§ 558.355 Monensin.

* * * * *

(d) * * *

(7) * * *

(vi) A withdrawal time has not been established for preruminating calves. Do not use in calves to be processed for veal.

* * * * *

(13) The labeling of Type B and Type C (liquid and dry) medicated feeds intended for use in dairy cows shall bear the following caution statements: You may notice: Reduced voluntary feed intake in dairy cows fed monensin. This reduction increases with higher doses of monensin fed. Rule out monensin as the cause of reduced feed intake before attributing to other causes such as illness, feed management, or the environment. Reduced milk fat percentage in dairy cows fed monensin. This reduction increases with higher doses of monensin fed. Increased incidence of cystic ovaries and metritis in dairy cows fed monensin. Reduced conception rates, increased services per animal, and extended days open and corresponding calving intervals in dairy cows fed monensin.

* * * * *

(f) * * *

(3) * * *

(xiii) *Amount per ton.* Monensin, 11 to 22 grams.

(A) *Indications for use.* For increased milk production efficiency (production of marketable solids-corrected milk per unit of feed intake) in dairy cows.

(B) *Limitations.* Feed continuously to dry and lactating dairy cows in a total mixed ration (''complete feed''). See paragraphs (d)(2), (d)(5), (d)(6), (d)(7)(i), (d)(7)(ii), (d)(7)(iii), (d)(7)(vi), (d)(8), and (d)(12) of this section.

* * * * *

Dated: November 10, 2004.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 04–26091 Filed 11–24–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–4835–F–03]

RIN 2502–AI00

FHA TOTAL Mortgage Scorecard

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

ACTION: Final rule.

SUMMARY: On November 21, 2003, HUD published an interim rule to codify the procedures that mortgagees and automated underwriting system vendors must follow if they opt to use the ''Technology Open to Approved Lenders'' (TOTAL) Mortgage Scorecard offered by the Federal Housing Administration (FHA). The interim rule did not alter the underwriting requirements applicable to FHA mortgagees. Rather, the interim rule defined the acronym TOTAL and provided the requirements and procedures for use of the TOTAL Mortgage Scorecard. This final rule follows publication of the November 21, 2003, interim rule. HUD did not receive any public comments on the interim rule. Accordingly, HUD is adopting the interim rule, as corrected by a technical correction published on January 2, 2004, without change.

DATES: *Effective date:* December 27, 2004.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Room 9278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–2121. (This is not a toll-free number.) Hearing- or speech-impaired persons may access this number by calling the toll-free Federal Information Relay Service number at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background—HUD's November 21, 2003, Interim Rule

On November 21, 2003 (68 FR 65824), HUD published an interim rule codifying the procedures that mortgagees and automated underwriting system vendors must follow if they opt to use the ''Technology Open to Approved Lenders'' (TOTAL) Mortgage Scorecard offered by the Federal Housing Administration (FHA). The TOTAL Mortgage Scorecard (or Scorecard) developed by HUD assesses the credit worthiness of FHA mortgagors by evaluating certain mortgage application and mortgagor credit information that has been statistically proven to accurately predict the likelihood of mortgagor default. The TOTAL Mortgage Scorecard is not an automated underwriting system (AUS); rather, it is a mathematical equation intended for use within an AUS.

The November 21, 2003, interim rule followed a December 6, 2000 (65 FR 76273) **Federal Register** notice announcing HUD's intention to deploy the FHA TOTAL Mortgage Scorecard. The objectives for use of the TOTAL Mortgage Scorecard, which were first stated in the Notice are (1) to provide an improved credit evaluation system for FHA loans that has been statistically proven to accurately predict the likelihood of mortgagor default while providing a uniform system protective of borrowers; (2) to expand access to mortgage credit for low- and moderate-income mortgagors and discourage unlawful discrimination against mortgagors protected by the Fair Housing Act and the Equal Credit Opportunity Act; (3) to facilitate access to, and reduce the cost and time associated with, originating HUD/FHA-insured mortgages; and (4) to encourage a standardized, industry-wide capability for communication and exchange of information among members of the mortgage lending community.

The December 6, 2000, Notice also advised that after deployment of the TOTAL Mortgage Scorecard, HUD would require use of the Scorecard in any AUS. The Notice also indicated that users of the TOTAL Mortgage Scorecard would receive documentation relief and credit policy waivers provided by HUD. Further, the Notice advised that HUD also had developed a Use Agreement that established the requirements and responsibilities for implementation and use of the TOTAL Mortgage Scorecard by qualified mortgagees and others that purchase, sell, underwrite, or document HUD mortgage loans for mortgagees under HUD's Direct Endorsement program.

