

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