

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## 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:** Direct final rule.

**SUMMARY:** Through this action, the Rural Housing Service (RHS) is revising and clarifying the definition for an existing dwelling and a new dwelling or unit, removing specific dollar limits with regards to insurance deductible clauses, and establishing the amount of insurance required to conform to industry standards. These changes are being made to make more clear what constitutes an existing and a new dwelling, and to conform insurance coverage requirements to industry standards. The intended effect is to improve the delivery and implementation of the Direct Single Family Housing programs.

**DATES:** This rule is effective April 25, 2005, unless we receive written adverse comments or written notices of intent to submit adverse comments on or before April 11, 2005.

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

- Agency Web site: <http://rdinit.usda.gov/regs/>. Follow the instructions for submitting comments on the Web site.
- E-Mail: [comments@usda.gov](mailto:comments@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., 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; Fax: 202-690-3555; e-mail: [Janet.Carter@usda.gov](mailto:Janet.Carter@usda.gov).

**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**

The information collection requirements contained in this regulation have been approved by OMB under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575-0172, in accordance with the Paperwork Reduction Act (PRA) of 1995. This rule does not impose any new or modified information collection requirements.

**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 this rule: (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 in 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 II of the Unfunded Mandates Reform Act of 1995 (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 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 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 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 final rule are 10.410 Very 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, Pub. L. 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 since this rulemaking action does not involve a new or expanded program.

**Background**

It is the policy of RHS to publish rules determined to be non-controversial and unlikely to result in adverse comments as direct final rules. RHS Policy for direct final rules was published on March 27, 2003 at 68 FR 14889. No adverse comments are anticipated on the changes in this rule. Adverse comments suggest that the rule should not be adopted or that a change should be made to the rule. Unless any adverse comments are received within 60 days of publication, this rule will be effective 75 days from the date of publication.

**Definition of Existing Dwelling**

According to 7 CFR 3550.10, an existing dwelling is currently defined as a dwelling that is more than 1 year old, or less than 1 year old and covered by an approved 10-year warranty plan. 7 CFR 3550.10 further defines a new dwelling as a dwelling that is to be constructed, or an already-existing dwelling that is less than 1 year old and is not covered by an approved 10-year warranty plan. This gives the impression that the major difference between a new and existing dwelling is coverage by a 10-year warranty plan. This has been a cause for much confusion with field staff, applicants, contractors, and Realtors. The 10-year warranty allows the Agency to provide full financing on homes that are less than 1 year old when there is not other means of adequate and verifiable documentation of construction quality of new dwellings. This change will simplify the definitions of new and existing homes but does not otherwise change any policy on how new and existing homes are financed. The only anticipated impact of this change is clarity on what constitutes a new or existing dwelling for the purposes of financial assistance through the Direct Single Family Housing programs. No change will result from this revision regarding the applicability or value of a 10-year warranty.

**Insurance Deductible Clauses**

According to 7 CFR 3550.61(b) and 7 CFR 3550.110(b) essential buildings must be insured in an amount at least equal to the balance of the secured debts. Many companies are reluctant to issue policies when the coverage is well in excess of the replacement value of the home. This is a particular problem in areas of high land costs and makes it extremely difficult for borrowers/homeowners to secure affordable insurance coverage. In addition, according to 7 CFR 3550.61(d) and 7 CFR 3550.110(d) loss deductible clauses may not exceed \$250 or 1 percent of the insurance coverage, whichever is greater. The deductible for any 1 building may not exceed \$750. The cost of housing has risen dramatically and so has the cost of insurance. Some companies are reluctant to provide coverage with deductible clauses with a low dollar threshold. This makes it very difficult for new homeowners to secure affordable insurance coverage.

The change in this requirement conforms with industry standards and will adequately protect both the borrower's and the government's interest. With this change, the borrower will be asked to insure their house in an amount that is the lesser of 100% of the insurable value (i.e. the cost to restore the property back to its state prior to a loss) of the house or the unpaid principal balance. The loss deductible clause requirement will be based on the higher of 1% of the face value of the policy or \$1,000 unless state law requires a higher maximum deductible amount. This change will make it easier for applicants to secure affordable insurance coverage.

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

Administrative practice and procedure, Conflict of interests, Environmental impact statements, Equal credit opportunity, Fair housing, Accounting, Grant programs—Housing and community development, 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 amended 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**

Section 3550.10 is amended by revising definitions for “existing dwelling or unit” and “new dwelling” to read as follows:

**§ 3550.10 Definitions.**

\* \* \* \* \*

*Existing dwelling or unit.* A dwelling or unit that has either been previously owner-occupied or has been completed for more than 1 year as evidenced by an occupancy permit, certificate of occupancy or similar document issued by the local authority.

\* \* \* \* \*

*New dwelling or unit.* A dwelling that is to be constructed, or a dwelling that is less than 1 year old as evidenced by an occupancy permit, certificate of occupancy or similar document issued by the local authority and has never been occupied.