While HUD could have continued, through individual approvals, to authorize organizations to use the TOTAL Mortgage Scorecard, HUD decided that a more efficient course of action would be to promulgate regulations for the use of the Scorecard consistent with the purpose and objectives described above instead of executing individual approvals that establish the requirements and responsibilities for use of the Scorecard. Accordingly, HUD issued the November 21, 2003, interim rule.

The interim rule revised HUD's regulation at 24 CFR 203.251 to define the acronym ''TOTAL'' and revised § 203.255 to establish specific requirements that mortgagees and vendors must abide by when using the TOTAL Mortgage Scorecard. The interim rule described the Scorecard requirements in order to assist the mortgagee in expediting the endorsement process. While the Scorecard is a valuable tool, its value depends on approved lenders properly using the Scorecard in accordance with HUD requirements and procedures. The preamble to the November 21, 2003,

interim rule provides additional details regarding the regulatory amendments to 24 CFR part 203.

A technical correction to the interim rule was published on January 2, 2004 (69 FR 4). The January 2, 2004, document corrected the interim rule by changing certain references to ''mortgage'' to read ''mortgagee.'' The January 2, 2004 document also made a technical correction to § 203.255(b)(5)(i)(A) of the interim rule, which contained an outdated reference to ''approved'' AUSs. As noted in the preamble to the November 23, 2003, interim rule, HUD is no longer approving individual AUSs, and the few approvals that existed at the time of publication of the interim rule have since been terminated. Accordingly, the January 2, 2004, document corrected § 203.255(b)(5)(i)(A) by removing the reference to ''approved'' AUSs.

II. This Final Rule

This final rule follows publication of the November 21, 2003, interim rule. The interim rule became effective December 22, 2003, and provided for a 60-day public comment period. The comment period for the interim rule closed on January 20, 2004. HUD did not receive any public comments on the interim rule. Accordingly, HUD is adopting the interim rule, as corrected by the technical correction published on January 2, 2004, without change.

Any AUS vendor that ''calls'' the Total Mortgage Scorecard, and any FHA-approved mortgagee that obtains a risk-assessment from the Scorecard, must abide by the requirements contained in this final rule. Only AUSs developed, operated, owned, or used by FHA-approved Direct Endorsement mortgagees, Fannie Mae, or Freddie Mac are permitted to access the Scorecard, and only FHA-approved mortgagees are able to obtain risk assessments using the TOTAL Mortgage Scorecard.

As did the preceding interim rule, this final rule affirms that Direct Endorsement Mortgagees remain solely responsible for the underwriting decision. This rule does not alter the underwriting requirements to which FHA mortgagees must currently adhere. Rather, this final rule addresses the use of the TOTAL Mortgage Scorecard and the requirements and procedures to which FHA mortgagees must adhere if they opt to use the Scorecard. AUS vendors and mortgagees found to violate these conditions may have their access to the Scorecard terminated with appropriate notice. As an additional measure to ensure compliance with these requirements, access to the TOTAL Mortgage Scorecard by a FHA mortgagee will be conditioned upon the mortgagee's certification to comply with the requirements as provided in this rule.

The TOTAL Mortgage Scorecard is only a tool to assist the mortgagee in managing its workflow and expediting the endorsement process and is not a substitute for the mortgagee's reasonable consideration of risk and credit worthiness. To help assure the TOTAL Mortgage Scorecard is not misused, the final rule requires mortgagees to provide full manual underwriting for mortgage applicants when the scorecard returns a ''refer'' risk score. The Scorecard results must not be used as the basis for rejecting any mortgage applicant.

III. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2502–0556. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

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 final rule governs access to, and use of, an automated, electronic tool to assist mortgagees in managing workflow and expediting the endorsement process. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are not any unusual procedures that would need to be complied with by small entities. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the interim rule stage in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Unfunded Mandates Reform Act

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

Executive Order 13132, Federalism

Executive Order 13132, (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. 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.

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the interim rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Numbers for 24 CFR part 203 are 14.117 and 14.133.

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, for the reasons stated in the preamble, the interim rule for part 203 of subpart B of Title 24 of the Code of Federal Regulations, published on November 21, 2003, at 68 FR 65824, as corrected on January 2, 2004, at 69 FR 4, is promulgated as final, without change.

Dated: November 19, 2004.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 04–26113 Filed 11–24–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 960 and 966

[Docket No. FR–4824–F–02]

RIN 2577–AC42

PHA Discretion in Treatment of Over-Income Families

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

ACTION: Final rule.

