Subpart O—Sun Grant Program

§ 3430.1001 [Amended]

■ 21. In § 3430.1001, in paragraph (d), remove the words ''the Department of Energy'' and add in their place ''other appropriate Federal agencies (as determined by the Secretary)''.

§ 3430.1002 [Amended]

■ 22. In § 3430.1002, remove the definition for the term ''gasification.''

§ 3430.1003 [Amended]

■ 23. In § 3430.1003:
■ a. In paragraph (a)(1), remove the words ''at South Dakota State University'';
■ b. In paragraph (a)(2), remove the words ''at University of Tennessee at Knoxville'';
■ c. In paragraph (a)(3), remove the words ''at Oklahoma State University'';
■ d. In paragraph (a)(4), remove the words ''at Cornell University'';
■ e. In paragraph (a)(5), remove the words ''at Oregon State University''; and
■ f. In paragraph (a)(6), remove the words ''at the University of Hawaii''.

§ 3430.1004 [Amended]

■ 24. In § 3430.1004, in paragraph (a)(1), remove the words ''multistate research, extension, and education programs on technology development and multi-institutional and multistate integrated research, extension, and education programs on technology implementation'' and add in their place the words ''integrated, multistate research, extension, and education programs on technology development and technology implementation''.

§ 3430.1005 [Amended]

■ 25. In § 3430.1005, in paragraph (b), remove the words ''each of the five Centers'' and add in their place the words ''the Centers''.

§ 3430.1007 [Amended]

■ 26. In § 3430.1007:
■ a. In the first sentence of paragraph (a), remove the words ''gasification'' and ''the Department of Energy'' and add in their place the words ''bioproducts'' and ''other appropriate Federal agencies'' respectively; and
■ b. Remove the second and third sentences of paragraph (a).
■ c. Remove and reserve paragraph (b).

Done at Washington, DC, this 21 day of January, 2016.

Sonny Ramaswamy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2016–02213 Filed 2–5–16; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

RIN 0575–AC18

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule follows publication of the December 9, 2013, interim final rule and makes changes in response to public comment and further consideration of certain issues by the Rural Housing Service (RHS or Agency) to the Single Family Housing Guaranteed Loan Program (SFHGLP). The changes made by this final rule are designed to further improve and clarify Agency instructions while strengthening and enhancing the SFHGLP process by reducing regulations, improving customer service to achieve greater efficiency, flexibility and effectiveness. This rule will allow RHS to manage the program more effectively and reduce SFHGLP risk of loss.

DATES: This rule is effective on March 9, 2016.

FOR FURTHER INFORMATION CONTACT: Lilian Lipton, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0784, telephone: (202) 720–1452, email is *lilian.lipton@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Classification

This final rule has been determined to be non-significant by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This 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 this program, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This 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.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of the Agency 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, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and 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.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and

certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency determination of program benefits for guarantees of loans made to individuals.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have Tribal implications or preempt tribal laws. Rural Development has determined that the proposed rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If a Tribe determines that this rule has implications of which RD is not aware and would like to engage with RD on this rule, please contact RD's Native American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov.*

Executive Order 12372, Intergovernmental Consultation

This program/activity is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. (See the Notice related to 7 CFR part 3015, subpart V, at 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The assigned OMB control number is 0575–0179.

E-Government Act Compliance

The Rural Housing Service 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.

Non-Discrimination Policy

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the *USDA Program Discrimination Complaint Form* (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

I. Background Information

On December 9, 2013, at 78 FR 73928, RHS published for public comment an interim final rule (December 2013 interim final rule) to replace an existing rule and process that was outdated. The December 2013 interim final rule submitted for public comment was intended to make the process of utilizing the SFHGLP clearer and streamlined in an effort to achieve greater efficiency, flexibility and effectiveness in managing the SFHGLP. The principles that guided RHS in the development of this rule are included in the December 2013 interim final rule.

The public comment period for the December 2013 interim final rule closed on January 8, 2014. The effective date of implementation was to occur on September 1, 2014. In response to numerous requests to extend the implementation period and the desire of RHS to allow ample time for lenders and consumers to receive training and implement changes that occurred with the implementation of the interim final rule, RHS announced a delayed implementation date. This announcement was made by publication of a notice in the **Federal Register** on August 22, 2014 (79 FR 49659). Effective with the announcement on August 22, 2014, the effective date of the interim final rule was delayed from September 1, 2014, to December 1, 2014.

II. This Final Rule; Changes to the December 9, 2013, Interim Final Rule

This final rule follows publication of the December 9, 2013, interim final rule and takes into consideration the public comments received. The public comment period on the interim final rule closed on January 8, 2014. RHS received comments from twelve respondents consisting of eight lenders, an Agency employee and two interest groups. The comments were not substantive in nature, resulting in minor changes to the final rule. Most commenters were supportive of the interim final rule and commenters were satisfied with the technical guidance provided in the accompanying release of the Technical Handbook, ''SFH Guaranteed Loan Program Technical Handbook'' which accompanied the December 2013 interim final rule, available at: *http://www.rd.usda.gov/publications/regulations-guidelines/handbooks.* RHS did not receive any comments that opposed the rule.

After careful consideration of the issues raised by the commenters, RHS will adopt an amended version of the interim final rule. None of the changes are considered material. Specifically RHS has made the following changes to the December 2013 interim final rule:

1. *Editorial and technical changes.* This rule clarifies terminology and provides editorial and technical changes to correct cross-references in the rule, punctuation, grammar and spelling at the following Sections:

§ 3555.5(d)(7)
§ 3555.101(b)(6)(x) and (xi)
§ 3555.103(a)
§ 3555.107(h)
§ 3555.151(h)(2)
§ 3555.151(i)(2)
§ 3555.256(b)(2)(vi)

§ 3555.306(f)(1)

2. *Environmental requirements.* This final rule will expand an applicant's ability to purchase a flood insurance policy at § 3555.5(d)(5) and (6) for a dwelling in a Special Flood Hazard Area (SFHA) from a private insurance company meeting the requirements of 42 U.S.C. 4012a (b)(1)(A). Additionally, the word ''habitable'' has been removed from the December 2013 interim final rule at § 3555.5(d)(7) to coincide with language utilized by the Federal Emergency Management Agency (FEMA).

3. *Discount points as an eligible loan purpose.* RHS has reconsidered comments received in response to the 2013 interim final rule regarding discount points as a permissible loan purpose for moderate-income applicants at § 3555.101(b)(6)(vi). In reconsidering the comment, RHS will allow discount points in the final rule, as a permissible loan purpose, to ''buy-down'' the interest rate for moderate income applicants in addition to low-income applicants. The December 2013 interim final rule limited discount points as an eligible loan purpose to low-income applicants only. The Agency changed its position regarding discount points as an eligible loan purpose to allow all applicants the opportunity to lower the interest rate on the home loan. The Agency previously argued that moderate income borrowers were less likely to need to obtain a lower interest rate. Purchasing mortgage points is very common practice. It doesn't always make financial sense. Since this option may reduce the monthly mortgage payments and savings in accrued interest over the life of the loan, the Agency reconsidered its positon by allowing the applicant to determine if financing discount points will make financial sense for the applicant. This optional loan purpose is considered a prepaid mortgage cost, limiting the maximum loan amount to the appraised value of the collateral offered with the mortgage loan request. If utilized, the interest rate prior to reduction must be no greater than the maximum rate revealed at § 3555.104(a).

4. *Loan terms.* At § 3555.104(a)(3) under loan terms, the December 2013 interim final rule adopted the current Freddie Mac required net yield in addition to the existing Fannie Mae posted yield for 90-day delivery to establish the interest rate of the loan. Freddie Mac has now ceased publication of their net yield rate. The final rule will permit lenders to establish the interest rate with the current Fannie Mae posted yield for 90-day delivery (actual/actual) for 30-year fixed rate conventional loans plus 1 percent, rounded up to the nearest one-quarter of 1 percent and will remove language applicable to the Freddie Mac required net yield.

5. *Combination construction and permanent loan.* The December 2013 interim final rule limited a contractor or builder at § 3555.105(b)(6) to 25 units per year unless approved by the Agency. In response to comments, RHS is removing this language. Additionally, the final rule provides that the combination construction and permanent loan feature of the SFHGLP may be utilized for a manufactured home if the builder's contract includes the sum of the cost of the unit and all on-site installation costs. The December 2013 interim final rule prohibited manufactured homes as an eligible loan purpose for this feature at § 3555.105(c).

