DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200 and 207

[Docket No. FR–4303–P–01]

RIN 2502–AH11

Electronic Submission of Required Data by Multifamily Mortgagees to Report Mortgage Delinquencies, Defaults, Reinstatements, Assignment Elections, and Withdrawals of Assignment Elections

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

ACTION: Proposed rule; Notice of proposed information collection requirements.

SUMMARY: This proposed rule would require mortgagees that hold or service multifamily mortgages insured by HUD to submit certain data electronically to HUD in a HUD prescribed format. Electronic submission is necessary because the manual submission of HUD forms has become a burden to servicing mortgagees, as well as to HUD. This proposed rule would apply to all multifamily mortgagees in their responsibility to report mortgage delinquencies, mortgage defaults, mortgage reinstatements, elections to assign mortgages to HUD, and withdrawal of assignment elections.

DATES: *Comment due date:* July 13, 1998.

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

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

HUD obtains data regarding the status of delinquent insured mortgage loans on multifamily projects by using Form HUD–92426, *Multifamily Default Status Report.* HUD needs the information submitted on the form in order to monitor mortgage loans for which the mortgagees are experiencing payment or other difficulties. In accordance with the requirements of 24 CFR part 207, the mortgagee must prepare and sign this form under the specified circumstances and mail it to HUD. When HUD receives the form, it must sign it and return it to the mortgagee to acknowledge receipt of the form.

To replace this burdensome paperwork process, HUD has developed a method for mortgagees to submit the data currently collected on Form HUD–92426, as well as to report the date of the mortgagees' last physical inspection of the project, using the Internet. According to this new method, the mortgagee will electronically submit the required data to HUD, after which an electronic receipt will automatically be returned. HUD will provide, at no cost to mortgagees, ''stand alone'' software and technical support for that software, which is designed to run on IBM-compatible personal computers (PCs). Mortgagees will, however, need to provide their own PCs and Internet connections. Mortgagees that do not choose to initiate Internet access for themselves may contract with another entity or individual to act on their behalf to report the data electronically; HUD believes that this is not likely to be necessary in most cases.

One of HUD's primary concerns is the costs mortgagees may incur in establishing Internet access if they have not already done so. For this reason, HUD has decided to allow for a staggered implementation of this rulemaking, under which smaller mortgagees would be given more time to comply with the new electronic reporting requirements. HUD believes, however, that electronic tracking of the default and reinstatement data generally will reduce costs for mortgagees. HUD has field-tested electronic submission of this data on a voluntary pilot basis with a number of mortgagees, and has received generally favorable responses.

While HUD hopes to begin implementing the electronic reporting requirements in this rule in July 1998, HUD encourages mortgagees to comply with these requirements voluntarily to the extent possible, in order for the mortgagees and HUD to realize an early advantage of cost savings.

II. This Proposed Rule

This document proposes to amend the regulations in 24 CFR parts 200 and 207 related to multifamily housing mortgage insurance, in order to require mortgagees with insured multifamily mortgage loans to submit information reporting mortgage delinquencies, defaults, reinstatements, assignment elections, and withdrawals of assignment elections electronically, rather than in writing on Form HUD–92426. Specifically, this document proposes to amend the regulations as follows:

(1) This proposed rule would add a new subpart B to part 200, entitled ''Electronic Submission of Required Data for Mortgage Defaults and Mortgage Insurance Claims for Insured Multifamily Mortgages.'' This new subpart B would require multifamily mortgagees to submit the data electronically, and it would provide the staggered schedule of effectiveness. As mentioned above, HUD would allow smaller mortgagees (i.e., those with fewer insured mortgage loans) more time to comply with the electronic submission requirements. This new subpart would also provide for an exception to the electronic submission requirements, subject to HUD approval, for very small mortgagees for which compliance would represent a financial hardship.

(2) This document also proposes several conforming changes to the current requirements in part 207. In § 207.256, which requires mortgagees to notify HUD of defaults, this document proposes to require mortgagees to notify HUD in the manner prescribed in the new subpart B of part 200, rather than in writing. This document would similarly amend § 207.256a, which requires mortgagees to notify HUD if a mortgage loan is reinstated, and § 207.258, which requires mortgagees to notify HUD if they elect to assign a mortgage to HUD or to acquire a property and convey title to HUD.

III. Other Matters

A. Paperwork Burden

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

In accordance with 5 CFR 1320.5(a)(1)(iv), HUD is setting forth the following concerning the proposed collection of information:

Description	Number of respondents	Total annual response	Minutes per response	Total hours
Electronic transfer of information	420	2000	10	333

Interested persons are invited to submit comments regarding the information collection requirements in this proposed rule. Comments must be received within 60 days of the date of this proposal. Comments must refer to the proposed rule by name and docket number (FR 4303), and must be sent to Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

B. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The electronic submission requirements in this proposed rule should reduce burden and costs for all mortgagees. As stated above, HUD will also reduce the burden on mortgagees by providing the software and technical support necessary to facilitate the electronic submission requirements. Therefore, HUD has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. Notwithstanding this determination, HUD specifically invites comments regarding alternatives to this proposed rule that will meet HUD's objectives as described in this preamble.

