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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

[Docket Number RHS-21-SFH-0017]

RIN: 0575-AD08

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) Agency within the United States Department of Agriculture (USDA), is amending its regulations to grant Delegated Lenders participating in the Single-Family Housing Guaranteed Loan Program (SFHGLP) the authority to make loans and obtain Loan Note Guarantees after closing using automated loan underwriting and closing systems.

DATES: *Effective date:* This Final rule is effective **[INSERT 90 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Implementation will occur on September 28, 2028. The Agency will publish a notice in the **Federal Register** prior to implementation.

FOR FURTHER INFORMATION CONTACT: Sara Thieleke, Deputy Director, Single Family Housing Guaranteed Loan Division, Rural Development, U.S. Department

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SUPPLEMENTARY INFORMATION:

Abbreviations

CFR	Code of Federal Regulations
DA	Delegated Authority
FHA	Federal Housing Administration
FR	Federal Register
OMB	Office of Management and Budget
RHS	Rural Housing Service
§	Section
SFHGLP	Single Family Housing Guaranteed Loan Program
UMRA	Unfunded Mandates Reform Act of 1995
U.S.C.	United States Code
USDA	U.S. Department of Agriculture
VA	Department of Veterans Affairs

Background

The RHS administers the Single-Family Housing Guaranteed Loan Program (SFHGLP) that provides a 90 percent Loan Note Guarantee to approved lenders in order to reduce the lender’s risk of extending loans to low- and moderate-income households in rural areas. The RHS is issuing a Final rule to amend the SFHGLP regulation, 7 CFR part

3555, by adding § 3555.55 which provides the requirements for delegated approval authority.

The changes being implemented through the Final rule will accelerate approval processing timeframes to the benefit of applicants, Delegated Lenders, and the Agency. Lenders meeting the defined criteria will be able to apply for delegated lender status that allows the Delegated Lender to approve SFHGLP loans and obtain Loan Note Guarantees with limited-to-no Agency involvement.

The updates align the SFHGLP with other Federal Agencies that have already moved to the delegated process to leverage the processing power and expertise of private-sector lenders.

Discussion of Public Comments

The Rural Housing Service (RHS) published a proposed rule on August 4, 2022, (87 FR 47646) to amend the current regulations for the Single-Family Housing Guaranteed Loan Program (SFHGLP) regulation found in 7 CFR part 3555. The Agency received comments from 41 respondents, of which one was not applicable to the contents of the rule. Of the comments received, 30 were from mortgage lenders, one was from a public assistance agency, and ten were from other members of the public.

The following is a summary of the relevant comments:

Public Comment: Twenty-seven respondents replied that they were in favor of the proposed rule, many indicating that the time savings and efficiencies that will be realized with delegated authority will result in faster and better service to customers, will even the

playing field for homebuyers utilizing the SFHGLP, and will align the program with other Agencies, including FHA and VA.

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

Public Comment: One respondent replied in favor of the proposed rule as long as it is exercised with due diligence with consequences in place for lenders violating program requirements.

Agency Response: The Agency appreciates the support of the proposed rule. As part of the rule, the Agency has incorporated a Lender Oversight process specifically for Delegated Lenders to monitor adherence to Agency loan program requirements found in 7 CFR part 3555. This includes reviews of multiple elements of the mortgage origination and servicing processes based on the review of a representative sample of loans, financial requirements, and portfolio performance, among other requirements. In addition to scheduled reviews, the Agency will conduct continuous monitoring of lender performance and adherence to the requirements for Delegated Authority outlined in 7 CFR part 3555.

Public Comment: Two respondents replied that it is important to maintain the ability to submit files to the Agency for review on a case-by-case basis, such as when there is a unique situation or circumstance.

Agency Response: The Agency appreciates the commenters' suggestion and anticipates allowing Delegated Lenders to submit files to the Agency for review and approval, in some circumstances.

