

Proposed Rules

Federal Register

Vol. 84, No. 170

Tuesday, September 3, 2019

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3565

[Docket No. RHS-19-MFH-0017]

RIN 0575-AD15

Guaranteed Rural Rental Housing Change in Initial Guarantee Fee and Annual Guarantee Fee

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or the Agency) is proposing to amend its regulation to remove the stated amount that the Agency will charge for the initial and annual guarantee fees. The regulation change will allow the Agency the flexibility to establish or make any future changes to the initial and annual guarantee fees without the need for a regulatory change.

DATES: Comments on the proposed rule must be received on or before November 4, 2019.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "Rural Housing Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select RHS-19-MFH-0017 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- *Postal Mail/Commercial Delivery:* Submit written comments to Michele L. Brooks, Director, Innovation Center—Regulations Management Division,

Rural Development, U.S. Department of Agriculture, STOP 1522, 1400 Independence Avenue SW, Washington, DC 20250-1522. All written comments will be available for public inspection during regular work hours at 1400 Independence Avenue SW, Mailstop 1522, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT:

Tammy Daniels, Finance and Loan Analyst, Multi-Family Housing Guaranteed Loan Division, Rural Housing Service, U.S. Department of Agriculture, STOP 0781-Room# 1263S, 1400 Independence Avenue SW, Washington, DC 20250-0781, Telephone: (202) 720-0021 (this is not a toll-free number); email: tammy.daniels@usda.gov.

SUPPLEMENTARY INFORMATION:

Background and Summary of Changes

RHS administers the Section 538 Guaranteed Rural Rental Housing Program (GRRHP) under the authority of the Housing Act of 1949, as amended (42 U.S.C. 1490p-2). Under the GRRHP, RHS guarantees loans for the development of housing and related facilities in rural areas. Section 538(g) authorizes the Secretary of Agriculture to charge certain fees to lenders for loan guarantees. See 42 U.S.C. 1490p-2(g). The charged fees are required to be used to offset costs associated with loan guarantees. See 42 U.S.C. 1490p-2(u).

The Agency's GRRHP implementing regulation is at 7 CFR part 3565 and currently sets the exact percentage of the initial guarantee fee and the annual guarantee fee charged by the Agency. The Agency is proposing to amend the regulation by removing the language that indicates the specific amount of the initial guarantee fee and the annual guarantee fee currently charged by the Agency. The Agency is making this change to allow for flexibility and to allow the program to create the maximum housing affordability to residents by lowering program costs when practical. In most cases, the annual guarantee fee is passed onto the borrower, where it is most likely included in the interest rate. Thus, any reduction in the fee will result in a lower interest rate and would ultimately create a reduction in rental rates.

The calculation of the initial guarantee fee is the product of the percentage of the guarantee times the initial principal amount of the

guaranteed loan. The initial guarantee fee will be due at the time the closing package is submitted to the Agency for review and approval. The GRRHP annual fee is a non-refundable amount that the lender must pay the year that the loan closes and going forward each year that the loan guarantee remains in effect. Due to the negative subsidy, combined with the overall health of the Section 538 GRRHP portfolio, the Agency would like to have the flexibility in its regulation to reduce the annual guarantee fee due on the outstanding principal amount of the loan that will be charged each year or portion of a year that the guarantee is in effect. For example, if a guaranteed loan closes on any date between January 1 and December 31, 2018, the effective date for the fee determination will be December 31, 2018. The annual fee will be collected by February 28, 2019, and each calendar year going forward while the guarantee remains in effect.

If changes do occur in the fee amounts, the Agency will release those changes through a notice in the **Federal Register**. When the fee changes are announced in the **Federal Register**, the Agency will provide guidance on how to process the loans which will be impacted by the new fee structure. Interested parties will be able to locate current fees on the Agency's public website.

Executive Order 12866—Classification

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

Authority

The Guaranteed Rural Rental Housing program (GRRHP) is administered subject to appropriations by the U.S. Department of Agriculture (USDA) as authorized under the Housing Act of 1949 as amended, Section 538, Public Law 106-569, 42 U.S.C. 1490 p-2.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, "Environmental Policies." RHS determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an

Environmental Impact Statement is not required.

Regulatory Flexibility Act

The rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

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 the States, or on the distribution of power and responsibilities among the various levels of Government. This rule does not impose substantial direct compliance costs on State and local Governments; therefore, consultation with States is not required.

Executive Order 12988—Civil Justice Reform

This rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) Unless otherwise specifically provided, all State and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Unfunded Mandate Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and on the private sector. Under section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including 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 a Federal Agency to identify and consider a reasonable number of regulatory alternatives and adopt the

least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

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

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0189. This proposed rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

RHS is committed to complying with the E-Government Act by promoting the use of the internet and other Information Technologies in order to provide increased opportunities for citizen access to Government information, services, and other purposes.

Programs Affected

The program affected by this regulation is listed in the Catalog of Federal Domestic Assistance under numbers 10.438—Rural Rental Housing Guaranteed Loans (Section 538).

