

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### 7 CFR Part 3550

RIN 0575-AC69

#### Direct Single Family Housing Loans and Grants

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** Through this action, Rural Housing Service (RHS) is addressing the following:

The Agency is revising the minimum insurance deductible amount and removing specific dollar limits with regards to insurance deductible clauses. The Agency also is clarifying the amount of dwelling coverage required to address current standards in the mortgage insurance industry and the coverage that the Agency may obtain when force-placed insurance is required. The intended effect is to make it easier for new homeowners to secure affordable insurance coverage and give the Agency sufficient flexibility to quickly react to changes in insurance costs and requirements.

This action also is revising the applicant net asset limitation to increase it from \$7,500 to \$15,000 for non-elderly families and from \$10,000 to \$20,000 for elderly families. The intended effect is to require applicants to contribute a downpayment when their net assets exceed the stated limits. These limits have not been updated in over 10 years.

Finally, this action updates the rural area definition to reference the effective date of census data collected through 2010.

This rule combines three actions under one notice. In the event that we receive adverse comments on any one section of this rule, we will proceed with the final implementation of the

other portions not affected. No adverse comments are anticipated.

**DATES:** This rule is effective without further action November 5, 2008 unless we receive written adverse comments or written notices of intent to submit adverse comments on or before October 21, 2008. If adverse comment is received, RHS will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742.

- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or another mail courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Suite 701, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street, SW., address listed above.

#### FOR FURTHER INFORMATION CONTACT:

Teresa Sumpter, Loan Specialist, Rural Housing Service, Single Family Housing Direct Loan Division, Stop 0783, 1400 Independence Avenue, SW., Washington, DC 20250-0783; Telephone: 202-720-1474; FAX: 202-720-2232; e-mail: [Teresa.Sumpter@wdc.usda.gov](mailto:Teresa.Sumpter@wdc.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Classification

This rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

#### Paperwork Reduction Act of 1995

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575-0172, in

accordance with the Paperwork Reduction Act (PRA) of 1995. This rule does not impose any new or modified information collection requirements.

#### E-Government Act Compliance

The Rural Housing Service is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal Governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### Programs Affected

The programs affected by this final rule are 10.410 Very Low to Moderate Income Housing Loans and 10.417 Very Low-Income Housing Repair Loans and Grants.

### Intergovernmental Consultation

For the reasons set forth in the final rule to 7 CFR part 3015, subpart V, and related notice (48 FR 29115) this program is not subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials.

### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of RHS that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

### Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The programs affected by this rule provide loans and grants to individuals. For this reason, the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rulemaking action does not involve a new or expanded program.

### Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

### Background

1. According to 7 CFR 3550.61(b) and 7 CFR 3550.110(b), the dwelling and any other essential buildings must be insured in an amount that is the lesser of the insurable value (cost of restoration) or the balance of the secured principal debt. Many companies are reluctant to issue policies when the coverage is well in excess of the replacement value of the home. This is a particular problem in areas with

high windstorm and water damage that make it extremely difficult for borrowers/homeowners to secure affordable insurance coverage and almost impossible to pay the rates if they are located in a high risk area that may be subject to disasters such as hurricanes and tornadoes. New borrowers have escrow accounts set up that collect the insurance premium.

Agency borrowers with loans made before escrow was available, prior to September 1996 when the Agency began centralized servicing of its portfolio, normally provide their own coverage. When a homeowner fails to provide insurance, the government force-places insurance coverage typically in the last known insured amount. This assures that the Government's interests are protected and provides our customers the best opportunity to become successful homeowners. Force place insurance only provides insurance coverage to the Agency and does not provide any direct coverage or benefit to the borrower.

With this action, the Agency is revising 7 CFR sections 3550.61 and 3550.110 (Section 502 requests) to clarify the minimum insurance deductible amount, remove specific dollar limits with regards to insurance deductible clauses and clarify that borrowers with a secured indebtedness of \$15,000 at the time of loan approval must secure and continually maintain hazard insurance coverage adequate to cover the government's interest for the entire unpaid debt. Loss deductible clauses for required insurance coverage may not exceed generally accepted minimums based on current industry standards and local market conditions. These minimums will be established in the Agency handbook and available in any local Rural Development office. The intended effect is to make it easier for new homeowners to obtain affordable insurance coverage while allowing the Agency sufficient flexibility to quickly update its handbook guidance on insurance deductibles in order to react to changes in insurance costs and requirements and assure the Government's interest in the property is adequately protected.

2. 7 CFR 3550.64 and 7 CFR 3550.103(e) (Section 504 requests) require elderly families with net family assets in excess of \$10,000 and non-elderly families with net family assets in excess of \$7,500 to apply the excess amount towards the down payment on the property. This limitation has not been updated in over 10 years. U.S. non-metropolitan median income has increased from \$33,200 in 1997 to \$48,201 in 2006. While these figures

indicate a rise in the median income, it should be noted that the dollar value of the net family assets would be similarly higher in dollars without a significant change in composition due to inflation over a long period of time. Thus, as households earn more money, they also must spend more. Based on this information, the Agency believes it is reasonable to relax the down payment requirements. In addition, many elderly applicants in this program are on fixed incomes and have set aside funds and/or purchased financial instruments intended to be used to cover final expenses. The increase in the threshold amounts would allow these elderly applicants to maintain more funds for this purpose. Therefore, we propose to revise the regulation to increase the applicant net family asset limitation from \$7,500 to \$15,000 for non-elderly families and from \$10,000 to \$20,000 for elderly families.

3. Finally, the rural area definition will be amended to comply with a change in Section 520 of the Housing Act of 1949 made by Public Law 106-569, Section 705 (December 27, 2000) that extends the grandfathering of areas classified as a rural area prior to October 1, 1990, through receipt of decennial census data for the year 2010 if the area has a population between 10,000 and 25,000, is rural in character, and has a serious lack of credit for lower and moderate income families.