Public Comment: Two respondents replied that in order to alleviate the responsibility of the Delegated Lender to ensure loans meet the guidelines of 7 CFR part

3555, the Agency should consider solely delegating the initial loan approval and issuance of the Conditional Commitment to Delegated Lenders and retain the responsibility for issuance of the Loan Note Guarantee.

Agency Response: The Agency appreciates the commenters' suggestion.

Approved lenders and their agents are required by 7 CFR part 3555, Section 3555.51(b) to underwrite loans according to RD regulations, which includes reviewing loan applications for accuracy and completeness; ensuring the applicable income limits are not exceeded; ensuring adequate repayment ability and credit history; and ensuring the loan complies with limitations on loan purposes, loan limitations, interest rates, and loan terms. Thus, the approved lender is responsible for ensuring compliance with 7 CFR part 3555 whether they utilize delegated authority or continue with the current process. Furthermore, delegated authority will not be mandated. Any lender who does not wish to participate in delegated authority may continue to operate as they do today.

Public Comment: One respondent replied they would not like Delegated Lenders to have the responsibility for issuing Loan Note Guarantees due to already excessive workload and the possibility of errors.

Agency Response: The Agency appreciates the commenter's concern. The Agency intends for the process of obtaining a Loan Note Guarantee to be entirely electronic, with minimal work required by the Delegated Lender. However, delegated authority will not be mandated. Any lender who does not wish to participate in delegated authority may continue to operate as they do today.

Public Comment: One respondent replied that due to the specific income calculations involved, delegated authority may be difficult without oversight to catch errors in a timely manner.

Agency Response: The Agency appreciates the commenter's response. Approved lenders and their agents are required by 7 CFR 3555.51(b) to underwrite loans according to RD regulations, which includes ensuring the applicable income limits are not exceeded and there is adequate repayment ability. The approved lender is responsible for ensuring compliance with 7 CFR part 3555 whether they utilize delegated authority or continue with the current process. To monitor compliance, the Agency has incorporated a Lender Oversight process specifically for Delegated Lenders to verify adherence to Agency loan program requirements found in 7 CFR part 3555.

Public Comment: One respondent replied that this lending should only be available for buying existing homes or homes damaged by fire or flood. No taxpayer money should be used to build new homes as rural areas do not want growth.

Agency Response: The Agency appreciates the commenter's response. This rule addresses the processing of loan applications and is not amending the current loan purposes that are eligible under the SFHGLP. The Agency has determined no action is required.

Public Comment: One respondent replied with concerns that the Agency would be unable to ensure Delegated Lenders are only assisting low- and moderate-income households in rural areas.

Agency Response: The Agency appreciates the commenter's response. Approved lenders and their agents are required by 7 CFR 3555.51(b) to underwrite loans according

to RD regulations, which includes ensuring the applicable income limits are not exceeded, and the loan complies with all loan limitations, including being located in an eligible rural area. Delegated Lenders will be required to use the Agency's automated underwriting system for supported loan types, which identifies if the income exceeds the maximum income limit, or if the property is not located in an eligible rural area. In addition, the Agency has incorporated a Lender Oversight process specifically for Delegated Lenders to monitor adherence to Agency loan program requirements found in 7 CFR part 3555. The Agency has determined no action is required.

Public Comment: One respondent replied with concerns of predatory lending practices due to the lack of accountability and oversight under delegated authority.

Agency Response: The Agency appreciates the commenter's response. As part of the rule, the Agency has incorporated a Lender Oversight process specifically for Delegated Lenders to monitor adherence to Agency loan program requirements found in 7 CFR part 3555. This includes reviews of multiple elements of the mortgage origination and servicing processes based on the review of a representative sample of loans, financial requirements, and portfolio performance, among other requirements. If a lender fails to meet the established standards, the Agency may revoke their Delegated Lender status.

Public Comment: One respondent expressed support of the proposal but expressed encouragement that the Agency remain engaged with industry stakeholders throughout the development and implementation of these changes.