6. *Credit qualifications.* Section 3555.151(i)(3)(ii) required applicants who had entered into a bankruptcy debt restructuring plan to have 12 months of seasoned established credit after completion of the plan prior considering the applicants credit favorable. Respondents to the December 2013 interim final rule requested RHS align the language with that of like Federal programs. Like Federal programs, such as the U.S. Department of Housing Urban and Development and U.S. Department of Veterans Affairs allow lenders to consider applicants favorable with a partially completed bankruptcy debt restructuring plan. Having considered the comments, the Agency will amend the final rule for continuity with like Federal programs. The final rule will allow applicants who have a 12 month pay out period under the bankruptcy debt restructuring plan elapsed to be considered satisfactory, provided payment performance was satisfactory and permission from the Trustee or Bankruptcy Judge is obtained to allow additional debt for the applicant.

7. *Loan modification plan.* The December 2013 interim final rule established language to extend the terms of a loan modification for up to 30 years from the date of the loan modification at § 3555.303(b)(3)(iii). However it limited the guarantee to the date and terms established at issuance of the guarantee. The guarantee would not apply beyond the original 30 year loan term. The final rule provides authority to extend the guarantee to coincide with the terms of a loan modification that meets the eligibility criteria as noted in § 3555.303.

8. *Extended-term loan modification.* The December 2013 interim final rule allowed lenders under special servicing options at § 3555.304(c) to extend the repayment term up to a maximum of 40 years from the date of loan modification through use of an extended-term loan modification. However, the December 2013 interim final rule at § 3555.304(a)(3) limited the existing guarantee to the terms of the loan note guarantee. The final rule provides authority to extend the guarantee to coincide with the terms of an extend-term loan modification meeting eligibility criteria of that section.

III. Discussion of Public Comments Received on the December 9, 2013, Interim Final Rule

The following section of the preamble presents a summary of substantive issues raised by the public in response to the December 2013 interim final rule and the RHS response to these issues.

§ 3555.4 Mediation and Appeals

Comment: The final rule should be modified to clarify that any participant receiving an adverse decision can appeal an RHS decision.

RHS Response: The Technical Handbook accompanying the implementation of the December 2013 interim final rule sets forth the criteria for appeal in accordance with 7 CFR parts 1 and 11. Furthermore, notice of any administrative appeal rights will be included in adverse decision letters. The final rule has not been amended based upon this comment.

§ 3555.5 Environmental Requirements

Comment: The final rule should be amended to accept private flood insurance policies. The Biggert-Waters Flood Reform Act of 2012 promotes acceptance of flood insurance by private mortgage companies, as opposed to flood policies issued by the Federal Government as part of the National Flood Insurance Program.

RHS Response: The final rule has been amended based upon this comment. RHS will accept flood insurance by private mortgage companies that meet the requirements of 42 U.S.C. 4012a (b)(1)(A). The Technical Handbook accompanying publication of the December 2013 interim final rule outlined the eligibility of private flood insurance policies.

Comment. Amend the flood insurance language to ensure flood insurance coverage coincides with the National Flood Insurance Act of 1968, as amended.

RHS Response. Flood insurance coverage and policy details are clarified in the Technical Handbook implemented with the December 2013

interim final rule. RHS has not amended the final rule based upon this comment.

§ 3555.7 Exception Authority

Comment: The final rule should be amended to reflect the requirement that exception authority reasons be documented.

RHS Response: The Technical Handbook accompanying the implementation of the December 2013 interim final rule clarified the internal requirements surrounding documenting and submitting a request for exception authority to the RHS Administrator. The Agency has not amended the final rule based upon this comment.

§ 3555.54 Sale of Loans to Approved Lenders

Comment: Provide clarification regarding the sale of loans to approved lenders. Specifically, provide clarification surrounding the liability of purchasing and servicing lenders for origination errors.

RHS Response: RHS has not amended the final rule based upon these comments. Section 3555.54 addresses the sale of loans to approved lenders and sets forth the policies surrounding the eligibility of entities and obligations the participating lender is bound to. Approved lenders may be an originator, a servicer or may hold the loan. The eligibility of entities to become an approved lender and enter into a lender agreement is set forth at § 3555.51. A loan may be serviced by an entity that does not hold a valid lender agreement. The approved lender holding the loan remains responsible for the actions of the servicer. In reference to the purchasing lender's liability surrounding origination errors, § 3555.108(d) sets forth requirements surrounding indemnification when an approved originating lender fails to meet the criteria.

§ 3555.101 Loan Purposes

Comment: The respondent requests the cost to design and construct access to broadband services as an eligible loan purpose.

RHS Response: The Technical Handbook accompanying the implementation of the December 2013 interim final rule clarified the requirements surrounding eligibility of broadband services. RHS has not amended the final rule based upon this comment.

Comment: Add language to § 3555.101(d)(3)(vi) to coincide with text in the preamble of the December 2013 interim final rule regarding refinancing as an eligible loan purpose. The respondent suggested adding language ''unless otherwise provided by the Agency'' to the last sentence of the section referenced in the final rule to coincide with language published in the December 2013 interim final rule preamble for clarification.

RHS Response: Paragraph (d)(3)(vi) of § 3555.101 is amended to correct an omission of language in the interim final rule that led to a discrepancy between the statement in the preamble to the text of that rule. Some documentation, costs and underwriting requirements of subparts D, E and F may not apply to a refinance transaction. The last sentence of paragraph (d)(3)(vi) of § 3555.101 is amended to read: ''Documentation, costs, and underwriting requirements for subparts, D, E, and F of this part apply to refinances, unless otherwise provided by the Agency.

§ 3555.102 Loan Restrictions

Comment: The respondent requests RHS clarify the language in the final rule surrounding seller concession limitations. The respondent proposes additional language to exclude lender credits which can be contributed towards an applicant's closing costs. Additionally the respondent requests excluding a lender cure payment, as a result of undisclosed items on the Good Faith Estimate, from the maximum concession limitation.

RHS Response: RHS has not amended the rule based upon this comment. Internal administrative procedures have been removed from the rule and are provided in the Technical Handbook implemented with the December 2013 interim final rule. The purpose of the Technical Handbook is to remove the detailed administrative instructions and allow for a responsive update to the handbook to mortgage industry changes. Details and guidance regarding seller concession limitations can be found in the Agency's Handbook. Should questions surrounding premium pricing and penalties for lender cures arise, the Technical Handbook will be updated to provide further guidance.

§ 3555.104 Loan Terms

Comment: As of January, 2013, Freddie Mac no longer publishes the Required Net Yield (RNY) information. Because it is not published, it is not feasible for lenders to be required to utilize this rate. The reference to this requirement should be removed.

RHS Response: RHS concurs with this respondent and has removed the language in the final rule that requires a comparison to the maximum interest rate of the loan to Freddie Mac's RNY. In addition, the final rule corrects the reference to the Web site containing information relevant to the calculation of maximum interest rate.

Comment: Respondent supports an extended repayment period of 40 years since credit unions may offer repayment terms of up to 40 years for residential mortgage loans.

RHS Response: RHS is unable to amend the final rule based upon this comment. The Housing Act of 1949 [42 U.S.C. 1472], as amended, limits the term of the guarantee to 30 years at section 502(h)(7)(A) of the Act.

§ 3555.105 Combination Construction and Permanent Loans

Comment: RHS should clarify language with additional detail surrounding contractor/builder method, the limitation of 25 units per year per builder and introductory language.

RHS Response: The Agency has amended the rule based upon this comment. The Agency will no longer limit the builder to 25 units per year without further approval by RHS. Instead the Agency will rely upon the lender and the technical guidelines set forth in the accompanying Technical Handbook implemented with the December 2013 interim final rule that provides the administrative instructions and detail of processing the combination construction and permanent loan feature and qualifying the builder for participation in the combination construction to permanent feature.

Comment: Respondent requests reference to ''annual guarantee fee'' be struck and replaced with ''annual fee'' at § 3555.105(d)(3).

RHS Response: The Agency agrees with the respondent and will amend the language at § 3555.105(d)(3) for language consistency to coincide with language in the final rule that implemented the annual fee published in the **Federal Register** (77 FR 40785) on July 11, 2012. The word ''guarantee'' will be removed from the section reference in the final rule.