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the 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 tribal leaders are interested in consulting with RHS on this rule, they are encouraged to contact USDA’s Office of Tribal Relations or RD’s Native American Coordinator at: AIAN@wdc.usda.gov to request such a consultation.

Executive Order 12372—Intergovernmental Consultation

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental

consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA’s TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992, submit your completed form or letter to USDA by:

- (1) *Mail*: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410;
- (2) *Fax*: (202) 690–7442; or
- (3) *Email*: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

List of Subjects in 7 CFR 3565

Conflict of interest, Credit, Fair housing, Loan programs—housing and community development, Low and moderate-income housing, Manufactured homes, Mortgages, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, 7 CFR part 3565 is proposed to be amended as follows:

PART 3565—GUARANTEED RURAL RENTAL HOUSING PROGRAM

■ 1. The authority citation for part 3565 continues to read as follows:

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

Subpart B—Guarantee Requirements

■ 2. Amend § 3565.53 introductory text by adding a sentence at the end and revising paragraphs (a) and (b) to read as follows:

§ 3565.53 Guarantee fees.

* * * Changes to the initial and annual guarantee fees will be established by the Agency and will be published in a Notice in the **Federal Register**.

(a) Initial guarantee fee. The Agency will establish and charge an initial guarantee fee of up to one percent of the guarantee amount. For purposes of calculating this fee, the guarantee amount is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan.

(b) Annual guarantee fee. An annual guarantee fee will be charged, as established by the Agency, each year or portion of a year that the guarantee is in effect. This fee will be collected on February 28, of each calendar year.

* * * * *

Bruce W. Lammers,

Administrator, Rural Housing Service.

[FR Doc. 2019-18773 Filed 8-30-19; 8:45 am]

BILLING CODE 3410-XV-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Plan for Periodic Review of Regulations

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of plan for periodic review of regulations; request for comments.

SUMMARY: Regulatory Flexibility Act (RFA) section 610 requires that NOAA Office of National Marine Sanctuaries

(ONMS) periodically review existing regulations that have a significant economic impact on a substantial number of small entities, such as small businesses, small organizations, and small governmental jurisdictions. The RFA does not require agencies to periodically review existing regulations that were originally certified under RFA section 605 as a rule that will not have a significant economic impact on a substantial number of small entities. However, an agency may exercise its discretion to review certified rules to assess whether changed conditions may mean that the existing rules now have a significant economic impact on a substantial number of small entities. This plan describes how ONMS will exercise its discretion to conduct this assessment for specified rules certified under RFA section 605 and describes the regulations proposed for review in 2020.

DATES: Comments must be received on or before October 3, 2019.

ADDRESSES: Comments may be submitted by:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to <http://www.regulations.gov/#/docketDetail;D=NOAA-NOS-2019-0086>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personally identifiable information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily submitted by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT:

Meredith Walz, NOAA Office of National Marine Sanctuaries, 1305 East-West Highway, Silver Spring, MD 20910, Meredith.Walz@noaa.gov, or 240-355-0686.

SUPPLEMENTARY INFORMATION:

Background

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that federal agencies take into account how their regulations affect “small entities,” which the RFA defines to include small

businesses, small governmental jurisdictions and small organizations. 5 U.S.C. 601. For regulations proposed after January 1, 1981, the agency must either prepare a Regulatory Flexibility Analysis or certify the regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Section 610 of the RFA, 5 U.S.C. 610, requires federal agencies to review existing regulations which have or will have a significant economic impact on a substantial number of small entities. It requires that ONMS publish a plan in the **Federal Register** explaining how it will review existing regulations that have a significant economic impact on a substantial number of small entities. Regulations that have a significant economic impact on a substantial number of small entities that became effective after January 1, 1981 must be reviewed within 10 years of the publication date of the final rule. Section 610(c) requires that ONMS publish in the **Federal Register** a list of rules it will review during the succeeding 12 months. The list must describe, explain the need for, and provide the legal basis for the rules, as well as invite public comment on the rules.

In addition, section 605 of the RFA provides that if, when a rule is promulgated, the head of an agency certifies to the Small Business Administration’s Chief Counsel for Advocacy that a rule would not have a significant economic impact on a substantial number of small entities, then initial and final regulatory flexibility analyses do not need to be prepared for the rule. Guidance on implementing the requirements of RFA section 610 indicates that agencies may exercise their discretion to determine if previously changed conditions may mean that a certified rule now does have a significant economic impact on a substantial number of small entities and, therefore, should be subject to a full section 610 review. If there is evidence that a previously certified rule is now having a significant economic impact on a substantial number of small entities, then the Small Business Administration recommends that the agency should conduct a section 610 review of the rule.

Criteria for Review of Existing Regulations

The purpose of a section 610 review is to determine whether existing rules should be left unchanged, or whether they should be revised or rescinded in order to minimize significant economic impacts on a substantial number of