Agency Response: The Agency appreciates the commenter's suggestion and agrees that collaboration with industry stakeholders throughout the planning and implementation process will be critical to the success of this initiative.

Public Comment: One respondent expressed support of the proposal and provided additional responses to the questions posed in the proposed rule. The respondent indicated a three-year rollout would be appropriate assuming it is expanded each year to include additional lenders and recommended the Agency retain the current process for loan application review and approval as an option. The respondent recommended the Agency could include a specific loan volume requirement for participation in delegated authority, such as 25 percent of the lender's portfolio being USDA loans, or a set number (such as ten closed loans in the past two years). The respondent agreed with the identified alternatives and benefits, as well as stated that implementation would unquestionably result in a cost savings to lenders, both directly and indirectly. The respondent also agreed the post-closing review sample size and timeframe were reasonable, and indicated they were unaware of any additional implementation costs not already considered.

Agency Response: The Agency appreciates the commenter's response and has incorporated the feedback, including the proposed roll-out period; cost savings; and review requirements, into the Final Rule.

Public Comment: One respondent expressed support of the proposal and provided additional responses to the questions posed in the proposed rule. The respondent indicated the proposed three-year rollout seemed excessive as lenders selected for early implementation would have a competitive advantage. The respondent indicated that financial eligibility of the lender should be considered as part of the approval process, and there is not a need to maintain manual underwriting under the current process. In consideration of the alternatives cited, the respondent indicated full delegation is needed and although there will be cost savings with delegated authority, it is difficult to quantify.

The respondent agreed with the two-year lender review timeframe, however, did not agree with the 2 percent sample size being used across the board and indicated it should be determined based on the loan volume of the lender. The respondent identified that a lender loan loss reserve increase may result in additional costs to the lender, due to additional risk.

Agency Response: The Agency appreciates the commenter's response. While we understand the concerns, the Agency believes a three-year rollout is necessary to exercise control over the number of loans guaranteed by Delegated Lenders during the implementation period to provide the opportunity to review processes and analyze the performance and compliance of loans generated under delegated authority. An expedited rollout will be considered, if feasible. The Agency appreciates the recommendation on the lender oversight sample size, which has been considered in the development of the Final rule. The Agency acknowledges the respondent's concern that delegated authority may result in a lender loan loss reserve increase. However, one of the approval criteria for Delegated Lenders includes reaching higher performance metrics than average, while also relying on lenders to make sound underwriting decisions. As a result, we do not anticipate loans processed under delegated authority to have significant additional risk to lenders than those utilizing the current process. Furthermore, delegated authority will not be mandated. Any lender who does not wish to participate in delegated authority may continue to operate as they do today.

Summary of Rule Changes

Upon implementation of the Final rule, loan approval and issuance of the Loan Note Guarantee will be delegated to the Delegated Lender. Delegated Lenders will be required to use Agency automated loan underwriting and closing systems to originate, process, close, and service loan applications in accordance with the published regulations and handbook guidance. In this respect, the Delegated Lender will act as the Agency and will require limited-to-no Agency involvement in the pre-closing loan approval process and post-closing issuance of the Loan Note Guarantee. The Delegated Lender will approve the loan in the Agency's automated system for all supported loan types. With delegated authority, Conditional Commitments will not be required, and the provisions of § 3555.107(f) for issuance of the Conditional Commitment will not be applicable. After loan closing, Delegated Lenders will continue to adhere to the proper loan closing procedures under § 3555.107(i) and (j) for issuance of the Loan Note Guarantee. The Agency will remove § 3555.107(i)(5) which provides lenders a self-certification option in lieu of submitting full documentation. Delegated Lenders will retrieve the Loan Note Guarantee from the Agency's automated system, which will have the same force and effect as a Loan Note Guarantee issued directly by the Agency. The Loan Note Guarantee will be supported by the full faith and credit of the United States, as provided in § 3555.108, regardless of whether the Loan Note Guarantee is obtained by a Delegated Lender through the Agency's automated system, or from the Agency directly. Therefore, unless provided otherwise or inapplicable, the Delegated Lender will be responsible for ensuring that both the applicant and the property meet the eligibility requirements and certification for the loan guarantee under subparts C, D, and E of 7 CFR part 3555 and the environmental requirements in § 3555.5.