§ 3555.107 Application for and Issuance of the Loan Guarantee

Comment: The Agency should amend the rule to allow a validity period for an appraisal of 180 days in lieu of 120 days. The respondent indicates the application process together with increased federal regulations surrounding mortgage loan processing is now lengthy and the appraisal could expire during the application process.

RHS Response: RHS has not amended the final rule based upon this comment. The validity period of the appraisal report coincides with that of other

Federal agencies, such as the US Department of Housing Urban and Development, along with Government Sponsored Enterprise (Fannie Mae and Freddie Mac) who require the age of the appraisal report to be no greater than four months old on the date of note. Additional technical guidance can be found in the Technical Handbook published and implemented with the December 2013 interim final rule.

§ 3555.108 Full Faith and Credit

Comment: The December 2013 interim final rule removed the clear distinction between the originating lender and servicing lender regarding indemnification. This may prevent servicing lenders from fully embracing the program limiting the benefits of servicing competition for the borrower and lenders.

RHS Response: RHS agrees to add the word ''originating'' to the sentence referencing the continued eligibility of the lender. The use of the word will further clarify the intent of indemnification when a lender fails to originate a loan in accordance with requirements. It will coincide with language in the final rule implementing indemnification for the SFHGLP that holds originating lenders accountable in the future should the Agency seek indemnification from the lender if a loss is paid under certain circumstances. The final rule implementing indemnification was published in the **Federal Register** (76 FR 31217) on May 31, 2011. The Technical Handbook accompanying the implementation of the December 2013 interim final rule expands upon the details surrounding the criteria outlined.

§ 3555.151 Eligibility Requirements

Comment: One commenter requests clarification at § 3555.151(e) on how the ''current home no longer adequately meets the applicant's needs'' when considering eligibility of a household for the SFHGLP, who owns a home and intends to retain it.

RHS Response: The Agency has not amended the final rule based upon this comment. The Technical Handbook, released with the implementation of the December 2013 interim final rule provides the administrative procedures and details surrounding the language in the December 2013 interim final rule. The Handbook expands upon further guidance and possible examples when a home no longer meets the needs of the applicant.

Comment: The respondent requests expanded language at § 3555.151(e)(4) to require documentation if the applicants are unable to secure conventional financing.

RHS Response: RHS has not amended the substance of this provision in response to this comment. The Technical Handbook, implemented with the December 2013 interim final rule, which provides the administrative procedures, expands upon the criteria to confirm the applicant's eligibility for the SFHGLP, including eligibility for conventional financing. The applicant must be ineligible for conventional financing, based upon the criteria outlined in the Handbook, for a lender to continue with the application under the SFHGLP.

Comment: Amend the language to include missing text at § 3555.151(h)(2) to clarify language of a sentence. The sentence pertaining to repayment ability should read ''The Handbook will define when a debt ratio waiver may be granted'' as opposed to ''The Handbook will define when a debt ratio may be granted.''

RHS Response: RHS agrees with this comment as recommended and will amend the final rule to correct an editorial omission of text in the December 2013 interim final rule.

Comment: Amend language at § 3555.151(i)(2) to clarify text to indicate ''a loan's acceptance''.

RHS Response: RHS agrees with this editorial comment and will amend the text of the final rule to clarify the sentence.

Comment: The commenter proposes to amend the final rule at § 3555.151(i)(3)(ii) by allowing applicant(s) who are presently in a Chapter 13 bankruptcy plan to qualify if the applicant has been in the plan for at least 12 months and payments under the plan have been paid as agreed.

RHS Response: The Agency agrees with this comment. The mortgage industry and other like Federal Agencies offering insurance and guarantees allow the applicant to be in an active bankruptcy repayment plan, provided 12 months of the pay-out period under the bankruptcy has elapsed and the applicant's payment performance has been satisfactory with all required payments made on time, and written permission from the bankruptcy court to enter into the mortgage transaction is obtained. For those lenders who utilize the Agency's automated underwriting system, if the Chapter 13 bankruptcy has not been discharged for a minimum period of two years, the underwriting recommendation will generate a Refer underwriting recommendation requiring manual underwriting.

Comment: A concern was expressed that the language requiring credit counseling may be difficult to implement based on available financing for these programs. The commenter requests RHS to publish a list of counseling programs readily available to all applicants and lenders. Moreover, the commenter requests RHS to require Agency personnel when conditioning for credit counseling in response to a lender's request for Conditional Commitment confirm what credit counseling programs are available in the geographic area of the applicant.

RHS Response: The language in the December 2013 interim final rule is consistent with the language and process found at 7 CFR part 1980, subpart D, § 1980.309(d)(4), which expired upon implementation of the December 2013 interim final rule. Credit counseling remains a supported educational opportunity, carried out by the lender. The Section 502 direct lending program, administered under 7 CFR part 3550, at § 3550.11 requires the State Director to assess the availability of certified homeownership education providers in their respective states. A list of providers, including the reasonable costs, if any, to the participant is maintained by each state as a requirement to the referenced rule which is offered by RHS separate to the SFHGLP in each state. A list is available on each state Web site and can be accessed at: *http://www.rd.usda.gov/*. Therefore no change will be implemented to this final rule as a result of this comment.

§ 3555.152 Calculation of Income and Assets

Comment: Require applicant's to be employed, maintain employment and work towards paying off the loan.

RHS Response: RHS supports individual loan performance in order to fulfill its statutory obligation to the SFHGLP. The Agency has not changed the substance of the language as a result of this comment.

Comment: Section 3555.152(b)(2) requires lenders to obtain and verify household income for all household members in order to determine the income eligibility of the household for the SFHGLP. Verification of income for the past 24 months is a regulatory change over the previous rule governing the SFHGLP (7 CFR part 1980, subpart D, which expired with implementation of the December 2013 interim final rule) and is excessive and provides no additional benefit to the applicant or RHS.

RHS Response: Household income eligibility is a critical component of

every application. Requiring lenders to verify and validate the income of all household members for the previous 2 years assures the public that only truly eligible households are provided assistance under the SFHGLP. Additionally this provision is consistent with language provided in RHS Section 502 direct lending program, found at 7 CFR part 3550 and was a recommendation by the Office of Inspector General (OIG) in an audit (Audit Report 04703–02–Ch dated September 2011) of the SFHGLP. RHS has not amended the final rule based upon this comment.

§ 3555.202 Dwelling Requirements

Comment: Objection to removal of minimal thermal efficiency requirements for existing homes. The commenter was concerned language countered the Government's energy reduction and energy independence goals.

RHS Response: As noted in the preamble of the December 2013 interim final rule, thermal standards for existing homes was removed from the rule as published in the **Federal Register** (72 FR 70220) on December 11, 2007. The Agency will make no change to the present language in the final rule as a result of this comment. Energy efficient homes for both new and existing construction are encouraged as provided under § 3555.209 under the Rural Energy Plus loans.

Comment: One comment was received in regards to the amount of funds required to cover an interior or exterior escrow holdback. Under the rule that expired (7 CFR part 1980, subpart D) with implementation of the December 2013 interim final rule, the commenter felt the language should require escrow accounts for exterior development be funded at 150 percent of the cost of completion. The commenter requests the language in the final rule at § 3555.202(c) be amended to require their interpretation of the language found at the now expired 7 CFR part 1980, subpart D. The commenter cited risks of fund shortages, cost overruns and a builder's failure to complete improvements as their premise for modifying the language.

RHS Response: While the Agency appreciates the comment on this issue, the final rule regarding funding the escrow for future development is consistent with the practice found at the now expired 7 CFR part 1980, subpart D. Under the former rule and the December 2013 interim final rule, lenders are required to fund an escrow account in an amount sufficient to assure the completion of the remaining work. The language further encourages that amount to be 150 percent of the cost of completion, but may be higher if the lender determines a higher amount is needed. The final rule continues to encourage the lender to fund the escrow at a higher amount, if needed, but at a minimum requires the figure to be at least 100 percent of the cost of completion. Lenders may make an internal business decision to fund an escrow account at a higher amount. As a result of this comment, RHS will make no change to the language in the final rule.

§ 3555.205 Special Requirements for Condominiums

Comment: Clarity is requested in the language surrounding what requirements should be followed and when a condominium unit becomes ineligible for lending.