C. Environmental Impact

This proposed rule is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321). The proposed addition to part 200 of a new subpart B falls within the exclusion provided by 24 CFR 50.19(c)(1), in that it does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. The proposed amendments to part 207 are categorically excluded under 24 CFR 50.19(c)(2), because they amend an existing document, and the existing document as a whole would not fall within the exclusion in 24 CFR 50.19(c)(1), but the amendments by themselves would.

D. 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 proposed rule would not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This proposed rule relates only to the manner in which mortgagees submit required information to HUD, and it would not affect the federalism concerns addressed in the Order. As a result, this proposed rule is not subject to review under the Order.

E. 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 rule would not impose any Federal mandates on any State, local, or tribal government, or on the private sector, within the meaning of the UMRA.

F. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number is 14.155.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 207

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

Accordingly, 24 CFR Chapter II is proposed to be amended as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

2. In part 200, a new subpart B, consisting of §§ 200.120 through 200.121, is added to read as follows:

Subpart B—Electronic Submission of Required Data for Mortgage Defaults and Mortgage Insurance Claims for Insured Multifamily Mortgages

Sec.
200.120 Purpose and applicability.
200.121 Requirements and effectiveness.

§ 200.120 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart B is to require mortgagees of all multifamily projects whose mortgages are insured or coinsured by HUD to submit electronically information regarding mortgage delinquencies, defaults, reinstatements, elections to assign, and withdrawals of assignment elections, and related information, as that information is required by 24 CFR part 207 and Form HUD–92426 (which is available at the Department of Housing and Urban Development, HUD Custom Service Center, 451 7th Street, SW, Room B–100, Washington, DC 20410; telephone (800) 767–7465).

(b) *Applicability.* This subpart applies to all HUD multifamily mortgage insurance and coinsurance programs.

§ 200.121 Requirements and effectiveness.

(a) Multifamily mortgagees, which are required by 24 CFR part 207 to report mortgage delinquencies, defaults, reinstatements, assignment elections, withdrawals of assignment elections, and related information, must submit this information electronically, over the Internet, in accordance with the following schedule of effectiveness:

(1) Mortgagees having 70 or more insured mortgage loans must comply with this section by no later than January 1, 1999;

(2) Mortgagees having from 26 to 69 insured mortgage loans must comply with this section by no later than January 1, 2000;

(3) Mortgagees having from 11 to 25 insured mortgage loans must comply with this section by no later than January 1, 2001;

(4) Mortgagees having 10 or fewer insured mortgage loans must comply with this section by no later than January 1, 2002.

(b) *Exception.* On or after January 1, 2002, mortgagees that hold or service fewer than 10 multifamily mortgages may continue to report mortgage delinquencies, defaults, reinstatements, assignment elections, withdrawals of assignment elections, and related information in writing on Form HUD–92426 only with specific HUD approval. HUD will grant such approval, upon application by the mortgagee, for reasons of hardship due to insufficient financial resources to purchase the required hardware and Internet access.

(c) HUD will not accept reports of information regarding defaults, reinstatements, assignment elections, and related information in a manner that is not in accordance with this section. Failure on the part of mortgagees to report this information as required by 24 CFR part 207 and this section may result in HUD's application of the sanctions and surcharges specified in 24 CFR part 207.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

3. The authority citation for 24 CFR part 207 continues to read as follows:

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

4. Section 207.256 is revised to read as follows:

§ 207.256 Notice.

(a) If the default as defined in § 207.255 is not cured within the 30 days grace period, the mortgagee must, within 30 days thereafter, notify the Commissioner of such default, in the manner prescribed in 24 CFR part 200, subpart B.

(b) Notwithstanding § 207.255(a)(2), the mortgagee must give notice to the Commissioner, in the manner prescribed in 24 CFR part 200, subpart B, of the failure of the mortgagor to comply with such covenant, regardless of the fact the mortgagee may not have elected to accelerate the debt.

5. Section 207.256a is revised to read as follows:

§ 207.256a Reinstatement of defaulted mortgage.

If, after default and prior to the completion of foreclosure proceedings, the mortgagor cures the default, the insurance shall continue as if a default had not occurred, provided the mortgagee gives notice of reinstatement to the Commissioner, in the manner prescribed in 24 CFR part 200, subpart B.

6. Section 207.258 is amended by revising paragraphs (a) and (b)(1), to read as follows:

§ 207.258 Insurance claim requirements.

(a) *Alternative election by mortgagee.* When the mortgagee becomes eligible to receive mortgage insurance benefits pursuant to § 207.255(c), it must, within 45 days thereafter, give the Commissioner notice, in the manner prescribed in 24 CFR part 200, subpart B, of its intention to file an insurance claim and of its election either to assign the mortgage to the Commissioner, as provided in paragraph (b) of this section, or to acquire and convey title to the Commissioner, as provided in paragraph (c) of this section.

(b) * * *

(1) *Notice of assignment.* On the date the assignment of the mortgage is filed for record, the mortgagee must notify the Commissioner, in the manner prescribed in 24 CFR part 200, subpart B, of such assignment, and must also notify the FHA Comptroller by telegram of such recordation.

* * * * *

April 8, 1998.

Dated: May 6, 1998.

Art Agnos,

Acting General Deputy, Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

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