The Agency is modifying the procedures for Delegated Lenders as follows:

Environmental Reviews— SFHGLP loans are generally considered to meet the requirements for a categorical exclusion from the environmental review process described in 7 CFR 3555.5 and 7 CFR part 1970, absent any extraordinary circumstances. If there is an extraordinary circumstance, the Delegated Lender must notify the Agency to decide the appropriate course of action.

Appraisal Reviews—Agency administrative appraisal reviews under § 3555.107(d)(4) are inapplicable to loans approved via delegated authority. Delegated Lenders are responsible for ensuring that appraisal reports meet all requirements under § 3555.107(d).

Application priority processing—The requirements under § 3555.107(a) for prioritizing applications do not apply to Delegated Lenders.

When a conflict of interest is disclosed by either the borrower or a RD employee, as described in § 3555.8, the Delegated Lender is required to document the disclosure in the permanent loan file. A Delegated Lender remains responsible for documenting any conflict of interest. However, since Delegated Lenders will process pre-closing and post-closing activities with limited-to-no Agency assistance, reassignment of the application as described in § 3555.8(d) is not necessary.

Upon implementation, the Agency will be able to deliver the program more efficiently with fewer FTEs. The changes, which align Agency processes with industry standards, will streamline processes, and provide faster and better service to low- and moderate-income borrowers, resulting in earlier home move-in dates.

RHS will delegate pre-closing loan approval and post-closing guarantee issuance authority to Delegated Lenders that meet specific requirements for portfolio performance and underwriting capability. The Agency is not changing basic lender eligibility requirements, as outlined in 7 CFR 3555.51, “Lender Eligibility,” but rather adding a section to define a Delegated Lender as an entity with delegated authority (DA) approval.

RHS will add § 3555.55, “Delegated Lenders,” to delegate the authority to approve and execute loan guarantees with limited-to-no involvement of Agency staff. Paragraphs (a) and (b) outline requirements for lenders to qualify for Delegated Lender status, which include meeting the general lender eligibility requirements in § 3555.51, participation in the SFHGLP for at least the previous two years, and higher than average performance standards in delinquency, default, and loss claim rates for that two-year period prior to approval, among other requirements. Delegated Lenders need to maintain general lender eligibility under § 3555.51 as well as the higher performance metrics in delinquency, loss claim, and default rates, among other requirements, to retain delegated lender status, which will be evaluated at least every two years. The Agency may adjust, modify, or cancel the delegated lender program based on overall program considerations such as budget, program performance, and program integrity. In the event that modifications are made to the performance metrics for new Delegated Lenders, existing Delegated Lenders will retain their status, and the Agency will provide a reasonable timeframe to meet the new performance metrics in order to continue retaining delegated lender status. The Agency will be performing a controlled rollout for the delegated authority of Delegated Lenders to foster a smooth implementation. The rollout will be phased-in to allow the Agency some control over the number of loans guaranteed by Delegated Lenders over a

period of at least three years after implementation of the Final rule. The Agency will then evaluate the performance of the process, the efficiency of the process, and make any necessary adjustments to the process. The Agency will continue to phase in new lenders as the process is refined. The number of lenders approved for delegated lender status will be contingent on the progress of the Agency's systems modifications, staff reductions, portfolio performance, and the timeliness of implementing enhanced lender oversight and monitoring. Full implementation is expected by the end of the third year of the implementation period.