RHS Response: RHS has not amended the substance of this provision in response to this comment. The Technical Handbook implemented with the December 2013 interim final rule, provides the administrative procedures and expands upon the detailed criteria to confirm requirements for lending on condominium units.

§ 3555.251 Servicing Responsibility

Comment: One respondent requested more detail in § 3555.251(c) surrounding the process of notification, the lender's rights and opportunities to cure deficiencies when it is determined by the Agency that an approved lender has failed to provide acceptable servicing.

RHS Response. The language in this final rule remains unchanged by RHS. The Technical Handbook implemented with the December 2013 interim final rule provides the details surrounding the expectations of loan servicing and monitoring responsibilities of lenders. When a lender has uncorrected performance problems, the Handbook outlines the actions the Agency will take regarding notification and appeal rights surrounding a termination.

§ 3555.252 Required Servicing Actions

Comment: One comment was received requesting § 3555.252(c)(2) of the final rule be amended to remove language requiring the borrower to notify the lender when damage occurs to the property.

RHS Response: RHS has not amended the rule based on this comment. The Agency believes that the regulatory language is clear and consistent with standard industry practice requiring borrowers to notify the lender when damage is sustained to a property and hazard insurance proceeds will be disbursed. The Agency will issue additional guidance regarding insurance should it determine such clarification is necessary. Policy encompassing a lender's responsibility to processing of hazard insurance proceeds as a result of damage to the security is detailed in the accompanying Technical Handbook implemented with the December 2013 interim final rule.

Comment: The language at § 3555.252(d) should be revised to include exceptions to reporting to credit bureaus when loans are in Presidentially declared disaster areas and loans involving the Service members Civil Relief Act.

RHS Response: RHS has not amended the rule based upon this comment. The provisions of the December 2013 interim final rule emphasize a lender's existing and continued responsibility to reporting defaulted mortgages to credit bureaus. Loans involving Service members Civil Relief Act will be subject to the provisions of the Act. Loans located in presidentially declared disaster areas may require special guidance. RHS will issue additional guidance should it determine clarification is necessary. The language as written pertains to the general servicing reporting requirements applicable to most SFHGLP loans.

§ 3555.254 Final Payments

Comment: One commenter requested RHS provide additional clarification regarding the release of security instruments. Presently the language at § 3555.254 indicates lenders may release security instruments only after full payment of all amounts have been received. The commenter indicated if a lender's decision is to not file a loss claim, the final decision to release security documents should lie with the lender.

RHS Response: The intent of the language is to ensure and enforce that lenders cannot release security documents until a satisfaction of the debt in full has occurred. In response to this comment, RHS has amended the rule to add clarification.

§ 3555.256 Transfer and Assumptions

Comment: The words ''continue with guarantee'' are confusing at § 3555.256(d)(2)(ii). The commenter requests clarity.

RHS Response: RHS has not amended the rule based on this comment. The Agency believes that the regulatory language is clear in that RHS will continue with the guarantee, as opposed to voiding the guarantee in situations meeting the criteria of the section. RHS

will issue additional guidance regarding a transfer that does not trigger the due-on-sale clause should it determine such clarification is necessary.

Comment: A respondent indicated § 3555.256(d)(2)(iii) should be clarified to confirm a concurrent loan assumption and modification could occur if a transferee meeting the criteria assumes the guaranteed loan when the loan is past due. The commenter found the language ''re-amortized'' in the section confusing since it is not listed under § 3555.10 *Definition and abbreviations of the rule.*

RHS Response: RHS has not amended the rule based on this comment. When a transferee meets the criteria set forth in the section referenced, the regulatory language allows the transferee to assume on the rates and terms of the original promissory note and in the case of a delinquent account, allows the transferee ''at the time the assumption agreement is executed'' to bring the loan current through reamortization. RHS believes the language ''at the time the assumption agreement is executed'' is clear and concise that the two actions would be concurrent. Regarding the definition of reamortization, the Technical Handbook, accompanying the release of the December 2013 interim final rule provides an extensive list of terminology and definitions, including reamortization, while the rule addresses substantive definitions. Reamortization is a common mortgage industry term referring to modifying the loan.

Comment: The commenter requests clarification of § 3555.256(d)(3) and restrictions imposed for transfer of title triggering the due-on-sale clause.

RHS Response: RHS released a Technical Handbook with implementation of the December 2013 interim final rule, which provides the details and restrictions imposed for transfer of title triggering the due-on-sale clause. As a result of this comment, RHS has not modified the final rule.

§ 3555.257 Unauthorized Assistance

Comment: In reference to § 3555.277(b), a commenter questioned the lender's ability to prove the applicant's eligibility should the lender be challenged on inaccurate information in response to unauthorized assistance. Specifically in question was if the lender utilized RHS's automated underwriting system when submitting the loan to the Agency, how the lender would prove the applicant was eligible if the Agency's automated underwriting system rendered an acceptable recommendation.

RHS Response: Lenders are required to retain a permanent record of the applicant's request. The final underwriting recommendation obtained from the Agency's automated underwriting system becomes part of the lender's permanent record. Data reflected in the automated system must reflect and support information in the permanent file record retained by the lender. The records should support the lender's ability to prove the applicant's eligibility. Further, the Agency's automated underwriting system is a tool utilized to streamline the decision of the lender, but does not replace the lender's final determination to qualify the household for the SFHGLP or the loan request. No change to the final rule as a result of this comment has been made.

§ 3555.301 General Servicing Techniques

Comment: One comment was received in regards to language used surrounding past due accounts found at § 3555.301(e). Verbiage in the December 2013 interim final rule references months past due while the Consumer Financial Protection Bureau (CFPB) (12 CFR part 1026) measures payments past due in days. It was suggested the Agency align our language with CFPB.

RHS Response: RHS will amend the rule in Sections referencing months, as applicable, for continuity with CFPB when referencing the measurement of delinquent past due amounts. The Agency publishes, as a tool for lenders, a Loss Mitigation Guide. The Agency's Loss Mitigation Guide published at *https://usdalinc.sc.egov.usda.gov/USDALincTrainingResourceLib.do* currently provides for measurement in ''months/days'' format in response to CFPB language.

§ 3555.302 Protective Advances

Comment: One commenter requested clarification of protective advances for costs other than taxes and insurance. They questioned if this section pertained to advances incurred prior to a foreclosure sale, or those that occur once a foreclosure sale occurs.

RHS Response: RHS has not revised the substance of this provision in response to the comment. The Agency believes the language flow of the rule provides for a waterfall of loss mitigation workout alternatives from general servicing at § 3555.302, followed by traditional servicing (§ 3555.303), then by special loan servicing (§ 3555.304) prior to voluntary or involuntary liquidation (§§ 3555.305 and 3555.306). The language in these sections provides the guidance, expectations and flow of order for servicing non-performing loans. With consideration for the comment, this final rule makes one minor change to the wording of this provision by referring to the protective advance expense as advances prior to liquidation, for clarification.

§ 3555.303 Traditional Servicing Options

Comment: Several comments were received in regard to traditional servicing options. The majority of comments requested clarification on details surrounding servicing options, such as if the agreement needs to be in writing, the maximum interest rate for modifications, fees and costs included in a loan modification, and eligibility for trial payments.

RHS Response: RHS published a Technical Handbook which accompanied the implementation of the December 2013 interim final rule. The Handbook provides the information which responds to the commenters request for detailed information for offering servicing options to homeowners. In response to comments, RHS has added clarification at § 3555.303(b)(3) to confirm that the loan modification must be a written agreement, the interest rate must be fixed, the rate of interest cannot exceed the original rate of the loan note guarantee issued and trial payments for traditional loan modifications are not required.

Comment: One comment received urged the Agency to adopt, as a servicing option, a moratorium of payments, similar to that offered in the Section 502 SFH Direct lending program offered by the Agency under 7 CFR part 3550.

RHS Response: Traditional and special loan servicing options provide for various forbearance agreements, which in part could temporarily suspend or reduce payments. The Agency believes the forbearance agreement option (see § 3555.10 definition of forbearance agreement) does provide for a moratorium (suspension) of payments temporarily, if warranted, based upon the circumstances of the loan serviced. The Technical Handbook accompanying the publication of the December 2013 interim final rule provides additional details and loss mitigation workout alternatives. RHS has not amended the rule based upon this comment.

Comment: RHS should extend the guarantee at § 3555.303(b)(3)(iii) to cover the full term of a loan modification as opposed to limiting the modification to the original term as referenced in the December 2013 interim final rule. The commenter feels

it will expand a lender's ability to assist a homeowner become successful.

