

# Proposed Rules

Federal Register

Vol. 72, No. 94

Wednesday, May 16, 2007

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

### Rural Business-Cooperative Service

### Rural Utilities Service

### Farm Service Agency

### 7 CFR Part 1924

RIN 0575-AC65

### Thermal Standards

**AGENCY:** Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Service Agency, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Housing Service (Agency) is proposing to amend its regulations to be consistent with other federal agencies. The current thermal standards for existing single family housing can impose an unnecessary financial burden on the borrower. Removing the thermal standards for existing single family housing will provide consistency with HUD existing single family housing thermal standards. This change will not affect the thermal standards for new construction; such requirements are generally prescribed by adopted building and model energy codes. Construction materials and building techniques have improved tremendously during the last thirty years, creating many alternatives to achieve thermally efficient homes. Removing the Agency's imposed thermal standards for existing single family housing will give a borrower the opportunity to allocate money towards other improvements which may result in higher cost savings. The rule will not result in any increase in costs or prices to consumers; non-profit organizations; businesses; Federal, State, or local government agencies; or geographic regions.

**DATES:** Written or e-mail comments must be received on or before July 16, 2007.

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

- *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:** Michel Mitias, Technical Support Branch, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, STOP 0761, 1400 Independence Avenue SW., Washington, DC 20250-0761; Telephone: 202-720-9653; FAX: 202-690-4335; E-mail: [michel.mitias@wdc.usda.gov](mailto:michel.mitias@wdc.usda.gov).

### SUPPLEMENTARY INFORMATION:

#### Classification

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

#### 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 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.

### Regulatory Flexibility Act

The Administrator of the Agency has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

### Unfunded Mandates Reform Act

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." The Agency has determined 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.

### Programs Affected

The programs affected are listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Direct and Guaranteed/Insured).

### 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.

### Intergovernmental Review

The Agency conducts intergovernmental consultation in the manner delineated in RD Instruction 1940-J, "Intergovernmental Review of Rural Development Programs and

Activities,” and in 7 CFR part 3015, subpart V. The Very Low to Moderate Income Housing Loans Program, Number 10.410, is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. An intergovernmental review for this revision is not required or applicable.

#### Paperwork Reduction Act

There are no new reporting and recordkeeping requirements associated with this rule.

#### E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. (If appropriate—For information pertinent to E-GOV compliance related to this proposed rule, please contact Michel Mitias, 202–720–9653.

#### Background

The quality of construction, age, and condition of an existing dwelling financed through the Agency’s single family housing programs may have a significant impact on the unit’s thermal efficiency. The Agency should consider the thermal performance of a home as part of its overall condition, rather than a separate factor.

Newer residences, or older residences currently in average or good condition, generally can be accepted as being representative of their community, and are likely to have average thermal efficiency for the market in which they are located. These homes represent a typical residence in terms of overall design, construction, and appeal in the marketplace, and can be presumed to have reasonable, overall thermal performance.

Aging residences, particularly those with significant deficiencies, or those designated as being in only fair condition or less, could represent a higher risk to the borrower and the Agency. Homes with older effective ages or in fair condition may be financed in some circumstances with certain upgrades, but should be thoroughly and carefully inspected to insure the overall soundness of the collateral, including thermal components. These homes may require thermal and insulation upgrades in order to ensure reasonable (average) heating and cooling costs for borrowers.

The Agency’s existing thermal standards, or similar standard, may

serve as a guide for an energy efficient home, however we recognize that incremental improvements to existing homes to reach this standard may not always be cost effective. The Agency should look at homes to be financed based on their overall condition. When a home needs improvement in order to be acceptable for our financing, the focus should be on reducing the effective age by improving the existing overall condition as well as increasing energy efficiency.

A combination of Uniform Residential Appraisal Report (URAR) designations for “quality of construction” and “condition”, as well as “age” and “effective age” may be used to judge the overall condition of a home, and whether additional analysis needs to be undertaken to ensure the dwelling will be reasonably thermally efficient for the market in which it is located. In addition, an on-site inspection by an Agency representative or designee may provide further information on the thermal performance of a home. Hence, the Agency has determined that it is no longer necessary to impose thermal standards for existing single family housing.

This change will not be subject to Section 509(a) of the Housing Act of 1949 because it pertains only to existing single family housing. All new single family housing construction must comply with the Minimum Property Standards (MPS) adopted by the Department of Housing and Urban Development (HUD), as well as national model codes adopted by the applicable jurisdiction, locality, or state.

#### List of Subjects in 7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Low and moderate income housing.

For the reasons set forth in the preamble, Chapter XVIII, Title 7, of the Code of Federal Regulations is amended as follows:

#### PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for part 1924 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

#### Subpart A—Planning and Performing Construction and Other Development

2. Exhibit D of subpart A is amended by:

A. Removing the last sentence in paragraph II;

B. Removing and reserving paragraph IV B;

C. Revising the words “paragraphs IV A and IV B” in paragraph IV C 1 to read “paragraph IV A”;

D. Revising the words “paragraphs IV A and B” in paragraph IV C 2 to read “paragraph IV A”;

E. Revising the words “paragraphs IV A or IV B” in the first and last sentences of paragraph IV C 2b, and in paragraphs IV C 3 introductory text, IV C 3a and IV C 3b to read “paragraph IV A”; and

F. Removing the words “or B” in paragraphs IV C introductory text and IV C 3c.

Dated: April 6, 2007.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

[FR Doc. 07–2366 Filed 5–15–07; 8:45 am]

**BILLING CODE 3410–XV–P**

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## DEPARTMENT OF ENERGY

### 10 CFR Part 609

RIN 1901–AB21

#### Loan Guarantees for Projects that Employ Innovative Technologies

**AGENCY:** Office of the Chief Financial Officer, Department of Energy.

**ACTION:** Notice of proposed rulemaking and opportunity for comment.

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**SUMMARY:** The Department of Energy (DOE or Department) today proposes policies and procedures applicable to DOE’s loan guarantee program authorized by Title XVII of the Energy Policy Act of 2005. Today’s proposed rule, when final, also will further the President’s Advanced Energy Initiative. Title XVII authorizes the Secretary of Energy to make loan guarantees for projects that “avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.” Title XVII also identifies ten categories of technologies that, if employed in commercial projects, are potentially eligible for a loan guarantee. A principal goal of Title XVII is to encourage commercial use in the United States of new or significantly improved energy-related technologies. DOE believes that accelerated commercial use of new and improved technologies will help sustain economic growth, yield environmental benefits, and produce a more stable and secure energy supply and economy for the United States.