Paragraphs (a) and (b) outline the conditions under which a lender's delegated status may be removed. As stated in paragraph (a), the Agency has the right to suspend or terminate any lender's delegated status for reasons including, but not limited to, approving loans that do not meet Agency loan program guidelines; providing data to the Agency's automated underwriting system which is not supported by documentation retained by the lender; maintaining a portfolio that does not meet the established delinquency, loss claim, and default rate performance metrics, among other requirements; and an inability to meet the criteria described in § 3555.51, "Lender Eligibility."

The Agency will enhance its current lender monitoring and oversight for Delegated Lenders from two perspectives: (1) Continue to monitor Performance—regular collection and analysis of loan level data and performance, and (2) Increase Lender Oversight—on-site and off-site reviews.

(1) Monitoring Performance

Loan level data is collected from lenders each month through the Electronic Status Reporting system. This data is compiled, reviewed, and monitored by the Agency every

month to determine portfolio performance as well as risks and trends in delinquency, default, and loss claim rates. This loan level data will be collected and analyzed for Delegated Lenders to provide the Agency with information regarding the performance of Delegated Lenders.

(2) Lender Oversight (LO) reviews

The Agency's Quality Assurance and Lender Oversight Division will institute a regular LO process specifically for Delegated Lenders to monitor adherence to Agency loan program requirements found in 7 CFR part 3555 and continuing eligibility for the program. The process consists of reviews of multiple elements of the mortgage origination and servicing processes based on the review of a representative sample of loans, financial requirements, and portfolio performance, among other requirements. A report will be provided, and findings and observations will be recorded and reported back to the lender or servicer, along with any suggestions for improvement. If necessary, the lender will have the opportunity to incorporate a Corrective Action Plan (CAP) to resolve any deficiencies, and will be counseled, offered training, and given the opportunity to improve. Recurring findings identified through the LO process may result in additional reviews and may adversely affect a lender's delegated lender status.

To bolster the Agency's efforts to perform robust monitoring and lender oversight across the program (not just for Delegated Lenders), this Final rule also eliminates the self-certification option at § 3555.107(i)(5). The Agency is unaware of any lenders using the option to self-certify instead of submitting complete loan closing documentation. Furthermore, the Agency has determined that such option would be inappropriate in

balancing the streamlining of the program with risk mitigation and is eliminating the option so that the Agency would have easier and direct access to loan documents.

§ 3555.55(f) will provide the Agency with the authority to revoke the Delegated Lender status of those lenders that fail to meet the delegated lender criteria. This revocation is distinct from termination of the program as an approved lender under § 3555.52. However, if the Agency pursues termination of a Delegated Lender's participation under § 3555.52, the Agency need not separately pursue a separate revocation of Delegated Lender status, as termination from the program would automatically revoke delegated lender status.

Taken together, this Final rule continues the Agency's efforts to streamline and improve delivery of the SFHGLP while providing measures to mitigate risk. Agency approval of a lender for Delegated Authority does not create or imply a warranty or endorsement by the Agency of the approved lender, or its employees, nor does it represent a warranty of any service provided by the lender or any employee of the lender.

Statutory Authority

Section 201 of the Housing Opportunity Through Modernization Act of 2016 (Pub. L. 114-201) (42 U.S.C. 1472(h)(18)) authorizes the Secretary to delegate loan approval authority to certain preferred lenders, and Section 510(k) of Title V of 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 Orders 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, reducing costs, harmonizing rules, and promoting flexibility. This Final rule has been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

In accordance with Executive Order 12866, a Regulatory Impact Analysis (RIA) was completed, outlining the costs and benefits of implementing this program in rural America. For a complete analysis, please see the RIA on <https://www.regulations.gov> using docket number RHS-21-SFH-0017.

Executive Order 14192, Unleashing Prosperity Through Deregulation

This Final rule is an Executive Order 14192 deregulatory action. Details on the estimated cost savings of this proposed action can be found in the accompanying RIA.

