Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

[Docket No. RHS–23–MFH–0014]

RIN 0575–AD35

Revisions to the Smoke Alarm Requirements in the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing Direct Loan Programs

AGENCY: Rural Housing Service, U.S. Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), proposes to amend its regulation to implement changes related to the smoke alarm requirements for properties that receive funding from the MFH Section 515 Rural Rental Housing and the Section 514/516 Farm Labor Housing Direct Loan and Grant programs. These proposed changes are intended to align the Agency's smoke alarm requirements with the new qualifying smoke alarm standards set forth in the Consolidated Appropriations Act of 2023 (Act). The Act requires each unit of federally assisted housing to contain hardwired or 10-year non-rechargeable, sealed, tamper-resistant, battery-powered smoke alarm devices.

DATES: Comments on the proposed rule must be received on or before March 8, 2024.

ADDRESSES: Comments may be submitted electronically by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the ''Search Field'' box, labeled ''Search for dockets and documents on agency actions,'' enter the following docket number: RHS–23–MFH–0014 or the RIN 0575–AD35. To submit or view public comments, click the ''Search'' button, select the ''Documents'' tab, then select the following document title: ''Revisions to the Smoke Alarm Requirements in the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing Direct Loan Programs'' from the ''Search Results,'' and select the ''Comment'' button. Before inputting your comments, you may also review the ''Commenter's Checklist'' (optional). Insert your comments under the ''Comment'' title, click ''Browse'' to attach files (if available). Input your email address and select ''Submit Comment.'' 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 ''FAQ'' link.

Other Information: Additional information about Rural Development (RD) and its programs is available on the internet at *https://www.rd.usda.gov.* All comments will be available online for public inspection at the Federal eRulemaking Portal (*https://www.regulations.gov/*).

FOR FURTHER INFORMATION CONTACT: Barbara Chism, Multi-Family Housing Asset Management Division, Rural Housing Service, 1400 Independence Avenue SW, Washington, DC 20250–0782, Telephone: (202) 690–1436; Email: *Barbara.chism@usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The RHS, offers a variety of programs to build or improve housing and essential community facilities in rural areas. RHS offers loans, grants, and loan guarantees for single- and multi-family housing, childcare centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, and housing for farm laborers. RHS also provides technical assistance loans and grants in partnership with non-profit organizations, Indian tribes, State and Federal government agencies, and local communities.

Title V of the Housing Act of 1949 authorized the USDA to make housing loans to farmers to enable them to provide habitable dwellings for themselves or their tenants, lessees, sharecroppers, and laborers. The USDA then expanded opportunities in rural areas, making housing loans and grants to rural residents through the Single-Family Housing (SFH) and Multi-Family Housing (MFH) Programs.

The RHS administers the MFH Section 515 Rural Rental Housing direct loan program under 7 CFR part 3560, subpart B. The Section 515 program employs a public-private partnership by providing subsidized loans at an interest rate of one percent to developers to construct or renovate affordable rental complexes in rural areas. This one percent loan keeps the debt service on the property sufficiently low to support below-market rents affordable to low-income tenants. Many of these projects also utilize other Federal, State, and local funding sources and rental subsidies such as HUD's Section 8 and low-income housing tax credit proceeds.

The RHS also operates the MFH Farm Labor Housing direct loan and grant programs under sections 514 and 516 set forth in 7 CFR part 3560, subparts L and M. The MFH Farm Labor Housing programs provide low interest loans and grants to provide housing for farmworkers. These eligible farmworkers may either live and work at the borrower's farm, including seasonal and migrant workers (''on-farm'') or they may live away from the farm (''off-farm'').

Under the current regulation, borrowers are required to install and maintain smoke alarms in all dwelling units, common use areas, and other spaces in all residential buildings included as security for an Agency loan. Borrowers must also ensure that smoke alarms are properly located to protect tenant safety and the value of the Agency's asset. Failure to maintain adequate smoke alarms may lead to injury of persons, damage to property, or a non-monetary loan default.

II. Purpose of This Regulatory Action

On December 29, 2022, the President signed into law the Consolidated Appropriations Act of 2023 (Pub. L. 117–328) (Act), which incorporated The Public and Federally Assisted Housing Fire Safety Act of 2022. This Act requires each unit and common use areas of federally assisted housing to contain hardwired or 10-year non-rechargeable, sealed, tamper-resistant battery-powered smoke alarm devices, as well as other items. The Act modifies the Housing Act of 1949 to implement these new smoke detector requirements for Section 515 Rural Rental Housing programs and Section 514/516 Farm Labor Housing Direct Loan Programs.

Public Law 117–328, div. AA, title VI, sec. 601. The RHS's current smoke alarm requirements in 7 CFR part 3560 for the MFH Direct Loan and Grant Programs have been in place since February 24, 2005, and are outdated. To achieve compliance with the new requirements set forth under the Act, the Rural Housing Service (RHS) proposes to amend its MFH Direct Loan and Grant program regulations, 7 CFR 3560.60 of subpart B and 7 CFR 3560.103(a)(3)(xx) of subpart C.