RHS Response: RHS agrees with the comment. To that end, the Agency has amended the final rule based on this comment to extend the guarantee to the loan term of the loan modification, provided the loan modification meets the eligibility criteria set forth in § 3555.303(b)(3).

§ 3555.304 Special Servicing Options

Comment: A comment was received regarding the required pre-modification trial payment period found at § 3555.304(b)(2). The commenter indicated that trial payment periods pre-modification decrease the flexibility to assist borrowers and could lead to greater losses for the Agency.

RHS Response: RHS disagrees with this comment in regards to trial payments required at § 3555.304(b)(2). In the waterfall of loss mitigation options, once the lender has determined the use of traditional loan servicing options will not cure the borrower default, the use of special loan servicing options are considered. The objective of special loan servicing options is to offer struggling homeowners who are at risk of foreclosure reduced monthly mortgage payments that are affordable and sustainable over the long-term. Trial payment periods allow a borrower to demonstrate recovery from the financial problem by making 3 or 4 payments at the modified amount, after which the delinquent amount is capitalized into the modified loan. A trial period will help ensure the borrower can meet the modified terms and verify the proposed servicing plan will succeed in helping the borrower afford their home. If they are unable to demonstrate their ability to make their modified mortgage payment before being placed into a permanent modification, the lender can assist with a more suitable alternative to foreclosure that meets the borrower's needs. Many loan servicers' guidelines, other than RHS, require a trial period. Trial payments are a mortgage industry standard. Additionally, this provision is included to minimize loss to the government. RHS has not amended the final rule based upon this comment.

Comment: Comments were received regarding the determination of the interest rate. Lenders requested reconsideration to the requirement to reduce an interest rate on an extended-term loan modification at § 3555.304(c). Historically rates have been low. Lenders viewed this requirement as an impediment to assisting borrowers who were delinquent or in imminent default. Additionally lenders questioned if the interest rate, at execution of the modification agreement, was required to meet the maximum allowable interest rate at noted at § 3555.304(c)(2).

RHS Response: Maximum interest rates cannot exceed the published rate as noted in § 3555.304(c)(2) if lowering the interest rate; or the interest rate of the loan guarantee issued. Reducing the rate is not a required condition to an extended-term loan modification in § 3555.305(c). RHS will amend the final rule to correct language at § 3555.304(c)(2) which references the maximum interest rate is tied to the date the loan modification is executed. Language will be corrected to indicate the maximum interest rate will be tied to when the loan modification is approved.

RHS Comment: Multiple comments were received regarding the waterfall of loss mitigation options that must be considered prior to utilizing a mortgage recovery advance in § 3555.304(c). Concern was expressed that lenders would be forced to utilize an extended-term loan modification with a 40 year term. When the loan is in a Ginnie Mae pool the lender must repurchase it to complete a loan modification. Requiring a 40 year term together with not extending the guarantee beyond the original maturity date subjects the lender to vulnerability that Ginnie Mae may not repurchase the loan after the modification occurs and that lenders may incur greater future losses if liquidated.

RHS Response: Pursuant to § 3555.304(c)(4), if the targeted mortgage payment to income ratio cannot be achieved using an extended-term loan modification, then the lender may consider a mortgage recovery advance. Before considering a mortgage recovery advance, the lender must extend the repayment term for 30 years from the date of loan modification. The lender may extend the repayment term for 40 years from the date of loan modification, but the lender is not required to do so before utilizing a mortgage recovery advance. This language affords the lenders the flexibility to adhere to specific investor loan modification term extension requirements while encouraging lenders to achieve the targeted mortgage payment to income ratio using the servicing option(s) that will be least expensive for the government. Use of the mortgage recovery advance is limited because the mortgage recovery advance will be most expensive for the government. By imposing restrictions, RHS will promote the reduction of mortgage foreclosures in a cost-effective manner. Language at this section is unchanged regarding extended-term loan modification from the final rule implementing special servicing options published August 26, 2010 (75 FR 52429) which became effective September 24, 2010. RHS has amended § 3555.305(c)(1) and (c) for clarity in response to comments.

Comment: One comment was received regarding the mortgage recovery advance special servicing option at § 3555.304(d). The commenter felt if the agency reimburses the lender for eligible advances, additional full financial risk and responsibility on the agency potentially will increase the cost to the overall SFHGLP.

RHS Response: Lenders will advance, after obtaining Agency approval, for any Mortgage Recovery Advance that meets the criteria set forth in the December 2013 interim final rule and supplemented by a Technical Handbook. Pursuant to § 3555.304(d)(7) and with language of the published final rule (75 FR 52429 published August 26, 2010) in connection with the introduction of special loan servicing options, the lender may file a request for partial loss claim to obtain reimbursement of the eligible funds advanced. The claim for reimbursement will be processed by the Agency in advance of any final loss claim reimbursement (occurring after liquidation)—provided the lender has secured adequate security and the borrower is eligible for the advance. A future loss claim filed by a lender after liquidation will be adjusted by any amount of mortgage recovery advance reimbursed to the lender by the Agency. Borrowers are not required to make any monthly or periodic payments on the Mortgage Recovery Advance as outlined in § 3555.304(d)(6)(ii). The mortgage recovery advance is due and payable pursuant to § 3555.304(d)(6)(iii). The Agency has made no change to their collection procedures presently exercised on loss payments paid that do not involve a mortgage recovery advance. In accordance with § 3555.304(d)(6)(v), RHS may pursue collection of the Federal debt from the borrower by any available means if the mortgage recovery advance is not repaid based on the terms in the promissory note and mortgage or deed-of-trust. This same approach is performed on loss payments that do not involve a mortgage recovery advance. Therefore, additional financial risk and responsibility to the Agency has not increased with publication of this rule. RHS has not amended the final rule based on this comment.

Comment: A comment was received questioning the maximum Mortgage Recovery Advance (MRA) at § 3555.304(d). The respondent

questioned how the advance will be determined and if the MRA maximum is not advanced on an initial MRA, can the balance of the maximum calculation of MRA be applied to another future MRA.

RHS Response: RHS released a Technical Handbook and Loss Mitigation Guide with implementation of the December 2013 interim final rule. The handbook and guide outlines the details surrounding the eligibility and calculation of a maximum recovery advance. To be eligible, the lender must consider an extended-term loan modification of at least 30 years and set the interest rate not to exceed the maximum allowable rate as further outlined in § 3555.304(c)(1) and (2). If the targeted mortgage payment to income cannot be achieved using an extended-term loan modification, the lender may consider a mortgage recovery advance. The maximum mortgage recovery advance (up to 30 percent of the unpaid principal balance as of the date of default) consists of the sum of arrearages not to exceed 12 months of principal, interest, taxes and insurance (PITI); legal fees and foreclosure costs related to a cancelled foreclosure action; and principal reduction as outlined in § 3555.304(d)(1) and (2). The principal deferment on the modified mortgage is determined by multiplying the unpaid principal balance by 30 percent and then reducing that amount by arrearages advanced to cure the default and any foreclosure costs incurred to that point. The principal deferment amount for a specific case shall be limited to the amount that will bring the borrower's total monthly mortgage payment to 31 percent of gross monthly income. In response to the comment, the following is an example of the calculation of a maximum Mortgage Recovery Advance when utilizing the Special Loan Servicing:

Example. Unpaid Principal Balance = $150,000

- Current Monthly Payment (PITI) = $1,220 (Principal and Interest = $920 + Taxes and Insurance = $300)
- Current Other Recurring Debt = $800
- Monthly Gross Income = $3,500
- Number of Payments Past Due = 3
- Total Arrearage = $3,660
- Maximum Mortgage Recovery Advance = $150,000 × 30% = $45,000
- Maximum Monthly Mortgage Payment = $3,500 × 31% = $1,085 (Front Ratio)
- Maximum Total Monthly Debt = $3,500 × 55% = $1,925 (Back Ratio)

Special loan servicing is permitted one time over the life of the loan. RHS has not amended the final rule in response to this comment.

Comment: One commenter felt the language in the December 2013 interim final rule changed the definition of the maximum mortgage recovery advance at § 3555.304(d).