### List of Subjects in 7 CFR Part 3550

Accounting, Grant programs, Housing and community development, Housing, Loan programs, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas, Subsidies.

■ For the reasons stated in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations, is amended as follows:

### PART 3550—DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3550 continues to read as follows:

**Authority:** 5 U.S.C. 301; 42 U.S.C. 1480.

#### Subpart A—General

■ 2. Section 3550.10 is amended in paragraph (3) of the definition for "Rural area" by replacing "2000" with "2010."

#### Subpart B—Section 502 Origination

■ 3. Section 3550.61 is amended by revising the section heading and paragraphs (a), (b) and (d)(1) to read as follows:

**§ 3550.61 Insurance (loans only).**

(a) Borrower responsibility. Any borrower with a secured indebtedness in excess of \$15,000 at the time of loan approval must furnish and continually maintain hazard insurance on the security property, with companies, in amounts, and on terms and conditions acceptable to RHS including a "loss payable clause" payable to RHS to protect the Government's interest.

(b) Amount. The borrower is required to insure the dwelling and any other essential buildings in an amount equal to the insurable value of the dwelling and other essential buildings. However, in cases where the borrower's outstanding secured indebtedness is less than the insurable value of the dwelling and other essential buildings, the borrower may elect a lower coverage provided it is not less than the outstanding secured indebtedness. If the borrower fails, or is unable, to insure the secured property, RHS will force place insurance and charge the cost to the borrower's account. Force place insurance only provides insurance coverage to the Agency and does not provide any direct coverage or benefit to the borrower. The amount of the lender-placed coverage will generally be the property's last known insured value.

\* \* \* \* \*

(d) \* \* \*

(1) Loss deductible clauses for required insurance coverage may not exceed the generally accepted minimums based on current industry standards and local market conditions.

\* \* \* \* \*

■ 4. Section 3550.64 is revised to read as follows:

**§ 3550.64 Down payment.**

Elderly families must use any net family assets in excess of \$20,000 towards a down payment on the property. Non-elderly families must use net family assets in excess of \$15,000 towards a down payment on the property. Applicants may contribute assets in addition to the required down payment to further reduce the amount to be financed.

**Subpart C—Section 504 Origination and Section 306C Water and Waste Disposal Grants**

■ 6. Section 3550.103 is amended by revising paragraph (e) to read as follows:

**§ 3550.103 Eligibility requirements.**

\* \* \* \* \*

(e) *Need and use of personal resources.* Applicants must be unable to obtain financial assistance at reasonable terms and conditions from non-RHS

credit or grant sources and lack the personal resources to meet their needs. In cases where the household is experiencing medical expenses in excess of three percent of the household's income, this requirement may be waived or modified. Elderly families must use any net family assets in excess of \$20,000 to reduce their section 504 request. Non-elderly families must use any net family assets in excess of \$15,000 to reduce their section 504 request. Applicants may contribute assets in excess of the aforementioned amounts to further reduce their request for assistance. The definition of assets for this purpose is net family assets as described in § 3550.54 of subpart B of this part, less the value of the dwelling and a minimum adequate site.

\* \* \* \* \*

■ 7. Section 3550.110 is amended by revising paragraphs (a), (b) and (d)(1) to read as follows:

**§ 3550.110 Insurance (loans only).**

(a) Borrower responsibility. Any borrower with a secured indebtedness in excess of \$15,000 at the time of loan approval must furnish and continually maintain hazard insurance on the security property, with companies, in amounts, and on terms and conditions acceptable to RHS including a "loss payable clause" payable to RHS to protect the Government's interest.

(b) Amount. The borrower is required to insure the dwelling and any other essential buildings in an amount equal to the insurable value of the dwelling and other essential buildings. However, in cases where the borrower's outstanding secured indebtedness is less than the insurable value of the dwelling and other essential buildings, the borrower may elect a lower coverage provided it is not less than the outstanding secured indebtedness. If the borrower fails, or is unable to insure the secured property, RHS will force place insurance and charge the cost to the borrower's account. Force place insurance only provides insurance coverage to the Agency and does not provide any direct coverage or benefit to the borrower. The amount of the lender-placed coverage generally will be the property's last known insured value.

\* \* \* \* \*

(d) \* \* \*

(1) Loss deductible clauses for required insurance coverage may not exceed the generally accepted minimums based on current and local market conditions.

\* \* \* \* \*

Dated: July 28, 2008.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

[FR Doc. E8–19350 Filed 8–21–08; 8:45 am]

BILLING CODE 3410–XV–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 179**

[Docket No. FDA–1999–F–2405] (formerly 1999F–5522)

**Irradiation in the Production, Processing and Handling of Food**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ionizing radiation for control of food-borne pathogens, and extension of shelf-life, in fresh iceberg lettuce and fresh spinach (hereinafter referred to in this document as "iceberg lettuce and spinach") at a dose up to 4.0 kiloGray (kGy). This action is in partial response to a petition filed by The National Food Processors Association on behalf of The Food Irradiation Coalition.

**DATES:** This rule is effective August 22, 2008. Submit written or electronic objections and requests for a hearing by September 22, 2008. See section VI of this document for information on the filing of objections.

**ADDRESSES:** You may submit written or electronic objections and requests for a hearing identified by Docket No. FDA–1999–F–2405] (formerly 1999F–5522, by any of the following methods:

**Electronic Submissions**

Submit electronic objections in the following way:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**Written Submissions**

Submit written objections in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of objections, FDA is no longer accepting objections submitted to the agency by e-mail. FDA encourages you to continue