



DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Parts 3550 and 3555

[Docket No. RHS-24-SFH-0034]

RIN 0575-AD32

Updating Manufactured Housing Provisions

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

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is amending the current regulations for the Single Family Housing (SFH) Direct Loan Program and the SFH Guaranteed Loan Program. The intent of this final rule is to allow the Agency to give borrowers increased purchase options within a competitive market and increase adequate housing along with an enhanced customer experience with the SFH programs.

DATES: This final rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Sonya Evans, Finance & Loan Analyst, SFH Direct Loan Division, Rural Housing Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue, SW., Washington DC, 20250, Phone: 423-268-4333, Email: sonya.evans@usda.gov. Or contact Stephanie Freeman, Finance & Loan Analyst, Policy, Analysis, and Communications Branch, Single Family Housing Guaranteed Loan Division, Rural Housing Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue, SW., Washington DC, 20250, Phone: 314-457-6413, Email: stephanie.freeman@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The USDA RHS offers a variety of programs to build or improve housing and essential community facilities in rural areas. RHS offers loans, grants, and loan guarantees for single- and multifamily housing, childcare centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, and housing for farm laborers. The Agency also provides technical assistance loans and grants in partnership with non-profit organizations, Indian tribes, state and federal government agencies, and local communities.

Well built, affordable housing is essential to the vitality of communities in rural America. RD Single Family Housing (SFH) Programs give families and individuals the opportunity to buy, build, or repair affordable homes located in rural America. Eligibility for these loans, loan guarantees, and grants is based on income and varies according to the average median income for each area.

RHS administers the following SFH Programs under 7 CFR parts 3550 and 3555 authorized by section 502 of the Housing Act of 1949, as amended, (42 U.S.C. 1472):

- Section 502 Direct Loan Program assists low- and very low-income applicants who currently do not own adequate housing and cannot obtain other credit, the opportunity to acquire, build, rehabilitate, improve, or relocate dwellings in rural areas.
- Section 502 Guaranteed Loan Program assists low- and moderate-income applicants the opportunity to acquire, build, rehabilitate, improve, or relocate dwellings in rural areas.

II. Discussion of Public Comments

RHS published a proposed rule on August 16, 2023 (88 FR 55601) to amend the current regulations for the Single-Family Housing Direct and Guaranteed Programs found in 7 CFR part 3550 and 3555, respectfully. The Agency received comments from 35 respondents, including

mortgage lenders, real estate agents, brokers, associations, and other interested parties. Specific public comments are addressed below:

Public Comment: Twenty-seven respondents replied favorably to the proposed rule with some indicating that manufactured homes are affordable housing options for homebuyers, will assist in alleviating the nation's housing supply shortages in response to the growing demand for low-price housing, provide a better housing affordability option relative to site-built homes, and the improved quality and durability of these type homes has increased the chances of homeownership for lower-income families.

Agency's Response: The Agency appreciates the commenters' support and has determined that no action is required.

Public Comment: Three respondents expressed support of the proposed rule but suggested that the program be expanded to include all states and include manufactured homes built after June 15, 1976, to align with the requirements set forth by other agencies and government-sponsored enterprises such as, FHA, VA, Fannie Mae, and Freddie Mac.

Agency's Response: The Agency acknowledges the recommendation and would like to note that the final rule will expand the program for financing of eligible existing manufactured housing to include all states. However, the consideration of year in which a manufactured home must be built to for eligibility takes into account the Manufactured Housing Improvement Act of 2000 which set forth Federal guidelines that all factory-built housing must meet and further amendments to the Federal Manufactured Home Construction and Safety Standards (FMHCSS). The January 1, 2006, construction on or after date was initially selected for the pilot period. This final rule changes the regulatory restrictions for the SFH Section 502 Direct Loan Program and the SFH Guaranteed Loan Program and allows the programs to lend on existing manufactured homes built in conformance with FMHCSS standards, on or after a date, as determined by the Agency, considering factors such as industry standards and practices.

Public Comment: Two respondents expressed support for the proposed rule but suggested that the existing manufactured construction year date be expanded for homes built prior to 2006.

Agency's Response: The Agency appreciates the commenters' responses. The January 1, 2006, construction on or after date was initially selected for the pilot period. This final rule revises the regulation to allow the programs to lend on existing manufactured homes built in conformance with FMHCSS standards, on or after a date, as determined by the Agency, with consideration of factors such as industry standards and practices. Existing manufactured homes financed through the section 502 Direct and Guaranteed programs cannot be built on or after a date as determined by the Agency, as identified on the HUD data plate, at the time of loan closing.