SUMMARY: This final rule gives public housing agencies (PHAs) the discretion, in accordance with federal law and regulations, to establish occupancy policies that include the eviction of public housing tenants who are over the income limit for eligibility to participate in public housing programs. PHAs may decide that such families should be able to find other housing and that public housing units should be made available for eligible low-income families with greater housing need. This final rule takes into consideration the public comments received on the proposed rule. After careful review of the comments, HUD has decided to adopt the proposed rule with minor revision.

DATES: Effective Date: December 27, 2004.

FOR FURTHER INFORMATION CONTACT: Patricia Arnaudo, Director, Public Housing Occupancy and Management Division, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4116, 451 Seventh Street, SW., Washington, DC 20410–5000 telephone (202) 708–0744 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 2003 (68 FR 45734), HUD published a notice of proposed rulemaking (NPRM) that proposed to grant PHAs the discretion to evict a family that is over the eligible income limit, with exceptions for families entitled to EID (addressed at 42 U.S.C. 1437a(d)) or with valid contracts of participation under the Family Self Sufficiency (FSS) program (42 U.S.C. 1437u). In submitting this proposed rule for public comment, HUD stated its view that public housing should be available to eligible low-income families and that it is inappropriate to limit the ability of a PHA to move over-income families out of public housing to make room for low-income families on waiting lists.

The current rule on eviction at 24 CFR 960.261 limits the ability of PHAs to evict over-income families unless (1) the PHA has determined that there is other decent, safe, and sanitary housing available to the tenant at a rent not exceeding the then-current tenant rent, or (2) the PHA is required to evict the family by local law.

This final rule does not require PHAs to evict over-income residents, but rather gives PHAs the discretion to do so and thereby make units available for applicants who are income-eligible.

II. This Final Rule

This final rule follows publication of the August 1, 2003, proposed rule. The public comment period for the proposed rule closed on September 30, 2003. Sixteen public comments were received from a variety of individuals and groups during the comment period. Commenters included tenant organizations, housing authority trade associations, public housing tenants, and PHAs. Three of the public comments were in the form of petitions signed by multiple public housing residents from one city, and gathered and submitted by a single organization. After consideration of these comments, HUD has decided to adopt a final rule that, like the proposed rule, provides an exception to eviction for over-income tenants who are receiving the earned income disallowance or have active contracts of participation in a family supportive services program. In addition, this rule makes a conforming technical change to 24 CFR 966.4(l)(2)(ii).

III. Discussion of Public Comments

Comment: The rule properly grants discretion to the PHAs regarding over-income residents. One PHA commenter agreed with the rule so long as implementation is voluntary and ''with no penalty for non-participation.'' Similarly, another PHA did not oppose the concept of the proposed rule that will grant ''public housing agencies '' the discretion to evict over income families from public housing, as long as this rule remains a PHA option.'' ''In an effort to increase accountability and ensure that public housing participants are not being evicted prematurely before reaching self-sufficiency,'' this commenter would prefer PHAs be given discretion to regulate this policy, rather than being subject to a mandatory regulation.

Observing that there may be widely divergent local strategies ranging from targeting only households most in need to retaining some over-income households as role models and to maintain the marketability of public housing, one commenter, also a PHA, agreed with the discretion the rule would grant to PHAs, and states that ''local communities deserve federal respect for the diverse implementation strategies they devise to accomplish broadly stated national policy goals.'' Another commenter stated, ''We appreciate and support the Department's recognition of the importance of local-level discretion in setting housing policies'' and ''LHAs [local housing agencies] must retain true discretion to establish policies that suit their communities.'' However, this commenter, a housing association, stated that ''a more useful formulation of the notice would be one that gives PHAs the discretion to formulate local policies with regard to families who have increased their incomes while residing in public housing.'' Another PHA stated that ''ultimate discretion'' on if, how and when it is applied should be left to the individual PHA. Local PHAs should be allowed to set the over-income ''target'' for triggering the eviction based on local market conditions.''

Response: HUD agrees with these commenters in their desire for PHAs to act with discretion. This rule gives PHAs the discretion to make decisions concerning their local housing market needs. HUD will not penalize PHAs for not incorporating this rule into their admission and continued occupancy policies.

Comment: The rule would have a negative effect on deconcentration of poverty and income-mixing goals. Several commenters specifically commented on the rule's effect on income-mixing and deconcentration of poverty. One PHA stated that having a range of incomes is preferable to having