



## **DEPARTMENT OF AGRICULTURE**

### **Rural Housing Service**

#### **7 CFR 3560**

**[Docket No. RHS-24-MFH-0044]**

**RIN 0575-AD44**

### **Revisions to the Calculation of Annual Household Income and Net Family Assets in the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing Programs**

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

**ACTION:** Proposed Rule.

**SUMMARY:** The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), proposes to amend its regulation to implement changes related to income calculation and net family assets for properties that receive funding from the Multi-Family Housing (MFH) Section 515 Rural Rental Housing and the Section 514/516 Farm Labor Housing Direct Loan and Grant programs. These proposed changes are intended to align the Agency's annual income certification requirements with the Housing Opportunity Through Modernization Act of 2016 (HOTMA).

**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, [regulations.gov/](https://www.regulations.gov/). In the "Search for dockets and documents on agency actions" box, enter the docket number, **[Docket No. RHS-24-MFH-0044]**, and click "Search" button. From the search results: click on or locate the document title: "[7 CFR Part 3560 — Revisions to the Calculation of Annual Household Income and Net Family Assets in the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing Programs]" and select the "Comment" button. Before

inputting comments, commenters may review the “Commenter’s Checklist” (optional). To submit a comment: Insert comments under the “Comment” title, click “Browse” to attach files (if available), input email address, select box to opt to receive email confirmation of submission and tracking (optional), select the box “I’m not a robot,” and then select “Submit Comment”. 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 site’s “FAQ” link.

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

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

In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found by going to <https://www.regulations.gov> and in the “Search for dockets and documents on agency actions” box, enter the following docket number **RHS-24-MFH-0044**.

**FOR FURTHER INFORMATION CONTACT:** Julie Felhofer, Multi-Family Housing Asset Management Division, Rural Housing Service, 1400 Independence Avenue SW, Washington DC 20250-0782, Telephone: (715) 295-4069; Email: [julie.felhofer@usda.gov](mailto:julie.felhofer@usda.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. 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. The MFH programs are implemented under 7 CFR part 3560.

### **II. Background**

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 Multi-

Family housing, childcare centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, housing for farm laborers and much more. RHS also provides technical assistance loans and grants in partnership with non-profit organizations, Indian Tribes, State and Federal Government agencies, and local communities.

MFH assists rural property owners through loans, loan guarantees, and grants that enable owners to develop and rehabilitate properties for low-income, elderly, and disabled individuals and families as well as domestic farm laborers.

On July 29, 2016, HOTMA (P.L. 114-201) was signed into law and made numerous modifications to the Housing Act of 1937 (1937 Act) affecting numerous federal rental assistance programs, which include RD MFH rental assistance programs.

### **III. Discussion of the Proposed Rule**

The Department of Housing and Urban Development (HUD) finalized its implementation of HOTMA and published a final rule on February 14, 2023 (88 FR 9600), which included significant changes to how HUD calculates annual income and net family assets. As a result, MFH is proposing to amend its regulation at 7 CFR 3560 to align itself with HUD and therefore, be in compliance with HOTMA.

Under the RHS MFH program, tenants must annually certify their household income. 7 CFR 3560.153(a) currently requires that annual income be calculated in accordance with HUD's regulation at 24 CFR 5.609. MFH intends to continue to reference HUD's regulation in 7 CFR 3560.153(a) and will incorporate HUD's revised definition of "annual income" found at 24 CFR 5.609(a) and (b). The Agency also intends to add new language to 7 CFR 3560.153 to clarify that "net family assets" will be calculated in accordance with HUD's regulation at 24 CFR 5.603(b).

### **IV. Summary of Changes**

The Agency proposes the following changes that are intended to align the MFH Rental Assistance Programs with the income and asset calculation updates, as required by HOTMA:

1. Update 7 CFR 3560.153 (a) stating that annual income will be calculated in accordance with 24 CFR 5.609 (a) and (b).
2. Add a new paragraph at 7 CFR 3560.153(c) stating that net family assets will be calculated in accordance with 24 CFR 5.603(b).

## **V. Executive Orders and Acts**

### **Executive Order 12372, Intergovernmental Review of Federal Programs**

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with state and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

### **Executive Order 12866, Regulatory Planning and Review**

This proposed rule has been determined to be not 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 proposed rule has been reviewed under Executive Order 12988. In accordance with this rulemaking: (1) Unless otherwise specifically provided, all state and local laws that conflict with this rulemaking will be preempted; (2) no retroactive effect will be given to this rulemaking 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 suing in court that challenges action taken under this rulemaking.

### **Executive Order 13132, Federalism**

The policies contained in this proposed 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 proposed 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 proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Consultation is also required for any regulation that preempts Tribal law or that imposes substantial direct compliance costs on Indian Tribal governments and that is not required by statute.

The Agency has determined that this proposed rule does not, to our knowledge, have Tribal implications that require formal Tribal consultation under Executive Order 13175. If a Tribe requests consultation, the Agency will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

### **Assistance Listing**

The programs affected by this regulation are listed in the Assistance Listing Catalog (formerly Catalog of Federal Domestic Assistance) under number 10.415-Rural Rental Housing Loans, 10.427-Rural Rental Assistance Payments, 10.405-Farm Labor Housing Loans and Grants.

### **Civil Rights Impact Analysis**

RD has reviewed this proposed 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, or disability. After review and analysis of the proposed rule and available data, it has been determined that implementation of the rulemaking 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 proposed rule.

### **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.

### **National Environmental Policy Act**

In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, this proposed rule has been reviewed in accordance with 7 CFR part 1970 (“Environmental Policies and Procedures”). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) 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.

### **Paperwork Reduction Act**

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575-0189. This proposed rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

### **Regulatory Flexibility Act**

This proposed 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.

### **Unfunded Mandates Reform Act (UMRA)**

Title II of the UMRA, Pub. L. 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, Federal agencies 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 a Federal 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 proposed 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 proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### **Non-Discrimination Statement Policy**

#### **Nondiscrimination Statement**

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, 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 with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

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> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in 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, Mail Stop 9410  
Washington, D.C. 20250-9410; or

(2) Fax: (202) 690-7442; or

(3) Email: [program.intake@usda.gov](mailto:program.intake@usda.gov)

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### **Severability**

It is USDA's intention that the provisions of this proposed rule shall operate independently of each other. In the event that this proposed rule or any portion of this rule is ultimately declared invalid or stayed as to a particular provision, it is USDA's intent that this proposed rule nonetheless be severable and remain valid with respect to those provisions not affected by a declaration of invalidity or stayed. USDA concludes it would separately adopt all of the provisions contained in this proposed rule.

## List of Subjects in 7 CFR 3560

Accounting, Administrative practice and procedure, Aged, Conflicts of interest, Government property management, Grant programs-housing and community development, Insurance, Loan programs-agriculture, Loan programs-housing and community development, Low and moderate-income housing, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent-subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, Rural Housing Service proposes to amend 7 CFR part 3560 as follows:

### **PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS**

1. The authority citation for part 3560 continues to read as follows:

**Authority:** 42 U.S.C. 1480.

2. Amend § 3560.153 by revising paragraph (a) and adding paragraph (c) to read as follows:

#### **§3560.153 Calculation of household income and assets.**

- (a) Annual income will be calculated in accordance with 24 CFR 5.609(a) and (b).

\* \* \* \* \*

- (c) Net family assets will be calculated in accordance with 24 CFR 5.603(b).

**Christine Mechtly,**

*Acting Administrator,*

*Rural Housing Service.*

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