Executive Order 12988, Civil Justice Reform

This Final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all state and local laws and regulations that are in direct

conflict with this rule will be preempted. Federal funds carry federal requirements. No person is required to apply for funding under SFHGLP, but if they do apply and are selected for funding, they must comply with the requirements applicable to recipients of SFHGLP federal financial assistance, including all applicable nondiscrimination federal laws and regulations. This Final rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

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 Final 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

In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, this Final rule has been reviewed in accordance with 7 CFR part 1b (“National Environmental Policy Act”). The Agency has determined that: (i) this action meets the criteria established in 7 CFR; (ii) no extraordinary circumstances exist. 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.

Executive Order 13132, Federalism

The policies contained in this Final rule do not have any substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. This Final rule does not impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this Final rule will not have a significant economic impact on a substantial number of small entities. The North American Industry Classification System (NAICS) classifies small lenders in the following categories:

NAICS Code	NAICS U.S. Industry Title	Size Standards in Millions of Dollars
522120	Savings Institutions	\$600 in assets
522130	Credit Unions	\$600 in assets
522190	Other Depository Credit Intermediation	\$600 in assets
522292	Real Estate Credit	\$41.5
522310	Mortgage and Nonmortgage Loan Brokers	\$8.0

This Final rule affects lenders that utilize the SFHGLP and any potential lenders that may utilize the program in the future. There are approximately 1,873 lenders currently approved to utilize the SFHGLP. The Agency does not maintain data that identifies the number of approved lenders that would be considered small lenders, as defined above. However, it is estimated that less than 3 percent of approved SFHGLP lenders meet the criteria of a small lender.

The Final rule is an enhancement to the SFHGLP, providing an opportunity for participating lenders to obtain delegated loan approval authority. Applying to become a Delegated Lender is optional. Small lenders, as described above, will be afforded the same opportunities to become a Delegated Lender as large lenders. Lenders who choose not to pursue delegated authority will continue to operate as they do today.

All lenders are required to maintain a permanent loan file on each individual guaranteed borrower. This will remain a requirement for lenders utilizing delegating authority, as well as those who do not. This is typical for any mortgage loan product and is an action that is completed in a lenders' normal course of business. This requirement is

consistent with standard mortgage industry practices and represents no additional burden of recordkeeping placed upon the lender or public.

The qualifying factors involved in becoming a Delegated Lender will be based on a lender's loan performance using the same criteria regardless of the size of the lender. There are no costs assessed to lenders to apply for delegated authority, to continue participation in the program, or to receive Agency training.

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 would be 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 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.

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 Rural Housing Service 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.

Civil Rights Impact Analysis

RD has reviewed this Final 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, disability, or marital or familial status. Based on the review and analysis of the rule and all available data, issuance of this Final rule is not likely to negatively impact low- and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their age, race, color, national origin, sex, disability, or marital or familial status.

Programs Affected

The program affected by this Final rule is listed in the Assistance Listing (AL) (*formerly Catalog of Federal Domestic Assistance*) Number 10.410, Very Low to Moderate Income Housing Loans and Loan Guarantees (Section 502 Rural Housing Loans).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.), the information collection activities associated with this rule are covered under OMB Control Number 0575-0179. This Final rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995. Agency forms currently required will be eliminated for Delegated Lenders. As a result, the Agency anticipates a reduction in recordkeeping requirements upon implementation of this rule.

E-Government Act Compliance

RD 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 laws and 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, 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, audiotape, 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*, found 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 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: (202) 690-7442; or

(3) E-mail: Program.Intake@usda.gov

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List of Subjects in 7 CFR Part 3555

Administrative practice and procedure, Conflict of interest, Credit, Environmental impact statements, Fair housing, Flood insurance, 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 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 A – General

2. Amend § 3555.10 by adding the definition of “Delegated Lender” in alphabetical order to read as follows:

§ 3555.10 Definitions and abbreviations.

