.264, 203.266, 203.267, 203.268(a)(1), 203.269, 203.280, and 203.282 are applicable to mortgages subject to premiums under this section.

* * * *

5. Section 203.285 is amended by revising paragraph (c) to read as follows:

§ 203.285 Fifteen-year mortgages: Calculation of up-front and annual MIP on or after December 26, 1992.
* * * *

(c) *Applicability of certain provisions.* The provisions of §§ 203.261, 203.266, 203.267, 203.268, 203.269, 203.280, and 203.282 are applicable to mortgages subject to premiums under this section. The provisions of paragraphs (d), (e), and (g) of § 203.284 also shall be applicable to mortgages subject to premiums under this section.

* * * *

Dated: June 20, 1995.
Nicolas P. Retsinas,
Assistant Secretary for Housing-Federal Housing Commissioner.
[FR Doc. 95-16128 Filed 6-29-95; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Arkansas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with additional requirements, a proposed amendment to the Arkansas regulatory program (hereinafter referred to as the "Arkansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Arkansas proposed changes to its statute by adding definitions of the terms "unanticipated event or condition" and "lands eligible for re-mining," deleting the authority to either regulate or not regulate surface coal mining operations affecting 2 acres or less, and revising provisions pertaining to violations and revegetation performance standards for re-mining permits. The amendment was intended to revise the Arkansas program to be consistent with SMCRA.

EFFECTIVE DATE: June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Timothy Dieringer, Acting Director, Tulsa Field Office, Telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. General background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Arkansas program can be found in the November 21, 1980, **Federal Register** (45 FR 77003). Subsequent actions concerning Arkansas's program and program amendments can be found at 30 CFR 904.12 and 904.15.

II. Proposed Amendment

By letter dated August 26, 1994, Arkansas submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. AR-522). Arkansas submitted the proposed amendment at its own initiative with the intent of making its coal mining statutes consistent with SMCRA. Arkansas proposed to revise the Arkansas Surface Coal Mining and Reclamation Act of 1979 (ASCMRA) at (1) section 5, jurisdiction and powers; rules and regulations, (2) section 13, surface coal mining permits, and (3) section 15, environmental protection performance standards.

OSM published a notice in the September 29, 1994, **Federal Register** (59 FR 49616) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (administrative record No. AR-526). The public comment period ended October 31, 1994.

During its review of the amendment, OSM identified concerns with section 13(k) of ASCMRA, regarding re-mining permit violations, and section 15(d)(1) of ASCMRA, regarding revegetation performance standards on lands eligible for re-mining. OSM notified Arkansas of the concerns by letter dated November 22, 1994 (administrative record No. AR-539). Arkansas responded in a letter dated March 1, 1995, by submitting a revised amendment (administrative record No. AR-540).

In the revised amendment, Arkansas proposed to add definitions of the terms "unanticipated event or condition" and "lands eligible for re-mining" at sections 4(18) and 4(19) of ASCMRA.

Based upon the revisions to the proposed program amendment submitted by Arkansas, OSM reopened the public comment period in the March 17, 1995, **Federal Register** (60 FR 14399, administrative record No. AR-544). The