Public Comment: One respondent expressed support of the proposal and provided additional responses to the questions posed in the proposed rule. The respondent wanted to know why USDA was restricting eligibility to those homes built on or after January 1, 2006, if VA and FHA allow for manufactured homes built on or after June 15, 1976.

Agency's Response: The Agency acknowledges the recommendation. The January 1, 2006, construction on or after date was initially selected for the pilot period. This final rule revises the regulatory restrictions and allows the section 502 Direct and Guaranteed programs to lend on existing manufactured homes built in conformance with FMHCSS standards, on or after a date, as determined by the Agency, considering factors such as industry standards and practices.

Public Comment: One respondent expressed support of the proposed rule but believed that the handbook should be updated to clarify that the home must meet HUD handbooks and needs to be on piers and strapped down in accordance with HUD Standards for foundations which would be consistent with FHA guidelines.

Agency's Response: The Agency acknowledges the recommendation. RHS will require all existing manufactured homes to have been constructed and placed on a permanent foundation

in accordance with 7 CFR part 1924, subpart A, exhibit J, as applicable to the Direct Program, and the FMHCSS, established by HUD and found in 24 CFR part 3280 for both Direct and Guaranteed programs.

Public Comment: One respondent replied with concerns of the proposal and believed that although there is a need for affordable housing, adding manufactured homes as an asset class would reduce the opportunity for families to build generational wealth and increase government risk due average life expectancy of a manufactured home.

Agency's Response: The Agency appreciates the commenter's response. The regulatory requirement in 7 CFR 3550.67, applicable to the 502 Direct loan program, requires that the remaining economic life of the property based on the appraisal must meet or exceed the loan term. For both the Direct and Guaranteed programs, the maximum term for financing manufactured housing cannot exceed 30 years. Once rulemaking is final, RHS will continue to require that existing manufactured homes be built in conformance with the Manufactured Housing Act of 2000 and FMHCSS, which require higher construction standards such as quality building materials, structural design provisions, and installation improvements, thus increasing the life expectancy and value.

Summary of Changes to Rule

This final rule will amend these program regulations to implement changes to permit the purchase of existing manufactured homes [(§§ 3550.52(e)(1), 3550.73(b)(1), 3555.208(a)(3), 3555.208(b)(3), and 3555.208(e)], allow the Agency to accept a lease with an unexpired term that is at least two years longer than the loan term for new energy efficient manufactured and modular home financing in land-lease communities operating on a nonprofit basis and Tribal lands [§§ 3550.58(b) and 3555.203(b)(3)], and amend the definition of a "New dwelling" for a manufactured home (§ 3555.10). For direct loans only, remove the administrative requirements from the regulations for review and approval of applications from manufactured housing dealers

[§ 3550.73(c)] and revise the definition of “Manufactured home” to remove reference to RHS thermal performance standards (§ 3550.10).

This final rule will implement the changes as published in the proposed rule (88 FR 55601; August 16, 2023). The requirements of the proposed rule for 7 CFR parts 3550 and 3555 as follows:

Update the definition of manufactured home under § 3550.10, by removing reference to “RHS Thermal Performance Standards” for 502 Direct loans. SFH is exempt from RHS Thermal Performance Standards compliance.

1. Remove paragraph (c) from § 3550.73 which requires Agency approval of manufactured housing dealers for Direct loans;

2. Update the definition of a new dwelling for a manufactured home under § 3555.10, by removing reference to “purchase contract” and replacing the text with “date of loan closing” for 502 Guaranteed loans.

3. Update §§ 3550.52(e)(1), 3550.73(b)(1), add new paragraph (a)(3) to § 3555.208, update §§ 3555.208(b)(3) and 3555.208(e) to clarify that borrowers are allowed, under the Direct and Guaranteed loan programs, to purchase existing manufactured homes constructed in conformance with FMHCSS, on or after a date, as determined by the Agency.

4. Update §§ 3550.58(b) and 3555.203(b)(3) so that, for the direct and guaranteed loan programs, the Agency will accept a land-lease with an unexpired term that is at least two years longer than the mortgage term for new energy efficient manufactured and modular home financing in Tribal and land-lease communities operating on a nonprofit basis.