* * * * *

Delegated Lender. An entity that meets the requirements under § 3555.51 and has been delegated authority by the Agency to underwrite and approve loans that meet the requirements of this part without prior review and approval by Agency staff, unless provided otherwise in this part.

* * * * *

Subpart B – Lender Participation

3. Add § 3555.55 to read as follows:

§ 3555.55 Delegated Lenders.

(a) *General requirements.* The Agency may approve certain lenders for Delegated Lender status as defined in § 3555.10. The Delegated Lender assumes the responsibility for meeting all loan requirements on behalf of the Agency for the purposes of pre-closing loan processing, loan approval, and post-closing issuance of loan guarantee under subparts C, D, and E of this part with the following exceptions and clarifications:

(1) Application priority processing procedures under § 3555.107(a) are not applicable to applications processed by Delegated Lenders.

(2) Delegated Lenders must ensure appraisals meet the requirements under § 3555.107(d); however, loans made by Delegated Lenders are not subject to Agency administrative appraisal reviews prior to loan approval under § 3555.107(d)(4).

(3) The requirements relating to Conditional Commitments under § 3555.107(f) is not applicable to those lenders approved by the Agency as Delegated Lenders under the provisions of this subpart.

(b) *Modifications.* The following regulatory provisions in subpart A of this part are not applicable to Delegated Lenders or are modified as described in paragraphs (b)(1) and (2) of this section:

(1) Applications processed by Delegated Lenders with a conflict of interest under § 3555.8 are not subject to the requirements under § 3555.8(d). The other paragraphs of § 3555.8 still apply.

(2) Environmental reviews will be completed under § 3555.5 and 7 CFR part 1970 prior to loan approval. SFHGLP loans are generally considered to meet the

requirements for a categorical exclusion from the environmental review process described in the cited authorities, absent any extraordinary circumstances. If there is an extraordinary circumstance, the Delegated Lender must notify the Agency to decide the appropriate course of action.

(c) *Eligibility.* Lenders must be approved to participate in the SFHGLP as provided in § 3555.51 and meet the following requirements:

- (1) Have participated in the SFHGLP for at least the previous two years;
- (2) Met the performance standards established by the Agency for delinquency, default, loss claims, etc. for the previous two years; and
- (3) Complete Agency sponsored training each year.

(d) *Automated underwriting system.* Delegated lenders must use the Agency's automated underwriting system as described in § 3555.107(b).

(e) *Oversight.* The Agency will monitor lender performance through the regular use of loan level data and lender oversight and monitoring reviews. If the lender is unwilling or unable to improve performance within an acceptable timeframe, the Agency may revoke Delegated Lender status.

(f) *Termination of delegated authority.* (1) The Agency may suspend or terminate the lender's delegated status for reasons including, but not limited to:

- (i) Approving loans that do not meet Agency guidelines.
- (ii) Providing data to the Agency's automated underwriting system which is not supported by documentation retained by the lender.

(iii) Unacceptable portfolio performance as evidenced by delinquency, loss claim, default rates, material deficiencies, or any other performance metric established by the Agency; and

(iv) Noncompliance with other requirements described in § 3555.51, or if the Agency determines that other good cause exists.

(2) Termination of a Delegated Lender's participation in the SFHGLP under § 3555.52 automatically revokes Delegated Lender status without separate Agency action under paragraph (g) of this section.

(g) *Revocation of delegated status.* Delegated Lenders will retain delegated status until revoked by the Agency or withdrawn by the lender. If the Agency revokes the delegated authority of a Delegated Lender, the Delegated Lender will be given appeal rights as specified in § 3555.4. This is distinct from termination from participation in the SFHGLP under § 3555.52.

(h) *Administration of delegated program.* The Agency may adjust, modify, or cancel the Delegated Lender program based on overall program considerations such as budget, program performance, and program integrity.

Subpart C – Loan Requirements

§ 3555.107 [Amended]

4. Amend § 3555.107 by removing paragraph (i)(5).

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Rural Housing Service.

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