

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### 7 CFR Part 3550

RIN 0575-AC54

#### Direct Single Family Housing Loans and Grants

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** Through this action, the Rural Housing Service (RHS) is proposing homeownership education requirements. The lack of homeownership education is a well-known barrier to successful homeownership for many families. The intended effect of this action is to assure that first time homeowners financed under the Section 502 Direct program are well prepared for homeownership by assuring that they receive homeownership education.

**DATES:** Written comments must be received on or before May 5, 2006 to be assured for consideration.

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

- Agency Web site: <http://www.rurdev.usda.gov/regs/>. Follow the instructions for submitting comments on the Web site.
- E-Mail: [comments@wdc.usda.gov](mailto:comments@wdc.usda.gov). Include the RIN number (0575-AC54) in the subject line of the message.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742.
- Hand Delivery/Courier: Submit written comments via Federal Express Mail or another mail courier service requiring a street address to the Branch Chief, Regulations and Paperwork

Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Suite 701, Washington, DC 20024.

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

#### FOR FURTHER INFORMATION CONTACT:

Janet L. Carter, Senior Loan Specialist, Rural Housing Service, Stop 0783, 1400 Independence Avenue, SW., Washington, DC 20250-0783, Telephone: 202-720-1489.

#### SUPPLEMENTARY INFORMATION:

##### Classification

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

##### Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, the Agency will seek the Office of management and Budget (OMB) approval of the reporting and record keeping requirements contained in this proposed regulation. These reporting and recordkeeping requirements have been previously approved under OMB control number 0575-0172.

*Title:* Homeownership Education.

*Type of Request:* Revision of a currently approved collection.

*Abstract:* RHS enables low and very-low income rural residents to become homeowners through the Section 502 Direct Loan Program. The burden imposed in this proposed rule is a new requirement for borrowers who will be first-time homeowners to provide documentation that they have passed a publicly available homeowner education course. This information collected will be used by the Agency to assure successful homeownership and avoid delinquencies and forecloses.

*Estimate of Burden:* The Agency is not recommending any particular course over another. For this reason, we believe our customers will take advantage of a variety of different sources to meet the minimum requirement. The public burden for this collection of information estimated to average 8.0 hours per response.

*Respondents:* Limited to eligible Loan Applicants who will obtain their first homes through the Section 502 Rural Housing Loan program.

*Estimated Number of Respondents:* 15,221.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Number of Responses:* 15,221.

*Estimated Total Annual Burden on Respondents:* 121,768.

Copies of this information collection can be obtained from Renita Bolden, Regulations and Paperwork Management Branch, at (202) 692-0035.

*Comments:* Comments are invited on:

- (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- (b) the accuracy of the Agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) ways to enhance the quality utility, and clarity of the information to be collected; and
- (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this proposed rule will be summarized, included in the request for OMB approval, and will become a matter of public record. Comments should be submitted to Renita Bolden, Regulations and Paperwork Management Branch, Support Services Division, Rural Housing Service, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742. A comment is best assured of having its full effect if it is received within 30 days of publication of this rule.

#### GPEA Statement

RHS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies, in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

#### Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no

retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

#### **Unfunded Mandates Reform Act**

Title of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal Governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### **Programs Affected**

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

#### **Intergovernmental Consultation**

For the reasons set forth in the final rule related Notice to 7 CFR part 3015, subpart V, these programs are not subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials

#### **Environmental Impact Statement**

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

#### **Regulatory Flexibility Act**

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule imposes a new requirement on Agency applicants and borrowers, however, the new requirement of homeownership education will apply solely to the individual applicants and borrowers of Section 502 Direct Single Family Housing financing and will not apply to small entities. There will be no significant information collection, or regulatory requirements imposed on small entities under this proposed rule.

#### **Federalism**

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

#### **Background**

##### *Borrower Education*

There is no homeowner education requirement in 7 CFR part 3550. The goal of Rural Development is to help rural applicants and their families become successful homeowners. One identified barrier to many rural applicants in becoming successful homeowners is the complexity of the home-buying process. Many applicants are ill prepared to undertake the added responsibility of homeownership. The benefit of homeownership education prior to home purchase is supported by a Freddie Mac study, "A Little Knowledge is a Good Thing: Empirical Evidence of the Effectiveness of Pre-Purchase Homeownership Counseling", by Agdighani Hiran and Peter M. Zorn (May 22, 2001), (Study). (Available at [http://www.freddiemac.com/corporate/reports/pdf/homebuyers\\_study.pdf](http://www.freddiemac.com/corporate/reports/pdf/homebuyers_study.pdf).) The authors used data on mortgages from Freddie Mac's Affordable Gold program which is designed for borrowers who earn 100 percent or less of area median income. This study found that counseling did mitigate credit risk and that on average borrowers who receive pre-purchase counseling are 19 percent less likely to become 90-days delinquent on their mortgages than borrowers in similar situations who did not receive

counseling. However, the study found that there was significant variation in the effectiveness of the counseling based on the format used to deliver the counseling—classroom, home study, individual and telephone counseling. The data indicated that borrowers receiving individual counseling had the greatest reduction in 90-day delinquency, a 34 per cent reduction. Classroom counseling reduced 90-day delinquency by 26 per cent and home study counseling reduced 90-day delinquency by 21 per cent and both were considered to be superior to telephone counseling. Telephone counseling was not found to have a statistically significant impact on borrower delinquency.