RHS Response: The December 2013 interim final rule language at § 3555.304(d) incorporated the published final rule introducing the special loan servicing options available to lenders (75 FR 52429 published August 26, 2010). Details on eligibility, processing, approval, documentation requirements, and reimbursement to the lender can be found in the Technical Handbook and Loss Mitigation Guide implemented with the December 2013 interim final rule. RHS has not amended the final rule in response to this comment.

Comment: Clarification was requested on § 3555.304(d)(iv) on collecting the Mortgage Recovery Advance from the borrower. Concern was expressed if the lender was responsible for paying off the borrower's MRA once a borrower voluntarily or involuntarily transfers title to the property.

RHS Response: Pursuant to § 3555.304(d)(6) the lender must have the borrower execute a promissory note payable to RHS and a mortgage or deed-of-trust in recordable form perfecting a lien naming RHS as the security party for the amount of the mortgage recovery advance. The lender will record the mortgage or deed-of-trust in the appropriate local real estate records and provide the original promissory note to RHS. The Mortgage Recovery Advance will be interest free. Borrowers are not required to make any monthly or periodic payment; however, the borrower may voluntarily submit partial payment without incurring any prepayment penalty. The payment of the Mortgage Recovery Advance is not due until the earliest of (i) the maturity of the modified mortgage; (ii) the borrower transfers title to the property (by sale or by other voluntary or involuntary means), or (iii) a payoff of the mortgage. Pursuant to § 3555(d)(8) any RHS reimbursement issued for the Mortgage Recovery Advance to the lender on behalf of the borrower will be credited toward the maximum loan guarantee amount payable by the Agency under the guarantee. This credit or reduction in the ultimate loss claim payment is necessary since the Mortgage Recovery Advance is a partial claim under the guarantee. The lender is not expected to collect on the Mortgage Recovery Advance. RHS has not changed the final rule in response to this comment as § 3555.304(d) provides the provisions a lender must follow and additional administrative details are available through the Technical Handbook and Loss Mitigation Guide implemented with the December 2013 interim final rule.

§ 3555.305 Voluntary Liquidation

Comment: To be eligible for a voluntary liquidation option, § 3555.305(a)(3) indicates the borrower must presently occupy the property, unless non-occupancy is related to the same involuntary reason leading to the default. One comment was received asking for further relief and flexibility should the borrower act in good faith in vacating the premises to facilitate a pre-foreclosure sale or due to a financial hardship.

RHS Response: RHS has not amended the rule based upon this comment. Further guidance and detail is provided in the Technical Handbook accompanying the implementation of the December 2013 interim final rule. To be eligible to participate in a voluntary liquidation, the borrower must occupy the property as their primary residence. A non-occupant borrower who seeks a voluntary liquidation option may be eligible should the lender verify that the need to vacate is related to the cause of the default, such as job loss (financial hardship), a mandatory employment transfer, divorce or death, for example. RHS feels the flexibility provided to allow non-occupant borrower eligibility for voluntary liquidation is a lenient standard and any further flexibility is not acceptable from a risk management perspective.

§ 3555.306 Liquidation

Comment: One commenter requested that the lender should be able to assign the loan to the government when the default occurs and prior to liquidation in accordance with the Housing Act of 1949.

RHS Response: The Housing Act of 1949, as amended, at section 502(h)(15) provides the option to the program to allow a lender to transfer a loan in default to the government prior to liquidation. RHS has not exercised this option. RHS has selected a more cost effective strategy by requiring lenders to liquidate and sell an acquired property, while RHS exercises oversight and verifies proper use of government funds. Should RHS exercise the language available in the Housing Act in the future, language will be published. RHS has not amended the final rule in response to this comment.

Comment: A respondent expressed concern regarding the requirement that in addition to a borrower paying all past-due amounts, advances and any

foreclosure costs when reinstating an account in liquidation a borrower must have the ability to continue making the scheduled payments on the loan pursuant to language found at § 3555.306(c)(2). Clarification was requested on what actions by the lender are necessary to perform or comply with ensuring the borrower has the ability to continue making the scheduled payments on the loan if the loan is paid current and all fees are paid.

RHS Response: RHS has considered the language and action questioned. RHS has omitted reference to the borrower's ability to continue making scheduled payments when the loan is paid current and all fees are paid as noted in § 3555.306(c).

Comment: One respondent indicated § 3555.306(d)(3) seems to mandate creditors to force a debtor to reaffirm a debt. The respondent indicated most jurisdictions allow a ''retain and pay'' option, so that the debtor continues to pay the mortgage but is discharged of the personal liability by virtue of the Chapter 7 discharge. The respondent requested clarification on the language in the section in question.

RHS Response: Language in the § 3555.306(d)(3) provides the flexibility the respondent is seeking by instructing the lender to seek a reaffirmation under the criteria noted, whenever possible. RHS has not amended the final rule in response to this comment.

Comment: Concern was expressed by a respondent in reference to language found at § 3555.306(f)(3) of the December 2013 interim final rule. The respondent felt the language limited the lender in the sale of property once the marketing period for an acquired property expired. The language indicates it is the Agency's responsibility to obtain a liquidation value appraisal. Often times the lender's receipt of that appraisal is delayed. The respondent is seeking assurance the lender can continue to sell the property while waiting for the Agency to respond with the determined liquidation value. Additionally the respondent expressed concern on the balance of language at § 3555.306(f)(3) which limited accrued interest paid a loss claim to 90 days from the foreclosure sale or expiration of redemption period when calculating a loss claim request of the Agency.

RHS Response: Pursuant to § 3555.306(f)(3), to ensure the lender proactively seeks maximum recovery from the sale of the acquired property, RHS requires the lender to notify the Agency if the security property held for disposition remains unsold once the marketing period expires. The Agency orders a liquidation value appraisal in response to notification and provides the lender with the results of the report. With the value determined, a loss claim is calculated based upon a management sale factor, which estimates holding and resale costs. In response to the commenter who is seeking Agency approval to allow continued marketing while waiting for a liquidation value appraisal, once the marketing period has expired, and the lender has notified the Agency of the expiration, the loss claim will be calculated based upon a liquidation value appraisal pursuant to § 3555.354(b). Additionally, the referenced section caps accrued interest to the first 90 days of the marketing period. This requirement assures the program goals are met in a cost-effective manner and minimizes loss to the government. The Technical Handbook implemented with the December 2013 interim final rule provides an aggressive marketing and sales approach for lenders which when followed should result in a sale of acquired property within 90 days of foreclosure or redemption. As a result of guidance provided, RHS has not amended the final rule in response to this comment.

§ 3555.307 Assistance in Natural Disasters

Comment: Comments were received proposing slight phrase changes for clarification regarding special relief measures available when a natural disaster is designated found at § 3555.307(c).

RHS Response: The Agency has considered the request of commenters. While no substantive changes are made to the rule as written, the Agency has agreed to modify language slightly for clarification.

§ 3555.354 Loss Claim Procedures

Comment: One comment was received reporting the concern that RHS will no longer conduct an audit to determine why a loan failed and if there was reason to reduce or deny the loss claim.

RHS Response: Details surrounding processing loss claim requests and reduction or denial of a proposed claim can be found in the Technical Handbook accompanying the implementation of the December 2013 interim final rule. The Handbook indicates the Agency will review each loss claim for adherence to program regulation and make any reductions and/or denial of loss claim with information provided by the lender. RHS has not amended the final rule based upon this comment.

Comment: One comment was received requesting the Agency to implement a partial claim payment option as provided for in the Housing Act of 1949, as amended.

RHS Response: The December 2013 interim final rule at § 3555.304(d)(7) provides for reimbursement from the Agency to the lender for a Mortgage Recovery Advance. This claim process is a partial claim payment filed by a lender in response to a Mortgage Recovery Advance under special servicing options (§ 3555.304). The Housing Act of 1949, as amended, at section 502(h)(14) provides this authority. The lender must comply with requirements set forth in § 3555.304(d)(7) when requesting a partial claim. Any future loss claim filed by a lender is adjusted by any amount of Mortgage Recovery Advance reimbursed to the lender by the Agency. RHS has not amended the final rule based on this comment since language in the December 2013 interim final rule provided for a partial claim payment under the guarantee in response to the Mortgage Recovery Advance by the lender.

Comment: Several comments were received in response to penalties imposed as a result of untimely submission of a disposition plan at acquisition or loss claim report once a property held by the lender is sold. Commenters felt the possible penalties implied were unduly harsh.

