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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

[Docket No. RHS-20-SFH-0025]

RIN 0575-AD21

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, Agriculture Department (USDA).

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or Agency) proposes to amend the current regulation for the Single-Family Housing Guaranteed Loan Program (SFHGLP) to mandate the use of the Guaranteed Underwriting System (GUS) and the Lender Loan Closing System (LLC) by approved lenders. The Agency's proposal to mandate the use of GUS in loan originations and the LLC for loan closings will allow the Agency to decrease time-consuming and expensive manual file reviews, improve performance monitoring and reduce program risk of the guaranteed loan portfolio.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments may be submitted by going to the Federal eRulemaking Portal: Go to <http://www.regulations.gov> and in the "Search Documents" box, enter the Docket Number RHS-20-SFH-0025 or the RIN# 0575-AD21, and click the "Search" button. To submit a comment, choose the "Comment Now!" button. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available under the "Help" tab at the top of the Home page.

Other Information: Additional information about Rural Development and its programs is available on the internet at <http://www.rurdev.usda.gov/index.html>.

All comments will be available for public inspection online at the Federal eRulemaking Portal (<http://www.regulations.gov>).

FOR FURTHER INFORMATION CONTACT: Ana Placencia, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, Rural Development, U.S. Department of Agriculture, STOP 0784, Room 2250, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250-0784. Telephone: (254) 721-0770; or email: ana.placencia@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Rural Housing Service (RHS) is issuing a proposed rule to amend the Single-Family Housing Guaranteed Loan Program (SFHGLP) regulations found in 7 CFR part 5555, subparts C and D, by updating the regulations to align the Agency's program with the mortgage industry expectations in the domain of information technology.

Currently, the Agency allows approved lenders to submit applications for loan guarantee requests by mail, electronic mail (email) or GUS. Loan requests received by email must be saved to a folder on a computer drive before being manually uploaded into the Electronic Case File (ECF) for processing. If the loan request is received in paper format, it must first be scanned, saved and then uploaded to ECF, which imposes a time constraint on both the lender and the agency. Additionally, Agency staff must place the application in ECF for processing in the sequential order in which it was received. In some cases, paper checks are still being submitted and manually processed by Agency staff before being forwarded to the appropriate finance center. Agency staff must also manually upload the documents for review, separately from the uniform residential appraisal report.

Approximately 98 percent of lenders are currently utilizing GUS to submit loan applications. The remaining two percent are submitting manually underwritten loan packages by email or mail. This translates to roughly 1093 manually submitted loans per

year and 3826 staff hours. Lenders that participate in the SFHGLP generally participate in other federally insured mortgage programs that require utilization of loan origination systems (LOS). Access to GUS is web-based and is compatible with the industry's leading LOS technology.

The goal of updating this regulation is to better streamline the processing of the SFHGLP application using the automated initiatives of the GUS and the LLC for all applications and loan closings transactions. GUS is compatible with the Loan Origination Systems and Point of Sale vendors that are widely accepted throughout the industry. All SFHGLP loan products are supported by GUS, except for streamlined-assist refinance transactions. Lenders will continue to submit manually underwritten files for these types of transactions by electronic means approved by the Agency. These loans are different from loans downgraded in GUS for manual underwriting—the downgraded loans will continue to be submitted via GUS for a manual review. Mandatory use of the automated underwriting system will not only offer ease to lenders when uploading closing documents and payment of the guarantee and technology fees using the LLC, but will efficiently and effectively allow Agency staff the capability to review loan applications, increase lender's ability to transfer loans to program investors, and lessen the timeframe for underwriting and processing loan approvals.

GUS is a robust automated system that processes application requests and provides specific loan closing data to the lender and the Agency. It offers added benefits to the lender's decision-making process by producing underwriting findings reports and reliable credit data for managing borrower risks.¹ Expanded use of the system will maximize the impact of core agency programs and drive innovation that will remove obstacles that delay loan production.

Discussion of the Rule

¹ GUS is a tool that helps evaluate the credit risk but does not replace the informed judgment of the experienced underwriter's decision and does not serve the sole basis for making a final loan decision. *See* 7 CFR 3555.107(b).

In order to provide efficient and timely delivery of the SFHGLP, it is necessary to streamline the processing of SFHGLP applications using automation initiatives as much as possible. The Agency proposes to revise the regulation to mandate that lenders utilize GUS and LLC systems for all applications and loan closing files. Mandatory use of GUS and LLC will allow uniformity in application submissions, consistency in the timely processing of loan requests and will save time and administrative costs for both lenders and the Agency by eliminating the requirement for paper file storage, shredding costs, and mail with overnight courier fees.

A summary of the changes includes amending 7 CFR 3555.107(b) introductory text and (b)(1), to reflect that the use of the Agency's automated underwriting system would be required for all requests for conditional commitments and loan guarantees. Submissions by alternate means, such as email or hard copy, will not be permitted and therefore the Agency proposes to eliminate references to such submission methods.

The Agency also proposes to amend §3555.107(c) and add paragraphs (c)(1) and (2) to describe the two types of loans that would still be manually underwritten. First, loan products not supported by the automated origination system, such as streamlined-assist refinance transactions, must be manually underwritten and submitted via secure email or other electronic means approved by the Agency. Second, loans downgraded in the agency's automated origination system require manual underwriting, although lenders would still submit the loan documentation via the Agency's automated systems.