IV. Regulatory Information

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; and implemented under 7 CFR parts 3550 and 3555.

Executive Order 12372, Intergovernmental Review of Federal Programs

These programs are not subject to the requirements of Executive Order 12372, “Intergovernmental Review of Federal Programs,” as implemented under the USDA’s regulations at 2 CFR part 415, subpart C.

Executive Order 12866 and 13563

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if a regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and promoting flexibility. This final rule has been determined to be non-significant and, therefore, was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

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

Executive Order 13132, Federalism

The policies contained in this final 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. This rule does not impose substantial direct compliance costs on state and local governments; therefore, consultation with States is not required.

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 this final 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 Tribal Coordinator at: AIAN@usda.gov to request such a consultation.

Unfunded Mandates Reform Act (UMRA)

Title II of the 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 on the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including 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, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of title II of

the UMRA) for state, local, and tribal Governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, this document has been reviewed in accordance with 7 CFR part 1970 (“Environmental Policies and Procedures”). The Agency has determined that: This action meets the criteria established in 7 CFR 1970.53(f); no extraordinary circumstances exist; and the action is not “connected” to other actions with potentially significant impacts, is not considered a “cumulative action” and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Administrative Pay-As-You-Go Act of 2023

The Administrative Pay-As-You-Go Act of 2023 (Act) (see Fiscal Responsibility Act of 2023, Pub. L. 118-5, 137 Stat. 31, div. B, title III), requires the U.S. Government Accountability Office (GAO) to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports.

Regulatory Flexibility Act

This final 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 proposed 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.

Civil Rights Impact Analysis

Rural Development has reviewed this final rule in accordance with USDA Regulation 4300-004, Civil Rights Impact Analysis," to identify any major civil rights impacts the proposed rule might have on program participants on the basis of age, race, color, national origin, sex, disability, marital or familial status. After review and analysis of the final rule and available data, it has been determined that implementation of the final rule will not adversely or disproportionately impact very low-, low- and moderate-income populations, minority populations, women, Indian Tribes, or persons with disability by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this final rule.

Programs Affected

The programs affected by this regulation are listed in the Assistance Listing Catalog under number 10.410, Very Low to Moderate Income Housing Loans (section 502 Rural Housing Loans), and number 10.417, Very Low-Income Housing Repair Loans and Grants (specifically the section 504 direct loans and grants).

Paperwork Reduction Act

This final rule contains no new reporting or recordkeeping burden under OMB Control Number 0575-0172 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35

E-Government Act Compliance

RHS is committed to complying with the E-Government Act by promoting the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information, services, and other purposes.

Non-Discrimination Policy

In accordance with Federal civil rights laws and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, 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.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language) should contact the responsible Mission Area, agency, staff office; or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted 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; or

2. Fax: (833) 256-1665 or (202) 690-7442; or

3. Email: program.intake@usda.gov

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List of Subjects

7 CFR Part 3550

Administrative practice and procedure, Environmental impact statements, Fair housing, Grant programs-housing and community development, Housing, Loan programs-housing and community development, low- and moderate-income housing, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 3555

Administrative practice and procedure, Business and industry, Conflicts of interest, Credit, Environmental impact statements, Fair housing, Flood insurance, Grant programs-housing and community development, home improvement, Housing, Loan programs-housing and community development, low and moderate-income housing, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Rural areas.

For the reasons discussed in the preamble, the Agency is amending 7 CFR parts 3550 and 3555 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. Amend § 3550.10 by revising the first sentence of the *Manufactured home* definition to read as follows:

§ 3550.10 Definitions.

* * * * *

Manufactured home. A structure that is built to Federal Manufactured Home Construction and Safety Standards established by HUD and found at 24 CFR part 3280. * * *

* * * * *

Subpart B – Section 502 Origination

3. Amend § 3550.52 by revising paragraph (e)(1) to read as follows:

§ 3550.52 Loan purposes.

* * * * *

(e) * * *

(1) Purchase an existing manufactured home (unless the unit was constructed in conformance with Federal Manufactured Home Construction and Safety Standards (FMHCSS) as evidenced by both an affixed HUD Certification label and HUD Data Plate on or after a date determined by the Agency, considering factors such as industry standards and practices; and has not been previously installed on a different homesite or had any alterations since construction in the factory (except for porches, decks or other structures which were built to engineered designs or were approved and inspected by local code officials), or for any other purposes prohibited in § 3550.73(b).