RHS Response: RHS establishes delivery timelines for lenders to report; file claims or update records for essential documents in the servicing, loss mitigation, liquidation, acquisition and loss claim process. Time lines establish prompt response requiring lenders to comply with corresponding expectations. Time lines for regulatory compliance, for example—filing a claim, require actions by the lender and impose penalties associated with non-compliance with those timelines. Establishing expected timelines are a common method in the mortgage industry to insure a lender is responsibly attentive and focuses with reasonable due diligence in carrying out tasks associated with non-performing borrowers. Curtailment or penalties on claims when reasonable diligence and/or reporting requirements are not met are common in the mortgage industry as with other federal agencies such as HUD or VA who insure or guarantee a lender's loan. The December 2013 interim final rule at § 3555.354 outlines what may occur should a lender fail to act timely. It also provides for extenuating circumstances beyond the lenders control by utilizing the language ''may'' be imposed when referring to denying or reducing a claim. This language allows flexibility the

commenters are seeking based upon circumstances surrounding untimely filings. Additional detail regarding possible imposed penalties can be found in the Agency's Technical Handbook that accompanied the implementation of the December 2013 interim final rule. RHS has not amended the final rule in response to these comments.

§ 3555.355 Reducing or Denying the Claim

RHS Comment: A comment was submitted in response to language in the rule that allows the Agency to reduce or deny a claim when a lender failed to follow regulatory time frames in servicing and liquidating, including payment of real estate taxes or hazard insurance premiums when due. The commenter requested that the rule define that a direct correlation and casual connection between the lender's action or failure to act occurred which impaired the collateral and ultimately increased the loss.

RHS Response: In response to the comment, the RHS feels language at § 3555.355(a) is consistent with the commenter's request for flexibility in that it provides language indicating RHS may reduce or deny any loss claim by the portion of the loss determined was caused by the lender's action or failure to act. Additional detail surrounding time frames imposed and penalties for a lenders failure to act can be found in the Agency's Technical Handbook that was implemented with the December 2013 interim final rule. The final rule does not revise the Agency's approach to reducing or denying a claim for a lender's failure to comply with the conditions of the Loan Note Guarantee.

List of Subjects in 7 CFR Part 3555

Home improvement, Loan Programs—Housing and community development, Mortgage insurance, Mortgages, Rural areas.

For the reason stated in the preamble, chapter XVIII, part 3555, title 7 of the Code of Federal Regulations is amended 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 § 3555.5 by revising paragraphs (d)(5) through (7) to read as follows:

§ 3555.5 Environmental requirements.

* * * * *

(d) * * *

(5) The lender must comply with Federally mandated flood insurance purchase requirements. Existing dwellings in a SFHA are not eligible under the SFHGLP unless flood insurance through the FEMA National Flood Insurance Program (NFIP) is available for the community and flood insurance, whether NFIP, ''write your own,'' or private flood insurance, is purchased by the borrower. The lender will require the borrower to obtain, and maintain for the term of the mortgage, flood insurance for any property located in a SFHA, listing the lender as a loss payee. Purchase of existing structures within the federally regulated floodplain will not require consideration of alternatives to avoid adverse effects and incompatible development in floodplains;

(6) The borrower must obtain, and continuously maintain for the life of the mortgage, flood insurance on the security property in an amount sufficient to protect the property securing the guaranteed loan. Flood insurance policies must be issued under the NFIP, or by a licensed property and casualty insurance company authorized to participate in NFIP's ''Write Your Own'' program or private flood insurance policy, as approved by the lender. Lenders are required to accept private flood insurance policies, when purchased by a borrower, that meet the requirements of 42 U.S.C. 4012a (b)(1)(A). Lenders remain responsible to ensure a private flood insurance policy meets the requirements of 42 U.S.C. 4012a (b)(1)(A).

(7) Rural Development will not guarantee loans for new or proposed homes in an SFHA unless the lender obtains a final Letter of Map Amendment (LOMA) or a final Letter of Map Revision (LOMR) that removes the property from the SFHA, or performs an alternatives analysis in compliance with the Agencies National Environmental Policy Act regulation and obtains a FEMA elevation certificate that shows that the lowest floor (including basement) of the dwelling and all related building improvements are built at or above the 100-year flood plain elevation in compliance with the NFIP.

Subpart C—Loan Requirements

■ 3. Amend § 3555.101 by revising paragraphs (b)(6)(vi), (b)(6)(x), (b)(6)(xi), and (d)(3)(vi) to read as follows:

§ 3555.101 Loan purposes.

* * * * *

(b) * * *

(6) * * *

(vi) Reasonable and customary loan discount points to reduce the note interest rate from the rate authorized in § 3555.104(a).

* * * * *

(x) The amount of the loan up-front guarantee fee required by § 3555.107(g).

(xi) The cost of establishing a cushion in the mortgage escrow account for payment of the annual fee required by § 3555.107(h), not to exceed 2 months.

* * * * *

(d) * * *

(3) * * *

(vi) Two options for refinancing can be offered. Lenders may offer a streamlined refinance for existing Section 502 Guaranteed loans, which does not require a new appraisal. Streamlined financing may not be available for existing Section 502 Direct loans. The lender will pay off the principal balance of the existing Section 502 Guaranteed loan. The new loan amount cannot include any accrued interest, closing costs or lender fees. The refinance up-front guarantee fee as established by the Agency can be included in the loan to be refinanced to the extent financing does not exceed the original loan amount. Lenders may offer non-streamlined refinancing for existing Section 502 Guaranteed or Direct loans, which requires a new and current market value appraisal. The new loan may include the principal and interest of the existing Agency loan, reasonable closing costs and lenders fees to extent there is sufficient equity in the property as determined by an appraisal. The appraised value may be exceeded by the amount of up-front guarantee fee financed, if any, when using the non-streamlined option. Documentation, costs, and underwriting requirements of subparts D, E, and F of this part apply to refinances, unless otherwise provided by the Agency.

* * * * *

■ 4. Amend § 3555.103 by revising paragraph (a) to read as follows:

§ 3555.103 Maximum loan amount.

* * * * *

(a) *Market value.* The market value of the property as determined by an appraisal that meets Agency requirements plus the amount of the up-front loan guarantee fee required by § 3555.107(g), or

* * * * *

■ 5. Amend § 3555.104 by revising paragraph (a)(3) to read as follows:

§ 3555.104 Loan terms.

(a) * * *

(3) Does not exceed the Fannie Mae rate for 30 year fixed rate conventional loans, as authorized in Exhibit B of subpart A of part 1810 of this Chapter (RD Instruction 440.1, available in any Rural Development office) or online at: *http://www.rd.usda.gov/publications/regulations-guidelines* and

* * * * *

■ 6. Amend § 3555.105 by:

■ a. Removing paragraph (b)(6)and redesignating paragraph (b)(7) as (b)(6); and

■ b. Revising paragraphs (c)(1) and (d)(3). The revisions read as follows:

§ 3555.105 Combination construction and permanent loans.

* * * * *

(c) * * *

(1) The loan is to finance the construction and purchase of a single family housing residence. Condominiums are ineligible for combination construction and permanent loans.

* * * * *

(d) * * *

(3) Annual fees will begin in the month immediately following loan closing and will not be affected by loan reamortization following the completion of construction. Lenders may fund a lender imposed escrow account for borrower payments of the annual fee in accordance with § 3555.101(b)(6)(xi), as an eligible loan purpose, provided the market value of the property is not exceeded.

* * * * *

■ 7. Amend § 3555.107 by revising paragraph (h) to read as follows:

§ 3555.107 Application for and issuance of the loan guarantee.

* * * * *

(h) *Annual fee.* The Agency may impose an annual fee of the lender not to exceed 0.5 percent of the average annual scheduled unpaid principal balance of the loan for the life of the loan to allow the Agency to reduce the up-front guarantee in § 3555.107(g). The annual fee will be applicable to purchase and refinance loan transactions. The annual fee may be passed on to the borrower by the lender. The Agency may assess a late charge to the lender if the annual fee is not paid by the due date, and the late charge may not be passed on to the borrower. Further administrative guidance is provided in the handbook.

* * * * *

■ 8. Amend § 3555.108 by revising paragraph (d) introductory text to read as follows:

§ 3555.108 Full faith and credit.