\* \* \* \* \*

**Subpart B—Section 502 Origination**

■ 2. Section 3550.61 is amended by revising paragraphs (b) and (d)(1) to read as follows:

**§ 3550.61 Insurance.**

\* \* \* \* \*

(b) *Amount.* The dwelling and any other essential buildings must be insured in an amount that is the lesser of 100% of the insurable value (i.e. the cost to restore the property back to its state prior to a loss) of the house or the unpaid principal balance.

\* \* \* \* \*

(d) \* \* \*

(1) Loss deductible clauses for required insurance coverage may not exceed the higher of 1% of the face value of the policy or \$1,000 unless state law requires a higher maximum deductible amount.

\* \* \* \* \*

**Subpart C—Section 504 Origination and Section 306C Water and Waste Disposal Grants**

■ 3. Section 3550.110 is amended by revising paragraphs (b) and (d)(1) to read as follows:

**§ 3550.110 Insurance (loans only).**

\* \* \* \* \*

(b) *Amount.* The dwelling and any other essential buildings must be insured in an amount that is the lesser of 100% of the insurable value of the house or the unpaid principal balance.

\* \* \* \* \*

(d) \* \* \*

(1) Loss deductible clauses for required insurance coverage may not exceed the higher of 1% of the face value of the policy or \$1,000 unless state law requires a higher maximum deductible amount.

\* \* \* \* \*

Dated: December 27, 2004.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

[FR Doc. 05-2429 Filed 2-7-05; 8:45 am]

BILLING CODE 3410-XV-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 53 and 71

[Docket No. 02-091-2]

#### Spring Viremia of Carp; Payment of Indemnity

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the general indemnity regulations to provide for the payment of indemnity to owners for fish destroyed because of spring viremia of carp. We also amended the interstate movement regulations to prevent the movement of fish infected with or exposed to spring viremia of carp. These actions were necessary to help control and eradicate this disease in the United States.

**DATES:** *Effective Date:* The interim rule became effective on May 12, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jill Rolland, Fishery Biologist, Certification and Control Team, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737-1231; (301) 734-7727.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective May 12, 2004, and published in the **Federal Register** on May 17, 2004 (69 FR 27823-27827, Docket No. 02-091-1), we amended the general indemnity regulations contained in 9 CFR part 53 to provide for the payment of indemnity to owners for fish destroyed because of spring viremia of carp (SVC). We also amended the interstate movement regulations to prevent the movement of fish infected with or exposed to SVC. These actions were necessary to help

control and eradicate this disease in the United States.

Comments on the interim rule were required to be received on or before July 16, 2004. We received one comment by that date, from a private citizen. This commenter raised several issues related to the interim rule. These issues are discussed below.

The commenter objected to payment of indemnity to eligible owners on the grounds that such payment is contrary to the public interest and will only reward poor practice among aquaculturists. We believe that payment of indemnity is necessary to provide an incentive for aquaculturists to participate in the surveillance and eradication program and thus to ensure the success of the program. We are making no changes to the rule in response to this comment.

The commenter stated that since fish destroyed as a result of infection or exposure to SVC may be sold for rendering or salvage value, the payment received for such sales should be all the recompense aquaculturists receive. We note that not all fish destroyed because of SVC may be sold for rendering or salvage value, such as ornamental fish infected with SVC. The regulations provide that any salvage value collected for fish destroyed because of SVC will be subtracted from the amount of any indemnity payment a producer may receive.

The commenter stated that the United States Department of Agriculture should neither support aquaculture nor extend payment of indemnity to aquaculturists because fish are not livestock. We point out that the National Aquaculture Act of 1980, as amended by the National Aquaculture Improvement Act of 1985 (16 U.S.C. 2801-2810), requires the Secretary to support and develop aquaculture programs. Furthermore, the Animal Health Protection Act (7 U.S.C. 8301-8317), from which the Animal and Plant Health Inspection Service (APHIS) derives its authority to regulate matters associated with animal health, defines livestock as "all farm-raised animals." We interpret this to mean aquatic as well as terrestrial animals. We are making no changes to the rule in response to this comment.

The commenter further stated that the importation of carp should be prohibited and carp should be banned in the United States. We believe such measures to be unwarranted. We are making no changes to the rule in response to this comment.

The commenter noted that since the disease survives in mud and water, eradication would be impossible or at least expensive. We note that there are

two treatments available to control the survival of the virus in mud and water. Depending on the size of the pond, it may simply be allowed to dry out, or it may be treated with slaked lime, which raises the pH of the pond, penetrates the mud, and renders the virus inactive. Neither of these treatments is difficult or excessively expensive. We are making no changes to the rule in response to this comment.

The commenter also objected to the practice of aquaculture on the grounds that it represents an environmental threat. We note that APHIS's mission is to protect plant and animal health, not to dictate the means by which plants and animals are raised, unless those means pose a risk to plant or animal health. We do not believe that aquaculture in itself poses an inherent risk to the health of fish so raised. We are making no changes to the rule in response to this comment.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, this action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

#### List of Subjects

##### 9 CFR Part 53

Animal diseases, Indemnity payments, Livestock, Poultry and poultry products.

##### 9 CFR Part 71

Animal disease, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

#### PART 71—GENERAL PROVISIONS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR parts 53 and 71 and that was published at 69 FR 27823-27827 on May 17, 2004.