* * * * *

4. Amend § 3550.58 by adding a sentence to the end of paragraph (b) to read as follows:

§ 3550.58 Ownership requirements.

* * * * *

(b) * * * For new energy efficient manufactured and modular home financing in land-lease communities operating on a nonprofit basis, and on Tribal Trust land, individual (allotted) Trust land, or Tribal restricted fee land, the Agency will accept a lease with an unexpired term that is at least 2 years longer than the loan term.

* * * * *

5. Amend § 3550.73 by:

a. Revising paragraph (b)(1); and

b. Removing paragraph (c) and redesignating paragraphs (d) through (h) as paragraphs (c) through (g), respectively.

The revision reads as follows:

§ 3550.73 Manufactured homes.

* * * * *

(b) * * *

(1) An existing unit and site unless it is already financed with a section 502 loan; or is an RHS REO property; or the unit was constructed in conformance with FMHCSS standards as evidenced by both an affixed HUD Certification label and a HUD Data Plate on or after date determined by the Agency, is installed on a permanent foundation which meets HUD regulations and 7 CFR part 1924, subpart A, exhibit J, and has not been previously installed on a different homesite or had any alterations since construction in the factory, except as specified in the program handbook.

* * * * *

PART 3555—GUARANTEED RURAL HOUSING PROGRAM

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

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

Subpart A—General

7. Amend § 3555.10 by revising the second sentence of the definition of *New dwelling* to read as follows:

§ 3555.10 Definitions and abbreviations.

* * * * *

New dwelling. * * * A manufactured home is considered a new unit if the manufacturer's

date is within 12 months from the date of loan closing and the unit has never been occupied or installed at any other location as otherwise provided by Rural Development.

* * * * *

Subpart E–Underwriting the Property

8. Amend § 3555.203 by revising paragraph (b)(3) to read as follows:

§ 3555.203 Ownership requirements.

* * * * *

(b) * * *

(3) The lease has an unexpired term of at least 45 years from the date of loan closing, except in the case of properties located on Tribal Trust land, individual (allotted) Trust land, or Tribal restricted fee land, where the lease must have an unexpired term at least equal to the term of the loan. Leases on Tribal Trust land, individual Trust (allotted) land, or Tribal restricted fee land, for period of 25 years which are renewable for a second 25 year period are permissible, as are leases of a longer duration. For new energy efficient manufactured and modular home financing in land-lease communities operating on a nonprofit basis and on Tribal Trust land, the Agency will accept a lease with an unexpired term that is at least two years longer than the loan term;

* * * * *

9. Amend § 3555.208 by:

- a. Adding paragraph (a)(3);
- b. Revising paragraphs (b)(3)(iii) and (iv); and
- c. Revising paragraph (e).

The addition and revisions read as follows:

§ 3555.208 Special requirements for manufactured homes.

* * * * *

(a) * * *

(3) An existing unit and site, provided:

(i) The unit was constructed in conformance with the Federal Manufactured Home Construction and Safety Standards (FMHCSS) as evidenced by both an affixed HUD Certification label and HUD Data Plate; and

(ii) The unit was installed on a permanent foundation in accordance with the manufacturer's requirements and HUD installation standards. Certification of a proper foundation is required; and

(iii) The unit has not been previously installed on a different homesite, or had any alterations since construction in the factory, except for porches, decks or other structures which were built to engineered designs or were approved and inspected by local code officials; and

(iv) The unit was constructed on or after a date determined by the Agency.

(b) * * *

(3) * * *

(iii) The unit and site are being sold from the lender's inventory, and the loan for which the unit and site served as security was a loan guaranteed by Rural Development; or

(iv) The existing manufactured home meets all of the following requirements:

(A) The unit was constructed in conformance with the Federal Manufactured Home Construction and Safety Standards (FMHCSS) as evidenced by an affixed HUD Certification label and HUD Data Plate;

(B) The unit was installed on a permanent foundation complying with manufacturer and HUD installation standards. The foundation design meets HUD standards for manufactured housing;

(C) The unit has not had any alterations or modifications since construction in the factory, except for porches, decks or other structures which were built to engineered designs or were approved and inspected by local code officials; and

(D) The unit was constructed on or after a date determined by the Agency.

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(e) *HUD requirements.* The FMHCSS and HUD requirements may be found in 24 CFR part 3280.

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Yvonne Hsu

Acting Administrator,

Rural Housing Service.

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