Housing repair and replacement costs in the affordable housing industry have been increasing at a steady rate due to economic changes in the open market for labor and materials. Our stakeholders will benefit from the proposed change through improved safety and prevention of potential damage resulting from smoke and fire, as well as lessen the potential for harm to visitors and residents.

This action is intended to: (1) align the smoke alarm requirements with more stringent requirements for federally assisted housing industry standards; (2) increase the safety of tenants and visitors at our properties; (3) reduce the risk of losing available affordable housing units in our rural communities due to uninhabitability caused by smoke and fire damage as a result of outdated smoke alarm devices; and (4) provide the Agency with additional protection from the loss of its security value.

III. Summary of Changes

The proposed changes are as follows:

1. Add a new paragraph (e) to § 3560.60 that cross-references § 3560.103(a)(3)(xx), which contains the new qualifying smoke alarm requirements.

2. Revise § 3560.103(a)(3)(xx) the language for smoke alarms to include the new requirements for qualifying smoke alarms.

IV. Regulatory Information

Statutory Authority

The changes in this proposed rule are authorized under division AA, title VI, section 601 of the Consolidated Appropriations Act, 2023. The Rural Rental Housing program is authorized under sections 514(k), 515(m,), 516(c) of title V of the Housing Act of 1949, as amended; 42 U.S.C. 1480 *et seq.;* and implemented under 7 CFR part 3560.

Executive Order 12372, Intergovernmental Review of Federal Programs

These loans are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Executive Order 12866, Regulatory Planning and Review

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.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988. In accordance with this rulemaking: (1) Unless otherwise specifically provided, all state and local laws that conflict with this rulemaking will be preempted; (2) no retroactive effect will be given to this rulemaking 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 suing in court that challenges action taken under this rulemaking.

Executive Order 13132, Federalism

The policies contained in this proposed 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 proposed rule does not impose substantial direct compliance costs on state and local governments; therefore, consultation with States is not required.

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 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 proposed rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this rulemaking, they are encouraged to contact USDA's Office of Tribal Relations or RD's Tribal Coordinator at: *AIAN@usda.gov* to request such a consultation.

Assistance Listing

The program affected by this regulation is listed in the Assistance Listing Catalog (formerly Catalog of Federal Domestic Assistance) under number 10.415—Rural Rental Housing Loans, 10.427—Rural Rental Assistance Payments, 10.405—Farm Labor Housing Loans and Grants.

Civil Rights Impact Analysis

Rural Development has reviewed this proposed rule in accordance with USDA Regulation 4300–004, Civil Rights Impact Analysis, to identify any major civil rights impacts the proposed rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the proposed rule and available data, it has been determined that implementation of the rulemaking will not adversely or disproportionately impact very low, low- and moderate-income populations, minority populations, women, Indian tribes, or persons with disability by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this proposed rule.

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 to provide increased opportunities for citizen access to government information, services, and other purposes.

National Environmental Policy Act

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 (EIS) is not required.

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).

Regulatory Flexibility Act

This proposed 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 proposed 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.

Unfunded Mandates 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 proposed 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 proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Non-Discrimination Statement Policy

Nondiscrimination Statement. In accordance with Federal civil rights laws and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff 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, family/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.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, staff office; or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.usda.gov/sites/default/files/documents/ad-3027.pdf* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

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List of Subjects in 7 CFR Part 3560

Accounting, Administrative practice and procedure, Aged, Conflicts of interest, Government property management, Grant programs—housing and community development, Insurance, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate-income housing, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent-subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, Rural Housing Service proposes to amend 7 CFR part 3560 as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart B—Direct Loan and Grant Origination

■ 2. Amend § 3560.60 by adding paragraph (e) to read as follows:

§ 3560.60 Design requirements.

* * * * *

(e) *Applicable codes and standards.* All housing and related facilities must meet the qualifying smoke alarm requirements in § 3560.103(a)(3)(xx).

Subpart C—Borrower Management and Operations Responsibilities

■ 3. Amend § 3560.103 by revising paragraph (a)(3)(xx) to read as follows:

§ 3560.103 Maintaining housing projects.

(a) * * *

(3) * * *

(xx) *Smoke alarms.* The housing project must have qualifying smoke alarms which are installed in accordance with applicable codes and standards as set forth in sections 514(k), 515(m), and 516(c) of the Housing Act of 1949 (42 U.S.C. 1471 *et seq.*), in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(A) Dwelling units built before December 29, 2022, and not substantially rehabilitated after December 29, 2022, smoke alarms must:

(*1*) Be hardwired; or

(*2*) Use 10-year non rechargeable, nonreplaceable primary batteries, be sealed, tamper resistant, and contain silencing means; and

(*3*) Provide notification for persons with hearing loss as required by applicable standards set forth in sections 514(k), 515(m), and 516(c) of the Housing Act of 1949 (42 U.S.C. 1471 *et seq.*)

(B) Dwelling units built or substantially rehabilitated after December 29, 2022; smoke alarms must be hardwired.

* * * * *

Joaquin Altoro,

Administrator, Rural Housing Service.

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