

Seattle, WA; Corpus Christi, TX; and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; and Hartsfield-Atlanta International Airport, Atlanta, GA.

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Done in Washington, DC, this 5th day of December 2007.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E7-23944 Filed 12-10-07; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

### Rural Business—Cooperative Service

### Rural Utilities Service

### Farm Service Agency

### 7 CFR Parts 1924 and 1944

### Rural Housing Service

### 7 CFR Part 3550

RIN 0575-AC65

### Thermal Standards

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Final rule.

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

**DATES:** *Effective Date:* January 10, 2008.

### FOR FURTHER INFORMATION CONTACT:

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

### SUPPLEMENTARY INFORMATION:

#### Classification

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

#### Civil Justice Reform

In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given to this rule, and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule, unless those regulations specifically allow bringing suit at an earlier time.

#### Regulatory Flexibility Act

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

#### Unfunded Mandates Reform Act

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

#### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

### Programs Affected

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

### Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

### Intergovernmental Review

The Agency conducts intergovernmental consultation in the manner delineated in RD Instruction 1940-J, "Intergovernmental Review of Rural Development Programs and Activities," and in 7 CFR part 3015, subpart V. The Very Low to Moderate Income Housing Loans Program, Number 10.410, is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. An intergovernmental review for this revision is not required or applicable.

### Paperwork Reduction Act

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

### E-Government Act Compliance

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

### Background

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

Newer residences, or older residences currently in average or good condition, generally can be accepted as being representative of their community, and

are likely to have average thermal efficiency for the market in which they are located. These homes represent a typical residence in terms of overall design, construction, and appeal in the marketplace, and can be presumed to have reasonable, overall thermal performance.

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

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

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

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

## Comments on the Proposed Rule and Responses

The Proposed Rule was published on May 16, 2007 [72 FR 27470–27471]. The Agency received a total of 51 comments. Only one comment was negative. A majority of the comments addressed the additional burden of thermal requirements for existing construction as a hindrance in the loan making process. Commenters also noted that these requirements did not increase the efficiency of the home significantly with the standards that have been in place over the last 20 years. A majority of the comments addressed the fact that more loans will be able to be provided to rural America by not imposing thermal standards on homes with materials and systems that have improved since this requirement was imposed. The general consensus is that the importance of energy efficient housing should be of utmost importance, but should not be a contingency upon which a home loan approval is determined. This goal can be met without imposing the existing thermal standards and can be accomplished by homebuyer education, as well as other government sponsored programs supporting energy efficient methods and systems. The end result will allow the Agency to provide more loans to eligible borrowers, while streamlining this process to conform to other government agencies. In general, the comments were very supportive of the proposed rule.

The negative comment (Comment Reference RHS–07–SFH–0012–0004) mainly focused on the need for energy conservation and that this rule would not support this goal. There are other methods of energy conservation for existing construction that can be more beneficial to the borrowers than what the Agency has required. The Agency has added guidance to its Handbook that provides alternative methods and practices to achieve an energy efficient home. This was put into effect as an alternative to imposed thermal requirements on potential borrowers seeking Agency financing for existing housing.

## List of Subjects

### 7 CFR Part 1924

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

### 7 CFR Part 1944

Grant programs—Housing and community development, Home improvement, Rural housing, Nonprofit

organizations, Loan programs—Housing and community development.

### 7 CFR Part 3550

Accounting, Grant programs—Housing and community development, Housing, Loan programs—Housing and community development, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas, Subsidies.

■ Accordingly, chapters XVIII and XXXV, title 7, of the Code of Federal Regulations are amended to read as follows:

## PART 1924—CONSTRUCTION AND REPAIR

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

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

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

■ 2. Exhibit D of subpart A is amended by:

- A. Removing the last sentence in paragraph II;
- B. Removing and reserving paragraph IV B;
- C. Revising the words "paragraphs IV A and IV B" in paragraph IV C 1 to read "paragraph IV A";
- D. Revising the words "paragraphs IV A and B" in paragraph IV C 2 to read "paragraph IV A";
- E. Revising the words "paragraphs IV A or B" in the first and last sentences of paragraph IV C 2b, and in paragraphs IV C 3 introductory text, IV C 3a and IV C 3b to read "paragraph IV A"; and
- F. Removing the words "or B" in paragraphs IV C introductory text and IV C 3c.

## PART 1944—HOUSING

■ 3. The authority citation for part 1944 continues to read as follows:

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

## Subpart N—Housing Preservation Grants

### § 1944.656 [Amended]

■ 4. Section 1944.656 is amended by:

- A. Revising the second sentence in the definition for "Housing preservation" to read "As a result of these activities, the overall condition of the unit or dwelling must be raised to meet Thermal Standards for existing structures adopted by the locality/jurisdiction and applicable development standards for existing housing recognized by RHS in subpart A of part 1924 or standards

contained in any of the voluntary national model codes acceptable upon review by RHS.”