* * * * *

(d) *Indemnification.* If the Agency determines that a lender did not originate a loan in accordance with the requirements in this part and the Agency pays a claim under the loan guarantee, the Agency may revoke the originating lender's eligibility status in accordance with subpart B and may also require the lender:

* * * * *

Subpart D—Underwriting the Applicant

■ 2. Amend § 3555.151 by revising paragraphs (h)(2) introductory text, (i)(2), and (i)(3)(ii) to read as follows:

§ 3555.151 Eligibility requirements.

* * * * *

(h) * * *

(2) The repayment ratio may exceed the percentage specified in paragraph (h)(1) of this section if certain compensating factors exist. The handbook will define when a debt ratio waiver may be granted. The automated underwriting system will take into account any compensating factors in determining whether the variance is appropriate. For manually underwritten loans, the lender must document compensating factors demonstrating that the household has higher repayment ability based on its capacity, willingness and ability to pay mortgage payments in a timely manner. The presence of compensating factors does not strengthen a ratio exception when multiple layers of risk, such as a marginal credit history, are present in the application. Acceptable compensating factors and supporting documentation for a proposed debt ratio waiver will be further defined and clarified in the handbook. Compensating factors include, but are not limited to:

* * * * *

(i) * * *

(2) A loan's acceptance by an Agency approved automated underwriting system eliminates the need for the lender to submit documentation of the credit qualification decision as loan approval requirements will be incorporated in the automated system.

(3) * * *

(ii) A bankruptcy in which debts were discharged within 36 months prior to the date of application by the applicant. A lender may give favorable consideration to applicants who have entered into a bankruptcy debt restructuring plan who have completed 12 months of consecutive payments. The payment performance must have been satisfactory with all required payments made on time, and the Trustee or the Bankruptcy Judge must approve of the new credit.

* * * * *

Subpart E—Underwriting the Property

■ 3. Amend § 3555.208 by revising paragraph (a)(2) to read as follows:

§ 3555.208 Special requirements for manufactured homes.

* * * * *

(a) * * *

(2) Site development work properly completed to HUD, state and local government standards, as well as the manufacturer's requirements for installation on a permanent foundation.

* * * * *

Subpart F—Servicing Performing Loans

■ 4. Revise § 3555.254 to read as follows:

§ 3555.254 Final payments.

Lenders may release security instruments only after payment for the satisfaction of the full debt, including any recapture, has been received and verified.

■ 5. Amend § 3555.256 by revising paragraph (b)(2)(vi) to read as follows:

§ 3555.256 Transfer and assumptions.

* * * * *

(b) * * *

(2) * * *

(vi) A new guarantee fee, calculated based on the remaining principal balance, must be paid to Rural Development in accordance with § 3555.107(g).

* * * * *

Subpart G—Servicing Non-Performing Loans

■ 6. Amend § 3555.301 by revising paragraphs (e) and (f) to read as follows:

§ 3555.301 General servicing techniques

* * * * *

(e) *Communication.* Before an account becomes 60 days past due and if there is no payment arrangement in place, the lender must send a certified letter to the borrower requesting an interview for the purpose of resolving the past due account.

(f) *Prior to liquidation.* Before an account becomes 60 days past due or before initiating liquidation, the lender must assess the physical condition of the property, determine whether it is occupied, and take necessary steps to protect the property.

* * * * *

■ 7. In § 3555.302, revise the introductory text to read as follows:

§ 3555.302 Protective advances.

Lenders may pay the following pre-liquidation expenses necessary to protect the security property and charge the cost against the borrower's account.

* * * * *

■ 8. Amend § 3555.303 by:
■ a. Revising paragraphs (b)(3) introductory text and (b)(3)((i) and (iii);
■ b. Adding paragraph (b)(3)(v); and
■ c. Revising paragraph (c).

The revisions and addition read as follows:

§ 3555.303 Traditional servicing options.

* * * * *

(b) * * *

(3) *Loan modification plan.* A loan modification is a permanent change in one or more of the terms of a loan that results in a payment the borrower can afford and allows the loan to be brought current. A loan modification must be a written agreement.

* * * * *

(i) Loan modifications must be a fixed interest rate and cannot exceed the interest rate of the loan note guarantee issued.

* * * * *

(iii) If necessary to demonstrate repayment ability, the loan term after reamortization may be extended for up to 30 years from the date of the loan modification.

* * * * *

(v) The borrower is not required to complete a trial payment plan prior to making the scheduled payments amended by the traditional loan servicing loan modification.

(c) *Terms of loan note guarantee.* Use of traditional servicing options does not change the terms of the loan note guarantee except when the traditional servicing option meets the requirements of § 3555.303(b)(3)(iv). The loan guarantee will apply to loan terms extending beyond the 30 year loan term from the date of origination when a loan modification meets the criteria set forth in § 3555.303(b)(3)(iv).

■ 8. Amend § 3555.304 by revising paragraphs (c) introductory text and (c)(1) and (2) to read as follows:

§ 3555.304 Special servicing options.

* * * * *

(c) *Extended-term loan modification.* The Lender may modify the loan by reducing the interest rate to a level at or below the maximum allowable interest rate and extending the repayment term up to a maximum of 40 years from the date of loan modification. The loan guarantee will apply to loan terms extending beyond the 30 year loan term from the date of origination when a loan modification meets the criteria set forth in this section.

(1) The interest rate must be fixed. The interest rate cannot exceed the interest rate of the loan note guarantee issued. When reducing the interest rate, the maximum rate is subject to paragraph (c)(2) of this section.

(2) The Agency may establish the maximum allowable interest rate by publishing a notice of a change in interest rate. A notice of change in interest rate will be published as authorized in Exhibit B of subpart A of part 1810 of this chapter (RD Instruction 440.1, available in any Rural Development office) or online at *http://www.rd.usda.gov/publications/regulations-guidelines/instructions.* If the maximum allowable interest rate has not been so established, it shall be 50 basis points greater than the most recent Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) rate for 30-year fixed-rate mortgages (U.S. average) rounded to the nearest one-eighth of one percent (0.125%), as of the date the loan modification is approved.

* * * * *

■ 9. Amend § 3555.306 by revising paragraphs (c) and (f)(1) to read as follows:

§ 3555.306 Liquidation.

* * * * *

(c) Unless State law imposes other requirements, the lender may reinstate an accelerated account if the borrower pays, or makes acceptable arrangements to pay, all past-due amounts, any protective advances, and any foreclosure-related costs incurred by the lender.

* * * * *

(f) * * *

(1) The lender must prepare and maintain a disposition plan on all acquired properties. The lender will submit the property disposition plan and any subsequent changes for Agency concurrence in a timely manner as specified by the Agency. The lender may obtain a waiver of the concurrence requirement as provided for in § 3555.301(h). The plan will include the proposed method for sale of the property, the estimated value based on an appraisal, minimum sale price, itemized estimated costs of the sale, and any other information that could impact the amount of loss on the loan.

* * * * *

■ 10. Amend § 3555.307 by revising paragraph (c) to read as follows:

§ 3555.307 Assistance in natural disasters.

* * * * *

(c) *Special relief measures.* The servicer must evaluate on an individual case-by-case basis a mortgage that is (or becomes) seriously delinquent as the result of the borrower's incurring extraordinary damages or expenses related to the natural disaster. The servicer should document its individual mortgage file regarding all servicing actions taken during this time period. The lender must consider all special relief alternatives for disaster assistance available to the borrower prior to suspending collection and foreclosure activities. The suspension of servicing actions will expire 90 days from the declaration date of the natural disaster, unless otherwise extended by the Agency.

* * * * *

Dated: January 4, 2016.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2016–01872 Filed 2–5–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 212

[USCBP–2016–0003; CBP Dec. 16–03]

RIN 1651–AB09

Elimination of Nonimmigrant Visa Exemption for Certain Caribbean Residents Coming to the United States as H–2A Agricultural Workers

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Interim final rule; solicitation of comments.

SUMMARY: This interim final rule revises Department of Homeland Security regulations to eliminate the nonimmigrant visa exemption for certain Caribbean residents seeking to come to the United States as H–2A agricultural workers and the spouses or children who accompany or follow these workers to the United States. As a result, these nonimmigrants will be required to have both a valid passport and visa. The Department of State is revising its parallel regulations.

DATES: *Effective Date:* The effective date of the rule is February 19, 2016.

Comment Date: Comments must be received by April 8, 2016.

ADDRESSES: Please submit comments, identified by docket number, by one of the following methods: