

serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligation of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

### Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires each agency to perform an initial regulatory flexibility analysis for all proposed rules unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Small entities include small businesses, organizations, and governmental jurisdictions. This proposed regulation does no more than mechanically increase certain statutory civil money penalties to account for inflation, pursuant to specific directions set forth in the FCPAA, as amended. The statute specifies the procedures for calculating the adjusted civil money penalties and does not allow the Department to vary the calculation to minimize the effect on small entities. Moreover, it will be noted that during the period 1995 through 1996, an average of \$25,000.00 in civil penalties was collected each year in 206 cases. Under the amended rule, the total additional amount collected would not exceed \$2,500.00. As a result, the Assistant Secretary hereby certifies that the rule, if adopted as proposed, will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

### Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, as well as E.O. 12875, this rule does not include any federal mandate that may result in increased expenditures by State, local and tribal governments, or increased expenditures by the private sector of more than \$100 million.

### Paperwork Reduction Act

The proposed rule does not contain any collection of information requirements.

### List of Subjects in 20 CFR Part 702

Administrative practice and procedure, Claims, Insurance, Longshoremen, Vocational rehabilitation, and Workers' compensation.

For the reasons set forth in the preamble, it is proposed that part 702 of chapter VI of title 20, Code of Federal Regulations, be amended as follows:

### PART 702—ADMINISTRATION AND PROCEDURE

1. The authority citation for part 702 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 8171 *et seq.*, Reorganization Plan No. 6 of 1950, 15 FR 3174, 3 CFR 1949-1953, Comp., p. 1004, 64 Stat. 1263; 28 U.S.C. 2461, 33 U.S.C. 939, 36 D.C. Code 501 *et seq.*, 42 U.S.C. 1651 *et seq.*, 43 U.S.C. 1331; Secretary's Order 5-96, 62 FR 107.

2. Section 702.204 is revised to read as follows:

#### **§ 702.204 Employer's report; penalty for failure to furnish and/or falsifying.**

Any employer, insurance carrier, or self-insured employer who knowingly and willfully fails or refuses to send any report required by § 702.201, or who knowingly or willfully makes a false statement or misrepresentation in any report, shall be subject to a civil penalty not to exceed \$10,000 for each such failure, refusal, false statement, or misrepresentation. Provided, however, that for any violation occurring on or after (insert effective date of revised regulations), the maximum civil penalty may not exceed \$11,000.00. The district director shall have the authority and responsibility for assessing a civil penalty under this section.

3. Section 702.236 is revised to read as follows:

#### **§ 702.236 Penalty for failure to report termination of payments.**

Any employer failing to notify the district director that the final payment of compensation has been made as required by § 702.235 shall be assessed a civil penalty in the amount of \$100. Provided, however, that for any violation occurring on or after (insert effective date of revised regulations) the civil penalty will be \$110.00. The district director shall have the authority and responsibility for assessing a civil penalty under this section.

4. Paragraph (a) of § 702.271 is revised to read as follows:

#### **§ 702.271 Discrimination against employees who bring proceedings, prohibition and penalty.**

(a) No employer or its duly authorized agent may discharge or in any manner discriminate against an employee as to his/her employment because that employee: has claimed or attempted to claim compensation under this Act; or has testified or is about to testify in a proceeding under this Act. To discharge

or refuse to employ a person who has been adjudicated to have filed a fraudulent claim for compensation or otherwise made a false statement or misrepresentation under section 31(a)(1) of the Act, 33 U.S.C. 931(a)(1), is not a violation of this section. Any employer who violates this section shall be liable to a penalty of not less than \$1,000 or more than \$5,000 to be paid (by the employer alone, and not by a carrier) to the district director for deposit in the special fund described in section 44 of the Act, 33 U.S.C. 944; and shall restore the employee to his or her employment along with all wages lost due to the discrimination unless that employee has ceased to be qualified to perform the duties of the employment. Provided, however, that for any violation occurring on or after (insert the effective date of the regulations) the employer shall be liable to a penalty of not less than \$1,100.00 or more than \$5,500.00.

\* \* \* \* \*

Signed at Washington, DC, this 25th day of June, 1997.

**Bernard E. Anderson,**  
Assistant Secretary for Employment Standards.

**Shelby Hallmark,**  
Acting Director, Office of Workers' Compensation Programs.  
[FR Doc. 97-17351 Filed 7-1-97; 8:45 am]  
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### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### **24 CFR Parts 207, 251, 252, 255, and 266**

[Docket No. FR-4203-P-01]

#### **Electronic Payment of Multifamily Insurance Premiums**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes that all annual multifamily mortgage insurance premium (MIP) collections in accordance with 24 CFR parts 207, 251, 252, 255, and 266 be made by the Automated Clearing House (ACH) program. The purpose of this rule is to improve the efficiency of the Multifamily Mortgage Insurance Program and reduce costs to HUD lenders. This rule would not affect the initial payment of MIPs.

**DATES:** Comment Due Date: September 2, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding

this proposed rule to the Rules Docket Clerk, room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address. Facsimile (FAX) comments are not acceptable.

**FOR FURTHER INFORMATION CONTACT:** Samuel N. Conner, Acting Director, Multifamily Accounting and Servicing Division, Room 6208, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20024; telephone (202) 708-0223. Hearing-impaired or speech-impaired individuals may access the voice telephone number listed above by calling the Federal Information Relay Service during working hours at 1-800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In August 1985, HUD implemented the Automated Clearing House (ACH) program. The Multifamily Insurance Operations Branch entered into the program in 1992, with voluntary participation by mortgagees for payment of multifamily mortgage insurance premiums (MIPs).

The ACH program is designed to provide FHA approved lenders the opportunity to utilize their personal computers to authorize electronically the payment of MIPs, instead of sending checks through lockbox. Currently, more than 60 percent of HUD's MIPs are being collected through the ACH program.

The mortgagees' terminal operators tie their personal computers into the collection agent's ACH system. The collection agent originates an ACH file of debit transactions based on bills.

Each evening, the collection agent originates an ACH file of debit transactions based on the data keyed by the mortgagees. When the debit transactions have been processed, the ACH will transmit the MIP data to HUD's Multifamily Information System. Through this ACH process, the debit amount is drawn electronically from the designated mortgagee's bank account that day.

After transmission, the insurance premium transactions are processed in the same manner as in the past.

The ACH transfer system uses the mortgagee number as part of the "log on" procedure. Any error in the mortgagee number results in the ACH

transfer system rejecting the "log on" attempt. In addition, the ACH transfer system balances the dollar fields in each detail transaction to the amount entered, along with the item number. Where there is an error, the system produces an error message that describes the problem. The error must be corrected before the ACH transfer system will prepare the ACH entries.

The general Late Charge policy for the ACH program is the same as for MIPs sent to the Atlanta lockbox address. Late charges are levied if payment is received later than 15 days after due date. For the ACH program, the late charge amount is automatically calculated by the system.

ACH provides lenders with numerous tangible benefits that should reduce their servicing costs. The advantages of ACH are:

- (1) Control of payment timing—the use of ACH debits and credits can increase control of payment initiation and funds availability;
- (2) Banking costs are reduced—ACH transfer costs less than paper check and wire transfer;
- (3) Accounting reconciliation is reduced—payments are computerized and cash application is more automated than with manual systems;
- (4) On-line edits can reduce data errors created by manual recording; and
- (5) The chance of lost/late mail is eliminated.

Because ACH provides mortgage lenders as well as HUD with numerous tangible benefits that reduce servicing costs, HUD is proposing that ACH become the sole method for collecting annual MIPs. HUD believes that this rule will not have a significant economic impact on the smaller lending community since personal computing is so pervasive within the industry. The rule implements a program that will enhance operations and be cost beneficial for all mortgage lenders. Implementation of this process will be phased-in and coordinated with lenders on an individual basis.

##### **Other Matters**

##### *Environmental Review*

This amendment is excluded from the environmental review requirements of the National Environmental Policy Act (42 U.S.C. 4321-4347) and the other related Federal environmental laws and authorities, as set forth in 24 CFR part 50. In keeping with the exclusion provided for in 24 CFR 50.19(c)(1), this amendment would not "direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation,

alteration, demolition, or new construction, or set out or provide for standards for construction or construction materials, manufactured housing, or occupancy." Accordingly, under 24 CFR 50.19(c)(2), this amendment is categorically excluded because it amends a previous document where the underlying document as a whole would not fall within the exclusion set forth in 24 CFR 50.19(c)(1), but the amendment by itself would do so.