■ B. Revising the third sentence in the definition for “Replacement housing” to read “The overall condition of the unit or dwelling must meet Thermal Standards adopted by the locality/ jurisdiction for new or existing structures and applicable development standards for new or existing housing recognized by RHS in subpart A of part 1924 or standards contained in any of the voluntary national model codes acceptable upon review by RHS.”

#### **PART 3550—DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS**

■ 5. The authority citation for part 3550 continues to read as follows:

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

#### **Subpart B—Section 502 Origination**

##### **§ 3550.57 [Amended]**

■ 6. Section 3550.57(c) is amended by adding the word “and” after the word “systems;” and by removing “and meet the thermal performance requirements for existing dwellings of 7 CFR part 1924, subpart A”.

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

##### **§ 3550.106 [Amended]**

■ 7. Section 3550.106(b) is amended by removing the words “or thermal performance standards”.

Dated: November 28, 2007.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

[FR Doc. 07–6009 Filed 12–10–07; 8:45 am]

**BILLING CODE 3410–XV–P**

## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

#### **32 CFR Part 68**

#### **Provision of Free Public Education for Eligible Children Pursuant to Section 6, Public Law 81–874**

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The Department of Defense is removing 32 CFR Part 68, “Provision of Free Public Education for Eligible Children Pursuant to Section 6, Public Law 81–874.” The part has served the purpose for which it was intended and is no longer valid.

**DATES:** *Effective Date:* December 11, 2007.

**FOR FURTHER INFORMATION CONTACT:** L.M. Bynum, 703–696–4970.

**SUPPLEMENTARY INFORMATION:** DoD Directive 1342.16 was originally codified as 32 CFR Part 68. This Directive was canceled by DoD Directive 1342.20. Copies of DoD Directive 1342.20 may be obtained at <http://www.dtic.mil/whs/directives/>.

#### **List of Subject in 32 CFR Part 68**

Elementary and secondary education, Government employees, Military personnel.

■ Accordingly, by the authority of 10 U.S.C. 301, title 32 of the Code of Federal Regulations is amended by removing part 68:

#### **PART 68—[REMOVED]**

Dated: December 5, 2007.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, DoD.*

[FR Doc. 07–6006 Filed 12–10–07; 8:45 am]

**BILLING CODE 5001–06–M**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 81**

**[EPA–R09–OAR–2005–CA–0017; FRL–8504–2]**

#### **Finding of Failure To Attain; California—Imperial Valley Nonattainment Area; PM–10**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finding that the Imperial Valley serious PM–10 nonattainment area did not attain the 24-hour particulate matter (PM–10) National Ambient Air Quality Standard (NAAQS) by the deadline mandated in the Clean Air Act (CAA), December 31, 2001. In response to this finding, the State of California must submit a revision to the California State Implementation Plan (SIP) that provides for attainment of the PM–10 standard in the Imperial Valley area and at least five percent annual reductions in PM–10 or PM–10 precursor emissions until attainment as required by CAA section 189(d). The State must submit the SIP revision by December 11, 2008.

**DATES:** *Effective Date:* This finding is effective on January 10, 2008.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2006–0583 for

this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. While documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Adrienne Prisela, EPA Region IX, (415) 972–3285, [prisela.adrienne@epa.gov](mailto:prisela.adrienne@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” refer to EPA.

### **I. Background**

On August 11, 2004, EPA reclassified under the Clean Air Act (CAA or the Act) the Imperial Valley PM–10 nonattainment area (Imperial area) from moderate to serious in response to the opinion of the U.S. Court of Appeals for the Ninth Circuit in *Sierra Club v. United States Environmental Protection Agency, et al.*, 346 F.3d 955 (9th Cir. 2003), amended 352 F.3d 1186, *cert. denied*, 542 U.S. 919 (2004). See 69 FR 48792 (August 11, 2004).

Also on August 11, 2004 (69 FR 48835), EPA proposed to find under the CAA that the Imperial area failed to attain the annual<sup>1</sup> and 24-hour PM–10 standards by the serious area deadline of December 31, 2001. Our proposed finding of failure to attain was based on monitored air quality data for the PM–10 NAAQS from January 1999 through December 2001. A summary of these data was provided in the proposed rule and is not reproduced here.

EPA has the responsibility, pursuant to sections 179(c) and 188(b)(2) of the Act, of determining within 6 months of the applicable attainment date (i.e., June 30, 2002), whether the Imperial area attained the PM–10 NAAQS. Because the June 30, 2002 date has passed, EPA is required to make that determination as soon as practicable. *Delaney v. EPA*, 898 F.2d 687 (9th Cir. 1990).

Section 179(c)(1) of the Act provides that attainment determinations are to be based upon an area’s “air quality as of

<sup>1</sup> Effective December 18, 2006, EPA revoked the annual PM–10 standard. 71 FR 61144 (October 17, 2006). References to the annual standard in this proposed rule are for historical purposes only. EPA is not taking any regulatory action with regard to this former standard.