Concurrently, §3555.107(i)(4) will be amended to require all loan documentation to be submitted via the Agency's automated systems with the exception of the loan products described in §3555.107(c)(1).

Regulations §3555.151(h)(2) would also be amended to clarify procedures for manually underwritten loan. The loan files for manually underwritten loans would still be submitted through the automated underwriting system but require full documentation review, and credit score validation or compensating factors.

Statutory Authority

Section 510(k) of Title V the Housing Act of 1949 (42 U.S.C. 1480(k)), as amended, authorizes the Secretary of the Department of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title.

Executive Order 12866, Classification

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

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) unless otherwise specifically provided, all state and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

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 effect of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency 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 the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most 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.

National Environmental Policy Act

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, "Environmental Policies." RHS determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National Government and 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.

Regulatory Flexibility Act

The rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program is not subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," as implemented under USDA's regulations at 7 CFR part 3015.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This Executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this rule, they are encouraged to contact USDA's Office of Tribal Relations or RD's Native American Coordinator at: AIAN@wdc.usda.gov to request such a consultation.

Programs Affected

The program affected by this proposed rule is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

This rule contains no new reporting or recordkeeping burdens under OMB control number 0575- 0179 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Executive Order 13771- Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that the cost of planned regulations be prudently managed and controlled through a budgeting process. This rule has been reviewed in accordance with E.O. 13771 and it has been determined that because the subject program of this rule is considered an income transfer from taxpayers to program beneficiaries, it is not subject to the requirements of E.O. 13771.

Civil Rights Impact Analysis

Rural Development has reviewed this rule in accordance with USDA Regulation 4300-4, Civil Rights Impact Analysis, to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability. After review and analysis of the rule and available data, it has been determined that implementation of the rule will not adversely or disproportionately impact very low, low- and moderate-income populations, minority populations, women, Indian tribes or persons based on their race, color, national origin, sex, age, disability, or marital or familiar status. No major civil rights impact is likely to result from this rule.

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in, or administering USDA programs, are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than

English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested on the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW.
Washington, D.C. 20250-9410
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov.

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List of Subjects in 7 CFR Part 3555

Construction, Eligible loan purpose, Home improvement, Loan programs – housing and community development, Loan terms, Mortgage insurance, Mortgages, Rural areas.

For the reasons discussed in the preamble, the Agency is proposing to amend 7 CFR part 3555 as follows:

PART 3555 – GUARANTEED RURAL HOUSING PROGRAM

1. The authority citation for part 3555 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1471 *et seq.*

Subpart C – Loan Requirements

2. Amend § 3555.107 by revising paragraph (b) introductory text, (b)(1), (3), and (6), (c), and (i)(4) to read as follows:

§ 3555.107 Applications for and issuance of the loan guarantee.

* * * * *

(b) *Automated underwriting.* Approved lenders are required to process SFHGLP loans using Rural Development's automated systems. The automated underwriting system is a tool to help evaluate credit risk but does not substitute or replace the careful judgment of experienced underwriters and shall not be the exclusive determination on extending credit. The lender must apply for and receive approval from Rural Development to utilize the automated underwriting system. Rural Development reserves the right to terminate the lender's use of the automated underwriting system.

(1) Lenders are responsible for ensuring all data is true and accurately represented in the automated underwriting system.

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(3) The use of Rural Development's automated underwriting system subjects the lender to indemnification requirements in accordance with § 3555.108.

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(6) Lenders will validate findings based on the output report of the automated underwriting system.

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(c) *Manual underwriting.* Loans requiring manual underwriting (manually underwritten loans) are described in paragraphs (c)(1) and (2) of this section. For manually underwritten loans, full documentation and verification in accordance with subparts C, D, and E of this part will be submitted to Rural Development when requesting a guarantee and maintained in the lender's file. The documentation will confirm the applicant's eligibility, creditworthiness, repayment ability, eligible loan purpose, adequate collateral, and satisfaction of other regulatory requirements. The following types of loans require manual underwriting:

(1) Loans that are not supported by Rural Development's automated systems. These loans are submitted by secure email or other electronic means approved by the Agency.

(2) Loans downgraded by Rural Development's automated system. These loans are submitted utilizing Rural Development's automated system.

* * * * *

(i)***

(4) Evidence of documentation supporting the properly closed loan will be submitted using Rural Development's automated systems, with the exception of manually underwritten loans defined in paragraph (c)(1) of this section.

* * * * *

Subpart D – Underwriting the Applicant

3. Amend § 3555.151 by revising paragraph (h)(2) introductory text to read as follows:

§ 3555.151 Eligibility requirements.

* * * * *

(h)***

(2) The repayment ratio may exceed the percentage in paragraph (h)(1) of this section when certain compensating factors exist. The handbook, HB-1-3555, Appendix I, located at <https://www.rd.usda.gov/sites/default/files/hb-1-3555.pdf>, will provide examples of when a debt ratio waiver may be granted. The automated underwriting system will consider any compensating factors in determining when the variance is appropriate. Loans downgraded in the automated underwriting system which must be manually underwritten will require the lender to document compensating factors. The presence of compensating factors does not strengthen a ratio exception when multiple layers of risk are present in the application. Acceptable compensating factors, supporting

documentation, and maximum ratio thresholds, will be further defined and clarified in the handbook. Compensating factors include, but are not limited to:

* * * * *

Elizabeth Green,
Acting Administrator,
Rural Housing Service.

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