##### *Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. A survey of presently insured mortgagees indicates that nearly all mortgagees have computers that would allow them to submit electronic payments. The cost of the software package is approximately \$30.00. HUD recognizes, however, that the uniform application of requirements on entities of differing sizes often places a disproportionate burden on small entities. Therefore, HUD specifically solicits comments as to whether this proposed rule would significantly impact a substantial number of small entities, and as to any less burdensome alternatives.

##### *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 would 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.

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) (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 proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

*Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance numbers are 14.129, 14.155, and 14.188.

**List of Subjects***24 CFR Part 207*

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

*24 CFR Part 251*

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

*24 CFR Part 252*

Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

*24 CFR Part 255*

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

*24 CFR Part 266*

Aged, Fair housing, Intergovernmental relations, Mortgage insurance, Low and moderate income housing, Reporting and recordkeeping requirements.

Accordingly, the Department proposes to amend Subtitle B, Chapter II, Subchapter B, of Title 24 of the Code of Federal Regulations as follows:

**PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE**

1. The authority citation for part 207 continues to read as follows:

**Authority:** 12 U.S.C. 1701z-11(e), 1713, and 1715b; 42 U.S.C. 3535(d).

2. A new § 207.252e to subpart B is added to read as follows:

**§ 207.252e Method of payment of mortgage insurance premiums.**

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

**PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS**

3. The authority citation for part 251 continues to read as follows:

**Authority:** 12 U.S.C. 1515b, 1715z-9; 42 U.S.C. 3535(d).

4. A new § 251.6 is added to read as follows:

**§ 251.6 Method of payment of mortgage insurance premiums.**

In the cases that the Commissioner deems appropriate, the Commissioner may require, by means of instructions communicated to all affected lenders, that mortgage insurance premiums be remitted electronically.

**PART 252—COINSURANCE OF MORTGAGES COVERING NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES**

5. The authority citation for part 252 continues to read as follows:

**Authority:** 12 U.S.C. 1515b, 1715z-9; 42 U.S.C. 3535(d).

6. A new § 252.6 is added to read as follows:

**§ 252.6 Method of payment of mortgage insurance premiums.**

The provisions of 24 CFR 251.6 shall apply to this part.

**PART 255—COINSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS**

7. The authority citation for part 255 is revised to read as follows:

**Authority:** 12 U.S.C. 1515b, 1715z-9; 42 U.S.C. 3535(d).

8. A new § 255.6 is added to read as follows:

**§ 255.6 Method of payment of mortgage insurance premiums.**

The provisions of 24 CFR 251.6 shall apply to this part.

**PART 266—HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS**

9. The authority citation for part 266 continues to read as follows:

**Authority:** 12 U.S.C. 1707 note; 42 U.S.C. 3535(d).

10. A new § 266.610 is added to read as follows:

**§ 266.610 Method of payment of mortgage insurance premiums.**

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

Dated: May 30, 1997.

**Nicolas P. Retsinas,**

*Assistant Secretary for Housing-Federal Housing Commissioner.*

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Parts 950, 953, 955, 1000, 1003 and 1005**

[Docket No. FR-4170-P-10]

**RIN 2577-AB74**

**Implementation of the Native American Housing Assistance and Self-Determination Act of 1996; Proposed Rule**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing; HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). NAHASDA reorganizes the system of Federal housing assistance to Native Americans by eliminating several separate programs of assistance and replacing them with a single block grant program. In addition to simplifying the process of providing housing assistance, the purpose of NAHASDA is to provide Federal assistance for Indian tribes in a manner that recognizes the right of Indian self-determination and tribal self-governance. As required by section 106(b)(2) of NAHASDA, HUD has developed this proposed rule with active tribal participation and using the procedures of the Negotiated Rulemaking Act.

**DATES:** Comments on the proposed rule are due on or before August 18, 1997. Comments on the proposed information collection requirements are due on or before September 2, 1997.

**ADDRESSES:** Interested persons are invited to submit written comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.