The Study concluded "that pre-purchase counseling can increase the success of affordable lending programs by helping families keep their homes, a substantial benefit to both borrowers and lenders." (Study p. 4)

Under its general rulemaking authority (42 U.S.C. 1480(k)), RHS proposes to add a requirement for applicants who are first time homebuyers to successfully complete a homeownership education course provided by a certified homeownership education counselor that includes the minimum topical components set forth below and to present documentation of their successful completion, as defined by the provider, of such course by submitting a certificate of completion or letter from the certified provider. The Agency is particularly interested in receiving comments on appropriate methods of measuring successful completion of a home study homeownership education course.

The Agency believes this requirement will result in better-prepared borrowers, which will lead to more applicants becoming successful homeowners. Often homeownership education courses are offered by non-profit community development corporations or public housing authorities at little or no cost to the borrower. However, the Agency recognizes that in some cases there will be a cost of homeownership education incurred by the prospective homeowner. The cost of homeownership education is proposed to be added as an eligible loan purpose akin to other reasonable expenses related to obtaining a loan. In instances where a fee must be paid by the prospective homeowner to obtain homeownership education, the cost can be included in the loan provided it does not exceed the reasonable fee amount for the service provider approved by the State Director.

The Agency expects, however, that such education will be available at no or little cost to the borrowers in most areas.

The Agency recognizes that there are some rural areas where homeownership education is not readily available or easily accessible. In implementing this requirement the Agency will assure that no one is turned away for consideration for a loan application solely because the required borrower education is not reasonably available in the local area as determined by the State Director. The homeownership education requirement may be waived, if the borrower demonstrates, and the State Director verifies, that no certified homeownership courses available via automated, electronic, mechanical or other technological medium and no home-study, or on-line format is available. The homeownership education requirement may be waived if the borrower documents a special needs such as a disability that would impede completing a homeownership course in any of the above mentioned formats.

Acceptable forms of homeownership education must be provided by homeownership education counselors that are certified by any of the following: The Department of Housing and Urban Development (HUD); NeighborWorks America; or the National Federation of Housing Counselors and at a minimum must include the following components:

- Preparing for Homeownership (evaluate readiness to go from rental to homeownership).
- Shopping for a home.
- Obtaining a mortgage (mortgage process, different types of mortgages).
- Loan closing (closing process, documentation, closing costs).
- Life as a homeowner (homeowner warranties, maintenance and repairs).

#### List of Subjects in 7 CFR Part 3550

Administrative practice and procedure, Conflict of interests, Environmental impact statements, Equal credit opportunity, Fair housing, Accounting, Housing Loan programs—Housing and community development, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas, Subsidies.

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

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

2. The authority citation for Part 3550 continues to read as follows:

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

#### Subpart A—General

2. Section 3550.11 is added to read as follows:

##### § 3550.11 State Director Assessment of Homeowner Education.

(a) The State Director will make an assessment of the availability of certified homeowner education in their respective states and maintain a listing of providers and their reasonable costs.

(b) Acceptable forms of homeownership education must have a testing component and certificate of completion process and be provided by homeownership education counselors that are certified by any of the following:

- (1) The Department of Housing and Urban Development (HUD);
- (2) NeighborWorks America; or
- (3) The National Federation of Housing Counselors.

(c) Acceptable forms of homeownership education at a minimum must include the following components:

- (1) Preparing for Homeownership (evaluate readiness to go from rental to homeownership).
- (2) Shopping for a home.
- (3) Obtaining a mortgage (mortgage process, different types of mortgages).
- (4) Loan closing (closing process, documentation, closing costs).
- (5) Life as a homeowner (homeowner warranties, maintenance and repairs).

#### Subpart B—Section 502 Origination

3. Section 3550.52(d)(10) is added to read as follows:

##### § 3550.52 Loan purposes.

\* \* \* \* \*

(D) \* \* \*

(10) Fees for acceptable homeownership education under § 3550.11 of this subpart provided the fee does not exceed the reasonable costs determined by the State Director under that section.

\* \* \* \* \*

4. Section 3550.53(I) is added to read as follows:

##### § 3550.53 Eligibility requirements.

(i) *Homeownership education.* Applicants who are first-time homebuyers must provide documentation, in the form of a completion certificate or letter from the provider, that a homeownership education course from a certified provider under § 3550.11 has been successfully completed as defined by the provider prior to loan closing. The State Director may waive the

homeownership education requirement for geographic areas within the State where the borrower demonstrates and the State Director verifies that certified homeownership education is not reasonably available in the local area in either automated, electronic, mechanical or technological format. On a case-by-case basis, the State Director may waive the homeownership education requirement, provided the applicant borrower documents a special need such as a disability that would impede completing a homeownership course in the above mentioned formats.

Dated: February 24, 2006.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

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#### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 50

RIN 3150 AH54

#### Fire Protection Program—Post-Fire Operator Manual Actions

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is withdrawing its proposed amendment to the Commission's fire protection regulations for nuclear power facilities operating prior to January 1, 1979. The proposed amendment pertained to the use of manual actions by plant operators coincident with fire detectors and an installed automatic fire suppression system in the fire area as an alternative method to achieve hot shutdown conditions in the event of fires in certain plant areas. Based on stakeholder comments, the Commission believes that the proposed rule would not achieve intended objectives of effectiveness and efficiency.

**FOR FURTHER INFORMATION CONTACT:** David Diec, (301) 415–2834, e-mail [dtd@nrc.gov](mailto:dtd@nrc.gov) or Alexander Klein, (301) 415–3477, e-mail [ark1@nrc.gov](mailto:ark1@nrc.gov) of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission.

#### SUPPLEMENTARY INFORMATION

- I. Purpose
- II. Background
- III. Proposed Rulemaking
- IV. Withdrawal of Rulemaking
- V. Operator Manual Actions Closure Plan
  - A. Ensuring Compliance
  - B. Regulatory Issue Summary